2-22-80
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# Federal Register

Friday
February 22, 1980

## Highlights

11913 **Grants to Local Educational Agencies** HEW/OE issues notice of intent to compromise claim against Minnesota State Department of Education; comments by 4-7-80

11914 **Improvement of Postsecondary Education** HEW/Sec'y announces receipt of applications for Comprehensive Program Final Year Dissemination Competition, Fiscal Year 1980; apply by 3-7-80

12130 **Community Energy Conservation Activities** HUD/CPD invites preapplications for Innovative Grants; apply by 6-8-80 (Part IV of this issue)

12188 **Solar Energy and Renewable Resources** DOE/ERA issues voluntary guidelines regarding Federal standards under the Public Utility Regulatory Policies Act of 1978 (Part VIII of this issue)

11817 **Electric Rate Schedules** DOE/FERC proposes to revise requirements for public utilities to file changes; comments by 4-14-80

12050 **State Child Welfare Services** HEW/HDSO proposes guidelines for the development of plans; comments by 3-24-80 (Part II of this issue)

11799 **Hair Color** HEW/FDA postpones closing date for provisional listing of lead acetate for use as color additives; effective 2-29-80, closing date 6-30-80

CONTINUED INSIDE

# Highlights

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12204 **Veterans Preference** Labor/ETA establishes fiscal year 1980 levels for indicators of compliance to monitor State employment service agencies; effective 12-15-79 (Part IX of this issue)

12174 **Certificate of Need Programs** HEW/PHS issues advance information governing reviews by health systems agencies and State health planning and development agencies (Part VII of this issue)

11835 **Nondiscrimination With Respect to Age** TVA proposes enforcement procedures and standards in programs receiving financial assistance; comments by 3-30-80

12168 **Architectural Barriers** ATBCB issues intent to propose mininum guidelines and requirements for accessible design; comments by 4-7-80 (Part VI of this issue)

11944 **Unemployment Insurance Benefits** Labor/BLS issues weekly seasonal adjustment factors for computation of 1980 rates under regular State programs

11912 **Medicare Program** HEW/HCFA extends comment period on coverage of oxygen for use in patient's home; comments by 3-13-80

11806 **Medicaid** HEW/HCFA amends rules limiting payments for long-term care facility services, and requests comments on specific limitations; effective 10-1-79, comments by 4-22-80

11807 **Medicaid** HEW/HCFA establishes procedures for review of certain intermediate care facilities; effective 2-22-80

11912 **Radiation Emergency** HEW/FDA approves drug applications for potassium iodide as a thyroid blocking agent

12136 **Natural Gas** Interior/GS issues notice to lessees for implementation of Act; effective 2-22-80 (Part V of this issue)

11975 **Sunshine Act Meetings**

**Separate Parts of This Issue**

12050 **Part II, HEW/HDSO**
12072 **Part III, Labor/ESA**
12130 **Part IV, HUD/CPD**
12136 **Part V, Interior/GS**
12168 **Part VI, ATBCB**
12174 **Part VII, HEW/PHS**
12188 **Part VIII, DOE/ERA**
12204 **Part IX, Labor/ETA**

# Contents

Federal Register
Vol. 45, No. 37
Friday, February 22, 1980

**Agricultural Marketing Service**
RULES
11795 Lemons grown in Ariz. and Calif.

**Agricultural Stabilization and Conservation Service**
RULES
Payment limitation:
11795 Classes of stock; correction
NOTICES
11858 Cotton; extra long staple; 1980 National program acreage, determination, quota, and allotment

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

**Alcohol Fuels, National Commission**
NOTICES
11965 Meetings

**Animal and Plant Health Inspection Service**
RULES
Animal and poultry import restrictions:
11796 Canadian and Mexican border ports; deletion of low volume ports and designations of "limited ports"
11797 Cattle, Harry S Truman Animal Import Center; conveyance and shipping containers; inspection requirements, etc.

**Architectural and Transportation Barriers Compliance Board**
PROPOSED RULES
12168 Accessible design standards for Federal agencies; minimum guidelines and requirements

**Army Department**
*See also* Engineers Corps.
NOTICES
Environmental statements; availability, etc.:
11873 Louisiana State Penitentiary Levee, Mississippi River, La.

**Arts and Humanities, National Foundation**
NOTICES
Meetings:
11965 Humanities Panel
11966 Partnership Coordination Advisory Panel

**Blind and Other Severely Handicapped, Committee for Purchase From**
NOTICES
11872, 11873 Procurement list, 1980; additions and deletions (2 documents)

**Census Bureau**
NOTICES
Meetings:
11862 Asian and Pacific Americans Census Advisory Committee et al.

**Civil Aeronautics Board**
NOTICES
Hearings, etc.:
11861 Continental Air Lines, Inc.; nonstop authority
11861 Former large irregular air service investigation (2 documents)
11975 Meetings; Sunshine Act

**Commerce Department**
*See* Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

**Commodity Credit Corporation**
RULES
Loan and purchase programs:
11795 Peanuts; correction

**Customs Service**
NOTICES
11971 Tuna and tuna products from Peru; import prohibition

**Defense Department**
*See also* Army Department; Engineers Corps.
NOTICES
Meetings:
11874 Wage Committee

**Delaware River Basin Commission**
NOTICES
Environmental statements; availability, etc.:
11874 North Branch Water Treatment Plant and associated components

**Drug Enforcement Administration**
NOTICES
Registration applications, etc.; controlled substances:
11944 Metro Substance Abatement Program, Inc.; hearing rescheduled

**Economic Regulatory Administration**
NOTICES
Public Utility Regulatory Policies Act of 1978:
12188 Solar energy and renewable resources; voluntary guidelines

**Education Office**
NOTICES
11913 Low-income families, children of; local educational agency grants; compromise of claim
Meetings:
11914 Indian Education National Advisory Council

**Employment and Training Administration**
RULES
Alien temporary agricultural and logging employment in U.S.; labor certification:
11798 Meal charges; increase
12204 Veterans preference indicators of compliance, FY 1980
NOTICES
11945 Employment transfer and business competition determinations; financial assistance applications
Unemployment compensation, emergency:
11945, 11946 Federal extended benefits; "on" and "off" indicators; various States (2 documents)

**Employment Standards Administration**
NOTICES
12072 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ill., Me., Md., Mich., Ohio, Pa., R.I., and W. Vir.)

**Energy Department**
*See* Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

**Engineers Corps**
NOTICES
Environmental statements, availability, etc.:
11873 State Road Coulee at La Crosse, Wis.

**Environmental Protection Agency**
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
11855 Ohio
NOTICES
Environmental statements; availability, etc.:
11905 DeSoto and Manatee Counties, Fla.; phosphate mine
Toxic and hazardous substances control:
11902-11904 Premanufacture notices receipts (3 documents)

**Federal Contract Compliance Programs Office**
PROPOSED RULES
11856 Affirmative action requirements for government contractors; enforcement proceedings clarification and extention of time

**Federal Crop Insurance Corporation**
NOTICES
11859 Crop insurance; various commodities; inquiry termination

**Federal Election Commission**
NOTICES
11975 Meetings; Sunshine Act

**Federal Emergency Management Agency**
NOTICES
11906 Radiological emergencies; approval and availability of KI thyroid blocking agent; cross reference

**Federal Energy Regulatory Commission**
PROPOSED RULES
Electric utilities:
11817 Rate schedules; filing of changes and preparation and submittal of supporting data
NOTICES
Hearings, etc.:
11875 Allegheny Electric Cooperative, Inc., et al.
11893 Allied Chemical Corp.
11876 American Natural Gas Production Co., et al.
11876 Arkansas Louisiana Gas Co.
11877 Big Sandy Gas Corp. (2 documents)
11878 Carolina Power & Light Co.
11878 Circle One Oil Co.
11878 Cities Service Gas Co.
11878 Consolidated Gas Supply Corp.
11879 Crown Zellerbach Corp.
11879 Dow Pipeline Co.
11879 Duke Power Co.
11880 Eason Oil Co.
11880 Energy Reserves Group, Inc.
11880, 11881 Florida Gas Transmission Co., et al. (2 documents)
11881 Gulf States Utilities Co.
11882 Illinois Power Co. (2 documents)
11882 Inter-City Minnesota Pipelines Ltd., Inc.
11883 Lynchburg Gas Co. et al.
11883, 11884 Michigan Wisconsin Pipe Line Co. (3 documents)
11885 Mississippi River Transmission Corp.
11885 Montana Power Co.
11886, 11895 Natural Gas Pipeline Co. of America et al. (2 documents)
11886 Northern Natural Gas Co. (2 documents)
11894 Northwest Pipeline Corp.
11887 Ohio Edison Co. (2 documents)
11888 Ohio Valley Electric Corp.
11888 Schenley Distillers, Inc.
11889 Southern Indiana Gas & Electric Co. (2 documents)
11889, 11890 Southern Natural Gas Co. (2 documents)
11890-11892 Transcontinental Gas Pipe Line Corp. et al. (4 documents)
11894 Utah Power & Light Co.
11894 West-Lake Arthur Corp.
11975 Meetings; Sunshine Act (2 documents)

**Federal Home Loan Bank Board**
NOTICES
11976 Meetings; Sunshine Act

**Federal Housing Commissioner—Office of Assistant Secretary for Housing**
RULES
Mortgage and loan insurance programs:
11801 Debenture interest rates

**Federal Labor Relations Authority**
NOTICES
11976 Meetings; Sunshine Act

**Federal Mine Safety and Health Review Commission**
NOTICES
11976 Meetings; Sunshine Act

**Federal Reserve System**
NOTICES
11976 Meetings; Sunshine Act

**Fish and Wildlife Service**
RULES
Public entry and use:
11813 Chassahowitzka National Wildlife Refuge, Fla.

**Food and Drug Administration**
RULES
Animal drugs, feeds, and related products:
11801 Diethylcarbamazine citrate chewable tablets
11800 Medicated blocks: extension of time to submit safety and effectiveness data
Color additives:
11799 Lead acetate; closing date postponed
PROPOSED RULES
Biological products:
11854 Labeling standards; position and prominence of proper name; correction
11854 Platelet concentrate (human) and single doner plasma (human), platelet rich; volume limits for shipping, processing, and storage; labeling and dating period requirements; correction
Color additives:
11840 Nitrates and nitrates in poultry products
Food additives:
11841 Nitrites in bacon; extension of time
GRAS or prior-sanctioned ingredients:
11841 Phosphates; extension of time
11846 Sodium dithionite and zinc dithionite; correction
11842 Sodium hydroxide and potassium hydroxide
Human drugs:
11849 Carbonic anhydrase inhibitors bioequivalence requirements
11846 Over-the-counter drugs; sweet spirits of nitre classification
NOTICES
Food additives, petitions filed or withdrawn:
11908 Ciba-Geigy Corp.
11908 ICI Americas, Inc.
11909 Lonza, Inc.
11910 Procter & Gamble Co.
11911 Rohm and Haas Co.
11911 Zinpro Corp.
GRAS or prior-sanctioned ingredients:
11911 Ammonium lignin
Human drugs:
11908 Butiserpazide-25 and Butiserpazide-50 Prestabs; approval withdrawn
11912 Oral proteolytic enzymes; proposed withdrawal; reimbursement for participation in hearing; correction
11912 Potassium iodide for thyroid blocking in a radiation emergency
11908 Sorbitrate, etc.; approval withdrawn; correction
11910 Trimeton tablets, et al.; approval withdrawn
Meetings:
11906 Advisory committees, panels, etc.

**Food Safety and Quality Service**
PROPOSED RULES
11815 Freedom of Information Act; implementation

**Foreign Claims Settlement Commission**
NOTICES
11976 Meetings; Sunshine Act

**Forest Service**
NOTICES
Environmental statements; availability, etc.:
11859 Kisatchie National Forest, Pineville, La.
11860 Willamette National Forest, Oreg.
Meetings:
11859 Modoc National Forest Grazing Advisory Board

**General Services Administration**
NOTICES
Authority delegations:
11906 Defense Department Secretary
Public utilities; hearings, etc.:
11906 California Public Utilities Commission

**Geological Survey**
NOTICES
Natural gas category determination:
12136 Notice to lessees for implementation

**Health, Education, and Welfare Department**
*See also* Education Office; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institutes of Health; Public Health Service.
NOTICES
Grant applications and proposals, closing dates:
11914 Improvement of postsecondary education

**Health Care Financing Administration**
RULES
Professional standards review:
11807 Intermediate care facilities; effectiveness and efficiency of Medicaid State agency review
11806 Skilled nursing and intermediate care facility services, long-term; payments cost limits
NOTICES
Medicare:
11912 Oxygen for home use; coverage; inquiry; extension of time.

**Hearings and Appeals Office, Energy Department**
NOTICES
Applications for exception:
11895 Cases filed
11898, 11900 Decisions and orders (2 documents)
Remedial orders:
11902 Objections filed

**Housing and Urban Development Department**
*See also* Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
Community development block grants:
12130 Community energy conservation innovative grants

**Human Development Services Office**
NOTICES
12050 State child welfare services plans; development guidelines

**Indian Affairs Bureau**
NOTICES
Judgment funds; plan for use and distribution:
11915 Prairie Band of Potawatomi Indians of Kansas

**Industrial Economics Office**
NOTICES
Class life asset depreciation range system:
11973 Assets used to manufacture food and tobacco products; study and meeting; inquiry

**Interior Department**
*See* Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau.

**Internal Revenue Service**
RULES
Procedure and administration:
11802 Returns and return information disclosure; Commerce Department officers and employees; temporary regulations
NOTICES
Authority delegations:
11972 Assistant Commissioner (Technical) et al.; closing agreements concerning tax liability
11972 Service Center Directors; additional inspection of taxpayer's books of account

**International Trade Administration**
NOTICES
Organization and functions:
11862 International Trade Secretary et al.

**International Trade Commission**
NOTICES
11938 Countervailing duty investigations and hearings scheduled; list
Import investigations:
11939 Electric motors from Japan
11942 Rail passenger cars and parts from Italy et al.

**Interstate Commerce Commission**
RULES
Organization, functions, and authority delegations:
11811 Revocation Board, Bureau of Operations; establishment
Reports:
11813 Express companies; elimination of classification of employees
NOTICES
11926 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways and pack and crate
Railroad car service orders; various companies:
11923, 11925 Kansas City Terminal Railway Co. (2 documents)

**Justice Department**
*See* Drug Enforcement Administration; Law Enforcement Assistance Administration.

**Labor Department**
*See also* Employment and Training Administration; Employment Standards Administration; Federal Contract Compliance Programs Office; Labor Statistics Bureau; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment Assistance:
11948 Avtex Fibers, Inc.
11948 Amherst Coal Co.
11947 Acme Boot Co., Inc.
11949 Batino Fashions
11949 Bethlehem Steel Corp.
11950 Curlee Clothing Co., Inc.
11949 Cohoes Fabrics Printers, Inc.
11950 E Systems, Inc.
11950 Eagle Pants Co.
11951 Edmos Corp.
11951 Femia Fashions, Inc.
11951 G. & H. Decoy Inc.
11952 General Tire and Rubber Co.
11952 Genre, Inc.
11953 Holliday Fashions
11953 International Shoe Co.
11953 Kane Industries
11954 Magnavox Consumer Electronics Co.
11954 Mutual Provision, Inc.
11955 Quality Mills, Inc.
11956 Reed and Prince Manufacturing Co.
11957 Royal Park, Inc.
11956 Republic Steel Corporation
11956 R.F. Products, Inc.
11955 R.M. Knitting Mills, Inc.
11957 Santa Rosa Shoe Corp.
11957 Standard Sign and Signal Co., et al.
11958 Sting Bee, Inc.
11958 Summersville Mine Equipment Service Shop
11959 Terry Jane Coal Co., Inc.
11959 Underwood Electric Co.
11960 Consumer price index, all items; U.S. city average

**Labor Statistics Bureau**
NOTICES
Unemployment compensation programs; State:
11944 Weekly seasonal adjustment factors, 1980

**Land Management Bureau**
NOTICES
Applications, etc.:
11922 Colorado
Authority delegations:
11916 Arizona District Managers; free use permits and material sales
11917 Socorro District, N. Mex.; redelegation to area managers
Classification of lands:
11922 Wyoming
Coal areas:
11919 Colorado, et al.
Meetings:
11916 Carson City District Grazing Advisory Board
11916 Gulf of Mexico Regional Technical Working Group
Resource management plans:
11917 Housing Range Resource Area, Richfield District
Sale of public lands:
11916 Nevada
Wilderness areas; characteristics, inventories, etc.:
11919 Arizona
11919 Arizona, et al.
11921 Minnesota
11920 Montana
Withdrawal and reservation of lands, proposed, etc.:
11922 Nevada

**Law Enforcement Assistance Administration**
NOTICES
Meetings:
11944 Criminal Justice National Minority Advisory Council

11944 Juvenile Justice and Delinquency Prevention Coordinating Council

**Mine Safety and Health Administration**
NOTICES
Petitions for mandatory safety standard modifications:
11946 Ligon Preparation Co.

**Minimum Wage Study Commission**
NOTICES
11964 Meetings

**National Institutes of Health**
NOTICES
Meetings:
11913 Human Development Study Section and Physiology Study Section; date changes

**National Oceanic and Atmospheric Administration**
NOTICES
Environmental statements; availability, etc.:
11871 Pennsylvania Coastal Zone Management Program
Fishery conservation and management:
11869 Foreign fishing permits; modifications for joint ventures
Meetings:
11868 Gulf of Mexico Fishery Management Council
11869 National Marine Fisheries Service, et al.

**National Technical Information Service**
NOTICES
11871, 11872 Inventions, Government-owned; availability for licensing (2 documents)

**National Transportation Safety Board**
NOTICES
11976 Meetings; Sunshine Act

**Nuclear Regulatory Commission**
NOTICES
Applications, etc.:
11969 Consolidated Edison Co. of New York, et al.
11968 Florida Power & Light Co.
11968 Florida Power Corp., et al.
11969 Iowa Electric Light & Power Co., et al. (2 documents)
Meetings:
11966, 11967 Reactor Safeguards Advisory Committee (3 documents)
11977 Meetings: Sunshine Act
11970 Radiation emergencies; approval and availability of potassium iodide for thyroid blocking; cross reference

**Occupational Safety and Health Administration**
RULES
State plans; development, enforcement, etc.:
11804 Alaska
11814 Utah
NOTICES
State plans; development, enforcement, etc:
11946 Washington
11947 Wyoming

**Pension and Welfare Benefit Programs Office**
NOTICES
11960, 11961, 11963, 11964 Prohibition on transactions; exemption proceedings, application, hearings, etc. (4 documents)

**Postal Service**
NOTICES
11977 Meetings; Sunshine Act

**Public Health Service**
PROPOSED RULES
Health planning and resources development:
12174 Health systems agencies and State health planning and development agencies; certificate of need reviews

**Rural Electrification Administration**
NOTICES
Loan guarantees, proposed:
11860 Soyland Power Cooperative, Inc.

**Soil Conservation Service**
NOTICES
Environmental statements; availability, etc:
11860 Big Nance Creek Watershed, Ala.
11861 Tallahalla Creek Watershed, Miss.

**State Department**
NOTICES
Meetings:
11971 Shipping Coordinating Committee

**Tennessee Valley Authority**
PROPOSED RULES
11835 Age Discrimination Act of 1975; implementation

**Treasury Department**
*See* Industrial Economics Office; Internal Revenue Service.

**United States Railway Association**
NOTICES
11978 Meetings; Sunshine Act

**Veterans Administration**
RULES
Adjudication; pensions, compensation, dependency,, etc.:
11804 Grave headstones or markers, Government-furnished; allotment increase
NOTICES
Meetings:
11974 Educational Allowances Station Committee
11973 Structural Safety of Veterans Administration Facilities Advisory Committee
11973 Prosthetic treatment program evaluation; availability

**World Hunger, Presidential Commission on**
NOTICES
11971 Meetings

## MEETINGS ANNOUNCED IN THIS ISSUE


**AGRICULTURE DEPARTMENT**

11859 Forest Service—
Modoc National Forest Grazing Advisory Board, 3-20-80

**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

11965 Humanities Panel Advisory Committee, March and April 1980
11966 National Council on the Arts, Partnership Coordination Advisory Panel, 3-24 and 3-25-80

**COMMERCE DEPARTMENT**

Census Bureau—
11862 Various advisory committees, 3-13-80
National Oceanic and Atmospheric Administration—
11868 Gulf of Mexico Fishery Management Council, 3-5 and 3-6-80
11869 National Marine Fisheries Service and Fish and Wildlife Service, joint meeting, 3-3-80

**DEFENSE DEPARTMENT**

Office of the Secretary—
11874 Department of Defense Wage Committee, 4-1, 4-8, 4-15, 4-22, and 4-29-80

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

Education Office—
11914 National Advisory Council on Indian Education, 3-7 through 3-9-80
Food and Drug Administration—
11906 Gastrointestinal Drugs Advisory Committee, 3-11 and 3-12-80

**INTERIOR DEPARTMENT**

Land Management Bureau—
11916 Carson City District Grazing Advisory Board, 3-26-80
11916 Intergovernmental Planning Program, Gulf of Mexico Regional Technical Working Group, 4-1 and 4-2-80, and 4-15 and 4-16-80
11919 Regional coal team for River-Hams Fork Federal Coal Production Region, 3-21-80

**JUSTICE DEPARTMENT**

Juvenile Justice and Delinquency Prevention Office—
11944 Coordinating Council on Juvenile Justice and Delinquency Prevention, 2-27-80
Law Enforcement Assistance Administration—
11944 National Minority Advisory Council on Criminal Justice, 3-7 and 3-8-80

**MINIMUM WAGE STUDY COMMISSION**

11964 Meeting, 3-11-80

**NATIONAL ALCOHOL FUELS COMMISSION**

11965 Meeting, 3-4-80

**NUCLEAR REGULATORY COMMISSION**

11966, 11967 Reactor Safeguards Advisory Committee and various subcommittees, March, April, and May 1980 (3 documents)

**PRESIDENTIAL COMMISSION ON WORLD HUNGER**

11971 Public Participation and Communication Subcommittee, 2-28, full committee 2-29-80

**STATE DEPARTMENT**

11971 Shipping Coordinating Committee, Safety of Life at Sea Subcommittee, 3-13-80

**TREASURY DEPARTMENT**

Industrial Economics Office—
11973 Class Life Asset Depreciation Range System, assets for manufacture of food and tobacco products, 3-18-80

**VETERANS ADMINISTRATION**

11974 Station Committee on Educational Allowances, 3-17-80
11973 Structural Safety of Veterans Administration Facilities Advisory Committee, 3-14-80


## CHANGED MEETING


**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

National Institutes of Health—
11913 Division of Research Grants, Human Development Study Section, 3-4 through 3-7-80, time change


## RESCHEDULED MEETING


**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

National Institutes of Health—
11913 Division of Research Grants, Physiology Study Section, 2-20 through 2-23-80


## HEARING


**INTERNATIONAL TRADE COMMISSION**

11938 Countervailing duty investigations, April, May and June 1980

## CFR PARTS AFFECTED IN THIS ISSUE

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


**7 CFR**
795.....11795
910.....11795
1421.....11795
**Proposed Rules:**
2890.....11815
2891.....11815
2892.....11815
2893.....11815
2894.....11815
2895.....11815
2896.....11815
2897.....11815
2898.....11815
2899.....11815

**9 CFR**
92 (2 documents).....11796, 11797

**18 CFR**
**Proposed Rules:**
35.....11817
1309.....11835

**20 CFR**
653.....12202
655.....11798

**21 CFR**
81.....11799
510.....11800
520.....11801
**Proposed Rules:**
170 (2 documents).....11840, 11841
182 (3 documents).....11841–11846
184 (3 documents).....11841–11846
186.....11846
310.....11846
320.....11849
600.....11854
610 (2 documents).....11854
640.....11854

**24 CFR**
203.....11801
207.....11801
220.....11801

**26 CFR**
404.....11802

**29 CFR**
1952 (2 documents).....11804, 11814

**36 CFR**
**Proposed Rules:**
1190.....12168

**38 CFR**
3.....11804

**40 CFR**
**Proposed Rules:**
52.....11855

**41 CFR**
**Proposed Rules:**
60–1.....11856
60–2.....11856
60–20.....11856
60–30.....11856
60–50.....11856
60–60.....11856
60–250.....11856
60–741.....11856

**42 CFR**
447.....11806
463.....11807
**Proposed Rules:**
122.....12174
123.....12174

**49 CFR**
1011.....11811
1247.....11813

**50 CFR**
26.....11813

# Rules and Regulations

Federal Register
Vol. 45, No. 37
Friday, February 22, 1980

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.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 795

### Payment Limitation

*Correction*

In FR Doc. 80-4875 appearing on page 10311, in the issue of Friday, February 15, 1980 make the following correction:

On page 10311, second column, the fourteenth line of paragraph (c) of § 795.8 should have read: "outstanding stock shall be equal to the".

BILLING CODE 1505-01-M

### Agricultural Marketing Service

### 7 CFR Part 910

[Lemon Regulation 240]

### 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 February 24–March 1, 1980. Such action is needed to provide orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

**EFFECTIVE DATE:** February 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, 202–447–5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on February 19, 1980, 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 is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the desired 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.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS USDA, Washington, D.C. 20250, telephone 202–447–5975.

**§ 910.540 Lemon regulation 240.**

*Order.* (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 24, 1980 through March 1, 1980, is established at 225,000 cartons.

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

Dated: February 20, 1980

D. S. Kuryloski,

*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 80-5821 Filed 2-21-80; 11:51 am]

BILLING CODE 3410-02-M

### Commodity Credit Corporation

### 7 CFR Part 1421

### Peanuts Subpart; 1978 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program Regulations

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final Rule, Corrections.

**SUMMARY:** The final rulemaking published in the Federal Register on Monday, April 12, 1979, (44 FR 19182–19184), on the Peanut Regulations, contained incorrect section designations. This notice is being published to correct those errors.

**DATE:** Effective April 12, 1979.

**FOR FURTHER INFORMATION CONTACT:** Harold Jamison, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7973.

**PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES**

At 44 FR 19182, April 12, 1979, two sections were numbered incorrectly. Sections 1421.291 and 1421.292 are hereby correctly designated as §§ 1421.290a and 1421.290b, respectively.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, (15 U.S.C. 714(b) and (c)), secs. 101, 108, 401, 403, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445c, 1421, 1423, 1425).

Dated: January 31, 1980.

Ray Fitzgerald,

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 80-5524 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-05-M

**Animal and Plant Health Inspection Service**

**9 CFR Part 92**

## Importation of Certain Animals; Deletion of the Canadian and Mexican Border Ports

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this document is to delete certain ports designated in the regulations for the importation of animals; to delete certain ports designated in the regulations as Canadian border ports; and to delete certain ports designated in the regulations as Mexican border ports. The document designates certain ports as "limited ports" for the entry of small animals and animal products such as animal semen, animal test specimens, and hatching eggs or day old chicks which do not require restraint and inspection facilities. Certain ports are deleted due to the lack of use or low volume use of such ports by the public which does not justify maintaining inspection personnel at such ports. The intended effect of this action is to revise the list of ports designated for the importation of animals and animal products and to clarify the regulations by more accurately defining the type of ports designated.

**EFFECTIVE DATE:** March 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dr. D. E. Herrick, USDA, APHIS, VS, Room 817, Federal Building, Hyattsville, Md. 20782, 301–436–8170.

**SUPPLEMENTARY INFORMATION:** On Friday, June 22, 1979, there was published in the Federal Register (44 FR 36397–36398) a proposed amendment to the regulations (9 CFR Part 92) which would delete certain ocean ports, Canadian land border ports and Mexican land border ports to more clearly define the type of ports having quarantine facilities necessary to qualify for designation as quarantine stations for the importation of animals.

Also, a new § 92.3(e) entitled "Limited Ports" designated certain ports for the limited purpose of entering small animals and animal products that do not require restraint and holding inspection facilities necessary for other animals being offered for import.

The 60-day period for receipt of comments concerning the proposal expired August 21, 1979. Eight comments were received concerning the proposed deletion of certain ports.

One comment recommended that Spokane, Washington, be deleted as a Canadian border port since Spokane is located more than 100 miles from the border. The Agency agrees with this recommendation since animals would be required to pass through the designated Canadian border ports of Oroville, Washington or Eastport, Idaho, in order to reach Spokane. Therefore, this document will amend the proposal to delete Spokane, Washington, from § 92.3(b) (9 CFR Part 92) as a Canadian border port.

Four respondents opposed the deletion of ports in the State of Maine. Three of these claimed unnecessary inconvenience, and stressed the extra mileage that would be required if these ports are deleted in these times of energy shortage. The fourth comment, signed by 56 residents of Maine and Canada, opposed the deletions, on the basis that they used these ports to participate in horse shows and unspecified dealerships.

Provisions in § 92.24(b)(9 CFR Part 92) provide that horses of United States origin which enter Canada for periods of not more than 72 hours may re-enter the United States without veterinary inspection at the port of entry provided they are accompanied by the health certificate under which they were permitted entry into Canada and that they re-enter the United States via the same Customs port of entry through which they entered Canada. The Agency considers this provision adequate to permit attendance at local horse shows.

Also in response to these comments, the Agency has reviewed the highway and road systems of Maine and the adjacent Canadian provinces.

The designated Port of Houlton, located near the center of the Maine-Canadian border provides sufficient access for the importation of animals from eastern Canada so that little, if any, additional mileage or energy would be expended.

For animal imports from Ontario, Quebec, and the other western provinces of Canada, the Agency agrees that deletion of the Canadian border port of Jackman, as the only border port located on the western border of Maine, would result in major inconvenience and require substantial additional mileage and energy. Therefore, of the border ports proposed for deletion in Maine only, the port of Jackman is retained as a designated Canadia border port.

One comment opposed the deletion of Rooseveltown, New York, as a Canadian border port on the basis that an Indian reservation is located on both sides of the border in the area affected, that the Canadian end of the international bridge is on reservation land and that the Indians have free rights and access to the bridge. In consideration of this comment, the agency will retain Rooseveltown, New York, as a designated Canadian border port.

One comment requested that San Diego, California, be designated either an air or ocean port or a limited port. It was proposed to designate San Diego, California, as a "limited port" in the proposal published.

One comment suggested that Niagara Falls, New York, be retained as a Canadian border port since Niagara Falls and Buffalo, New York, are considered as one port under customs designation. This suggestion was rejected since it would confuse the public in determining where port of entry inspection service is available.

After due consideration of all comments received, the Department is amending the proposal in accordance with expanations provided in this document and is publishing this amendment as a final rule.

Accordingly, § 92.3 of Title 9, Code of Federal Regulations, is amended in the following respects:

1. Present paragraphs (e) and (f) are redesignated paragraphs (f) and (g), respectively.

2. Paragraphs (a), (b), and (c) are amended and a new paragraph (e) is added to read as follows:

### § 92.3 Ports designated for the importation of animals.

(a) *Air and ocean ports.* The following ports are hereby designated as having inspection and quarantine facilities necessary for quarantine stations and all animals shall be entered through said stations, except as provided in paragraphs (b), (c), (d), and (e) of this section and paragraph (d) of § 92.11 or § 92.24: New York, New York; Miami, Florida; Los Angeles, and San Francisco, California; and Honolulu, Hawaii.

(b) *Canadian border ports.* The following land border ports are designated as having the necessary inspection facilities for the entry of animals from Canada: Houlton and Jackman, Maine; Derby Line and Highgate Springs, Vermont; Champlain, Ogdensburg, Rooseveltown, Alexandria Bay, and Buffalo, New York; Detroit, Port Huron and Sault Ste. Marie, Michigan; Pembina, Portal, and Dunseith, North Dakota; Raymond, Opheim and Sweetgrass, Montana; Eastport, Idaho; Oroville, Sumas, Blaine, and Lynden, Washington.

(c) *Mexican border ports.* The following land border ports are

designated as having the necessary inspection facilities for the entry of animals from Mexico: Brownsville, Hidalgo, Laredo, Eagle Pass, Del Rio, Presidio, and El Paso, Texas; Douglas, Naco, Nogales, Sasabe, and San Luis, Arizona; Calexico and San Ysidro, California; and Antelope Wells, and Columbus, New Mexico.

(d) * * *

(e) *Limited ports.* The following ports are designated as having inspection facilities for the entry of animals and animal products such as animal semen, animal test specimens, or hatching eggs and day old chicks which do not appear to require restraint and holding inspection facilities: Anchorage, Alaska; Denver, Colorado; Chicago, Illinois; Minneapolis, Minnesota; Great Falls, Montana; Portland, Maine; Boston, Massachusetts; Baltimore, Maryland; Jacksonville and Tampa, Florida; San Juan, Puerto Rico; New Orleans, Louisiana; Galveston and Houston, Texas; San Diego, California; Portland, Oregon; and Spokane, Tacoma, and Seattle, Washington.

* * * * *

(Section 2 of the Act of February 2, 1903, as amended, and Sections 2, 3, 4, and 11 of the Act of July 2, 1962, (21 U.S.C. 111, 134a 134b, 134c, and 134f; 37 FR 28464, 28477; 38 FR 19141).

It does not appear that further public participation on this amendment would make additional relevant information available to the Department. Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice and public procedure on this amendment are unnecessary and contrary to the public interest.

This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations."

A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301–436–8695.

Done at Washington, D.C., this 12th day of February 1980.

Pierre A. Chaloux,

*Deputy Administrator, Veterinary Services.*

[FR Doc. 80-5065 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-34-M

## 9 CFR Part 92

## Importation of Certain Animals and Poultry and Certain Animal and Poultry Products; Inspection and Other Requirements for Certain Means of Conveyance and Shipping Containers Thereon; Harry S Truman Animal Import Center

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations concerning the issuance of special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center. This action is being taken to revise the requirement that the Cooperative Trust Fund Agreement be signed by the applicant and delivered to the Department by February 14, 1980, along with the required funds or payment bond. The intended effect of this action is to allow special permits to be allotted when only the application is delivered to the Department by February 14, 1980.

**EFFECTIVE DATE:** February 13, 1980.

**FOR FURTHER INFORMATION:** Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782, 301–436–8170.

**SUPPLEMENTARY INFORMATION:** On Wednesday, January 30, 1980, procedures were established to allot special permits for the second importation of cattle through the Harry S. Truman Import Center (HSTAIC) to permittees of the first importation of cattle through HSTAIC that were not able to obtain cattle qualified for such importation.

The Department has determined that it would be equitable for the holders of special permits issued for the first importation and for which cattle have not been qualified for entry into HSTAIC, to be given a preference in the drawing for the second importation. Those persons who had been issued special permits for the first importation and who submitted both an application and the required cooperative and trust fund agreement and funds or payment bond by the specified date of February 14, 1980, for the second drawing, were to be issued permits and allotted space for the second importation for cattle through HSTAIC. For each such individual, a permit was to be issued for not more than the number of cattle specified in his special permit for the first importation less the number of cattle which he has imported into HSTAIC for the first quarantine period.

The amendment specified each person holding a special permit for the first importation shall, prior to the second drawing, be awarded space for not more than the number of animals specified on said first importation special permit less the number of animals entered by the person under the permit into the HSTAIC for the first quarantine period. As of this date, the Department does not have available the specific information on the number of cattle identified to each special permittee for the first importation into HSTAIC. This information is essential to complete the Cooperative Trust Fund Agreement required in § 92.41(c) and to establish the amount for which funds or payment bond is required for the second importation. This information will be available by February 15, 1980, the date of the drawing.

However, because of the time required for the Department to distribute to each such applicant a Cooperative Trust Fund Agreement and for the applicant to deliver the signed agreement with funds, or payment bond to the Department as a condition for issuance of the special permit, the February 14 requirement is unrealistic. Therefore, the Department is amending the regulations to require that only the application for permit to import additional cattle be delivered to the Department by February 14, 1980.

1. In § 92.41, the proviso in the first sentence of paragraph (a)(2) is amended to read:

**§ 92.41 Requirements for the importation of animals into the United States through the Harry S Truman Animal Import Center.**

(a) * * *

(1) * * *

(2) *Drawing for permits.* * * *

Provided that an application for space for the second importation signed by the holder of a special permit for the first importation be delivered to the Department by February 14, 1980, * * *

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.A. 111 and 135; 37 FR 28464, 28477; 38 FR 19141.)

The amendment revises and clarifies the method of importing cattle into the Harry S Truman Animal Import Center. Applications for the second importation were required to be received by the Department by February 1, 1980, with the drawing for the second importation scheduled for February 15, 1980. The date of the second importation of animals to be imported into the Harry S Truman Animal Import Center is now estimated to be August 1980. It is in the public interest that the Department advise prospective importers of the revised procedures as soon as possible

in order that those affected may adjust their plans accordingly. Therefore, the amendment is of an emergency nature and must be placed in effect immediately in order to serve the purpose intended.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as " significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. M. J. Tillery, Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provision of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 13th day of February 1980.

J. K. Atwell,

*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 80-5036 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-34

## DEPARTMENT OF LABOR

## Employment and Training Administration

## 20 CFR Part 655

## Labor Certification Process for the Temporary Employment of Aliens in the United States; Increased Meal Charge

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rulemaking.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (DOL) is amending 20 CFR 655.204(b)(4) and 655.211(a) to increase the amounts which an agricultural or logging employer under the temporary alien labor certification program may charge workers for meals. Employers covered by this program must provide each worker with 3 meals a day. Due to increases in food costs, this final rulemaking increases the charge without ETA approval to $4.00 per day and the maximum allowable amount with ETA approval to $5.00 per day. Certain other minor technical and clarifying changes have been made as well.

**EFFECTIVE DATE:** March 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Aaron Bodin, Chief, Division of Labor Certifications, Office of Technical Support, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor Suite 8410—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213; Telephone: 202-376-6295

**SUPPLEMENTARY INFORMATION:**

### Introduction

On October 26, 1979, there was published in the Federal Register a notice of proposed rulemaking, proposing to amend 20 CFR §§ 655.202 and 655.211 to increase the amount agricultural and logging employers under the temporary alien labor certification program may charge their workers for providing them with three daily meals. 44 FR 61604. Comments from interested persons were invited and considered. This document adopts that proposed rulemaking as final rulemaking.

### Labor Certification Process

The Employment and Training Administration (ETA) of the Department of Labor (DOL) has issued, at 20 CFR Parts 621 and 655, regulations governing the certification of nonimmigrant aliens for temporary employment in the United States. These regulations were issued pursuant to authority granted DOL by § 214.2(h)(3)(i) of the Immigration and Naturalization Service (INS) regulations. 8 CFR 214.2(h)(3)(i). The INS regulation provides that, prior to the issuance of a nonimmigrant visa to certain groups of aliens seeking admission to the United States for temporary employment, the potential employer must first obtain:

Either a certification from the Secretary of Labor or his designated representatives stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every nonimmigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the [Immigration and Nationality] Act [8 U.S.C. 1101 (a)(15)(H)(ii)].

Within DOL, this authority has been delegated to the Assistant Secretary for ETA. See § 4.a(5) of the Secretary of Labor's Order 4-75, 40 FR 18515. For occupations in agriculture and logging, the regulations issued by ETA for this program are located in Subpart C of 20 CFR Part 655.

### Provision of Meals

The regulations require that the job offer to the aliens and to U.S. workers state the charge to the workers for employer-provided meals. This document increases the maximum charge permitted to $4.00 per day (from $3.25 per day), unless the Regional Administrator for employment and Training (RA) has approved a higher cost. 20 CFR 655.202(b)(4).

### Petitions for Higher Meal Charges

Employers may petition the RA to allow a higher daily meal charge, up to a stated limit. 20 CFR 655.211. This document increases the amount that the RA may permit the employer to charge workers up to $5.00 (from $4.00) for providing 3 meals per day. The employer still must justify the higher charge by submitting the following documentary evidence.

Evidence submitted shall include the cost of goods and services directly related to the preparation and serving of meals, the number of workers fed, the number of meals served and the number of days meals were provided. The cost of the following items may be included: Food; kitchen supplies other than food, such as lunch bags and soap; labor costs which have a direct relation to food service operations, such as wages of cooks and restaurant supervisors; fuel, water, electricity, and other utilities used for the food service operations; other costs directly related to the food service operation. Charges for transportation, depreciation, overhead, and similar charges may not be included. Receipts and other cost records for a representative pay period shall be available for inspection by the Secretary's representatives for a period of one year. [20 CFR 655.211(b).]

The increase in the maximum meals charge the RA could permit does not mean that all or most employers covered by this program could increase their meal charges to $5.00 per day. For any charge over $4.00 per day, the petition and documentation requirements of 20 CFR § 655.211(b) remains in force.

### Consideration of Comments

Written comments on the proposed rulemaking were invited from interested

parties through January 2, 1979. 44 FR 61604.

Twelve comments were received within the comment period. One other comment was received two days after the end of the comment period. Eleven of the comments supported the adoption of the proposed rule; one timely comment and the late comment objected to the proposed rule.

Three favorable commenters also suggested that meal charges higher than those proposed be adopted, and two of the three suggested that a procedure for annual increases be implemented. The ETA believes that the increased charges set forth in the present rulemaking are fair to both employers and employees and are the highest that can be justified at the present time. In addition the meal charge rates set forth in the regulations are subject to change at any time, subject of course to rulemaking procedures. However, the ETA is not aware of a readily available method which would provide "automatic" annual increases and which would have broad acceptance at this time.

One comment objecting to the proposed rule alleged that there have been employer violations in one State, relating to meal charges to workers. The commenter suggested that the rulemaking be suspended until the allegations have been investigated and resolved. ETA is processing these allegations through the established investigatory and complaint procedures. However, allegations of limited violations in one State are not sufficient to delay nationwide adoption of the revised rule.

Another comment objecting to the proposed rule was received after the end of the comment period. Although ETA is not required to take this comment into consideration, it was considered and is being responded to in this document. See *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519 (1978). The commenter stated that the proposed rule did not provide sufficient justification for increasing the regular meals charge or the permissible meals charge with RA approval. The commenter also alleged that the proposed rule conflicts with "stricter standards" in the Fair Labor Standards Act and State laws.

ETA has noted that here have been rapid cost increases in foodstuffs since the maximum daily meals charge, with RA approval, was increased to $4.00 in 1976. See 20 CFR 602.10a(f) (1977), 31 FR 35169 (August 20, 1976); see also 43 FR 10309 and 10318 (March 10, 1978). The increase of these meals charges, without RA approval, from $3.25 to $4.00 is only a 75 cent increase which is consistent with the general increase in the cost of foods. As stated in the proposed rule and in this document, any increase above that amount must be justified by the documentation described in 20 CFR 655.211(b) and must be approved by the RA.

Having taken into consideration the various comments discussed above, ETA has determined to adopt the proposed rule in final form without change.

### Development of Regulations

These regulations have been developed under the direction and control of Mr. David O. Williams, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C.

The effect of this regulation is not so major as to require the preparation of a regulatory analysis. See 44 FR 5576 (January 26, 1979).

### Promulgation of Regulation

Accordingly, 20 CFR Part 655 is amended by revising §§ 655.202(b)(4) and 655.211(a) to read as follows:

**§ 655.202 Contents of job offers.**

* * * * *

(b) * * *

(4) The Employer will provide the worker with three meals a day. The job offer shall state the cost to the worker for such meals. The cost shall be no more than $4.00 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part.

* * * * *

**§ 655.211 Petition for higher meal charges.**

(a) The RA may permit an employer charge to workers up to $5.00 for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentary evidence required by paragraph (b) of this section. A denial in whole or in part shall be reviewable as provided in § 655.212 of this Part.

* * * * *

Signed at Washington, D.C. this 15th day of February 1980.

Ernest G. Green,

*Assistant Secretary for Employment and Training.*

[FR Doc. 80-5588 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-30-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### 21 CFR Part 81

[Docket No. 79C-0053]

## General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs, and Cosmetics; Postponement of Closing Date for Provisional Listing of Lead Acetate

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of lead acetate for use as a color additive in cosmetics that color the hair on the scalp. A new closing date for lead acetate is being established as a result of an extension of the comment period on the agency's advance notice of proposed rulemaking concerning lead in food that was published in the Federal Register of November 27, 1979 (44 FR 67673). The new closing date will be June 30, 1980.

**EFFECTIVE DATE:** February 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** The current closing date of March 1, 1980, for the provisional listing of lead acetate was established by a regulation published in the Federal Register of August 31, 1979 (44 FR 51216). The March 1, 1980 closing date was established to provide for the receipt and evaluation of further information that may be relevant to the use of lead acetate as a hair dye. The information regarding lead exposure was anticipated in response to a request for data concerning the presence of lead in food that was published as an advance notice of proposed rulemaking in the Federal Register of August 31, 1979 (44 FR 51233). Interested persons were requested to submit comments, information, and data by November 29, 1979.

On October 31, 1979, a letter (on file with the Hearing Clerk, Food and Drug Administration) was received from the National Food Processors Association, Washington, DC, requesting an extension of the comment period for an additional 90 days to allow sufficient time to obtain information and prepare

comments on the advance notice of proposed rulemaking. The comment period for the advance notice of proposed rulemaking concerning lead in food was extended to February 29, 1980, in a Federal Register notice that published on November 27, 1979 (44 FR 67673).

The agency concludes that the short postponement of the closing date for the provisional listing of lead acetate is appropriate because the information requested by the August 31, 1979 advance notice may be relevant to the use of lead acetate as a hair dye and will form a more complete administrative record upon which to base final action. Therefore, the regulation set forth below will postpone the March 1, 1980 closing date for the provisional listing of lead acetate until June 30, 1980.

Because of the shortness of time until the March 1, 1980 closing date the agency has concluded that use of a notice and public procedure on this regulation is impracticable and that good cause exists for issuing this postponement as a final rule. By May 30, 1980, the FDA intends to either approve the petition for the permanent listing of lead acetate or deny the petition.

This regulation will permit the uninterrupted use of this color additive until June 30, 1980. To prevent any interruption in the provisional listing of lead acetate, and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on February 29, 1980.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 81 is amended as follows:

**§ 81.1 [Amended]**

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "Lead acetate" in paragraph (g) to read "June 30, 1980".

**§ 81.27 [Amended]**

2. In § 81.27 *Conditions of provisional listing of additives,* by revising the closing date for "Lead acetate" in paragraph (b) to read "June 30, 1980".

*Effective date.* This regulation is effective February 29, 1980.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: February 14, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5516 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

## 21 CFR Part 510

**[Docket No. 75N-0356]**

## Medicated Blocks; Extension of Time To Submit Data on Safety and Effectiveness

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is providing additional time for complying with the regulation that requires submission of the results of studies to establish the safety and effectiveness of certain medicated blocks. Manufacturers of medicated blocks requested this action.

**EFFECTIVE DATE:** February 22, 1980.

**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:** Section 510.455 *New animal drug requirements for medicated blocks* (21 CFR 510.455) was published in the Federal Register of August 2, 1976 (41 FR 32213). The section requires submission of new animal drug applications (NADA's) to establish that medicated blocks are safe and effective under their labeled conditions of use. A period of 6 months was provided—until March 1, 1977—for the submission of an NADA, including all the pertinent information required by § 514.1 (21 CFR 514.1). For those firms in compliance with § 510.455 (21 CFR 510.455), provision was made in the regulation for the continued marketing, on an interim basis, of medicated premixes and medicated blocks subject to § 510.455.

In the Federal Register of May 6, 1977 (42 FR 23149), FDA extended the deadline for the submission of a complete NADA, including all the pertinent information required by § 514.1, from March 1, 1977 to December 1, 1978 and granted corresponding extensions of time regarding the interim marketing of premixes intended for the manufacture of medicated blocks from September 1, 1977 to June 1, 1979, and for the interim marketing of medicated blocks from December 1, 1977 to December 1, 1979.

FDA received 28 NADA's for the manufacture of medicated blocks (not produced from a medicated premix) prior to December 1, 1978. However, these applications are currently incomplete, and most sponsors have requested an additional extension of time. Many applications are incomplete because they do not contain sufficient consumption data and stability data. Other applications are incomplete because they do not contain adequate human food safety or animal safety data. The sponsors seeking an extension have assured FDA that they are in the process of collecting the data required to answer the remaining questions. After an agency review of all the NADA's, FDA has determined that the sponsors have collected data consistent with its requirements and have made a responsible effort to collect the data required for NADA approval in a timely manner. Therefore, FDA concludes that an additional time extension is warranted under § 10.35 (21 CFR 10.35). All sponsors who submitted NADA's on or before December 1, 1978 must submit all materials necessary to complete their application on or before February 23, 1981. Products subject to these NADA's may continue to be marketed on an interim basis no later than February 22, 1982. FDA reserves the right to deny any NADA and thereby terminate interim marketing for products subject to the NADA if at any time data on file in the NADA justify denial. The granting of this extension may not be construed as reflecting concurrence by the agency or the Commissioner with Citizen's Petition 79P-0197, which requests that free choice medicated products be treated as animal feeds, and not as drugs.

Under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 510 is amended in § 510.455 by revising paragraph (e) to read as follows:

**§ 510.455 New animal drug requirements for medicated blocks.**

* * * * *

(e) The transitional provisions that were provided for manufacturers to obtain approved applications for the use of specified drugs in specific types of blocks expired on December 1, 1979. However, the provision regarding medicated blocks (not produced from a medicated premix) is extended for all persons who submitted a new animal drug application (NADA) for a medicated block (not produced from a medicated premix), pursuant to this section, on or before December 1, 1978.

Sponsors of these NADA's must submit all materials necessary to complete the NADA's to FDA on or before February 23, 1981. Products subject to these NADA's may continue to be marketed on an interim basis until February 22, 1982, provided that any NADA at any time may be denied—and interim marketing under that NADA terminated—if data on file justify denial. After February 22, 1982, all medicated blocks are required to have an application approved pursuant to section 512 of the act.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)))

*Effective date.* This regulation becomes effective February 22, 1980.

Dated: February 12, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5208 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 520

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

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) providing for use of an additional size anthelmintic tablet for prevention of heartworm disease in dogs. The supplement was filed by Vet-A-Mix Laboratories, Inc.

**EFFECTIVE DATE:** February 22, 1980.

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

**SUPPLEMENTARY INFORMATION:** Vet-A-Mix Laboratories, Inc., P.O. Box 86, Shenandoah, IA 51601, filed a supplemental NADA (92-836) providing for use of 150 milligrams (mg) diethylcarbamazine citrate chewable tablets in dogs for prevention of infections of *Dirofilaria immitis* (heartworm disease) in addition to the currently approved use of 45 mg tablets for this purpose. The regulations are amended to reflect approval of this supplement.

Under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977, 42 FR 64367), this is a Category II approval. It has been determined that the approval of this supplement has no adverse effect on the safety or effectiveness of the new animal drug because it provides solely for a new tablet size and does not change the approved dosage (3 mg per pound of body weight per day) of the drug. Accordingly, approval of this supplement does not require reevaluation of the safety and effectiveness data in the parent application.

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) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622c by revising paragraph (b)(3) to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

* * * * *

(b) * * *

(3) For 032998: 45 or 150 milligrams of the drug per tablet.

* * * * *

*Effective date.* This regulation is effective February 22, 1980.

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

Dated: February 12, 1980.

Robert A. Baldwin,

*Associate Director for Scientific Evaluation.*

[FR Doc. 80-5324 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 207, 220

[Docket No. R-80-769]

## Debenture Interest Rates

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Final rule.

**SUMMARY:** This rule change provides for an increased debenture interest rate applicable to all home and project mortgages and loans under the National Housing Act (the Act), as amended, except for those loans or mortgages insured under the Act's section 221(g)(4) provision, committed or endorsed on or after January 1, 1980. The Secretary of the Treasury determines debenture interest rates in accordance with established procedure and the Act. The intended effect of this rule change is to increase debenture interest rates for appropriate mortgages.

**EFFECTIVE DATE:** January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** T. J. O'Connor, Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 2202, Washington, D.C. 20410, (202) 755-6310. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** The Secretary of the Treasury has determined in accordance with the provisions of section 224 of the National Housing Act, as amended, that the interest rate for the month of November 1979 is 9½% and has approved the establishment of debenture interest rates at 9½% to be effective as of January 1, 1980.

The Secretary of Housing and Urban Development has determined that advance publication and notice and public procedure are unnecessary and that good cause exists to make the rule effective as of January 1, 1980 since the debenture interest rate and its effective date are determined by the Secretary of the Treasury in accordance with a procedure established by statute and this rule merely implements those determinations. In addition the Chairmen and Ranking Minority Members of the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives have waived the delay of effective date provisions of Section 7(o)(3) of the Department of Housing and Urban Development Act.

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

Accordingly, Chapter II is amended as follows:

### PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

### Subpart B—Contract Rights and Obligations

1. Section 203.405 is amended to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually

on the first day of January and the first day of July of each year at the rate in effect as of the day the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is higher.

The following interest rates are effective for the dates listed:

| | On or after | Prior to |
|---|---|---|
| Effective rate (percent): | | |
| 6⅞ | July 1, 1974 | July 1, 1975. |
| 7 | July 1, 1975 | Jan. 1, 1976. |
| 7⅛ | Jan. 1, 1976 | July 1, 1976. |
| 7 | July 1, 1976 | Jan. 1, 1977. |
| 6⅝ | Jan. 1, 1977 | July 1, 1977. |
| 7¼ | July 1, 1977 | Jan. 1, 1978. |
| 7⅛ | Jan. 1, 1978 | July 1, 1978. |
| 7¾ | July 1, 1978 | Jan. 1, 1979. |
| 8 | Jan. 1, 1979 | July 1, 1979. |
| 8¼ | July 1, 1979 | Jan. 1, 1980. |
| 9½ | Jan. 1, 1980 | |

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

2. Section 203.479 is amended to read as follows:

**§ 203.479 Debenture interest rate.**

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

| | On or after | Prior to |
|---|---|---|
| Effective rate (percent): | | |
| 6⅞ | July 1, 1974 | July 1, 1975. |
| 7 | July 1, 1975 | Jan. 1, 1976. |
| 7⅛ | Jan. 1, 1976 | July 1, 1976. |
| 7 | July 1, 1976 | Jan. 1, 1977. |
| 6⅝ | Jan. 1, 1977 | July 1, 1977. |
| 7¼ | July 1, 1977 | Jan. 1, 1978. |
| 7⅛ | Jan. 1, 1978 | July 1, 1978. |
| 7¾ | July 1, 1978 | Jan. 1, 1979. |
| 8 | Jan. 1, 1979 | July 1, 1979. |
| 8¼ | July 1, 1979 | Jan. 1, 1980. |
| 9½ | Jan. 1, 1980 | |

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

## PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

### Subpart B—Contract Rights and Obligations

3. In § 207.259 paragraph (e)(6) is amended to read as follows:

**§ 207.259 Insurance benefits.**

* * * * *

(e) Issuance of debentures. * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

| | On or after | Prior to |
|---|---|---|
| Effective rate (percent): | | |
| 6⅞ | July 1, 1974 | July 1, 1975. |
| 7 | July 1, 1975 | Jan. 1, 1976. |
| 7⅛ | Jan. 1, 1976 | July 1, 1976. |
| 7 | July 1, 1976 | Jan. 1, 1977. |
| 6⅝ | Jan. 1, 1977 | July 1, 1977. |
| 7¼ | July 1, 1977 | Jan. 1, 1978. |
| 7⅛ | Jan. 1, 1978 | July 1, 1978. |
| 7¾ | July 1, 1978 | Jan. 1, 1979. |
| 8 | Jan. 1, 1979 | July 1, 1979. |
| 8¼ | July 1, 1979 | Jan. 1, 1980. |
| 9½ | Jan. 1, 1980 | |

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

## PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

### Subpart D—Contract Rights and Obligations—Projects

4. Section 220.830 is amended to read as follows:

**§ 220.830 Debenture interest rate.**

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued or as of the date the loan was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

| | On or after | Prior to |
|---|---|---|
| Effective rate (percent): | | |
| 6⅞ | July 1, 1974 | July 1, 1975. |
| 7 | July 1, 1975 | Jan. 1, 1976. |
| 7⅛ | Jan. 1, 1976 | July 1, 1976. |
| 7 | July 1, 1976 | Jan. 1, 1977. |
| 6⅝ | Jan. 1, 1977 | July 1, 1977. |
| 7¼ | July 1, 1977 | Jan. 1, 1978. |
| 7⅛ | Jan. 1, 1978 | July 1, 1978. |
| 7¾ | July 1, 1978 | Jan. 1, 1979. |
| 8 | Jan. 1, 1979 | July 1, 1979. |
| 8¼ | July 1, 1979 | Jan. 1, 1980. |
| 9½ | Jan. 1, 1980 | |

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C. February 8, 1980.

Lawrence B. Simons,

*Assistant Secretary for Housing, Federal Housing Commissioner.*

[FR Doc. 80-5484 Filed 2-19-80; 12:10 pm]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 404

[T.D. 7677]

## Disclosure of Return Information To and by Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities; Temporary Regulations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains amendments to the temporary regulations relating to the disclosure of certain return information to and by officers and employees of the Department of Commerce for certain statistical purposes and related activities. These amendments are intended to clarify the existing regulations and expand them in one minor respect. They affect all disclosures to and by the Bureau of the Census.

**DATE:** The regulations apply to disclosures of return information after December 31, 1976.

**FOR FURTHER INFORMATION CONTACT:** David E. Dickinson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3218).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains amendments to the temporary regulations relating to disclosure of return information to and by the Bureau of the Census under section 6103(j)(1) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1668).

### Disclosure of Return Information Only for Certain Statistical Activities Carried out by Bureau of the Census

The Bureau of the Census conducts statistical and related activities under Title 13 of the United States Code. Its basic functions prescribed by statute are carried out under chapter 5 of Title 13. Under chapter 1, however, the Bureau is authorized to make, upon request, special statistical compilations and surveys on a cost reimbursement basis for other Federal agencies, State and local governments, or any other public or private person or agency. Section 6103(j)(1) of the Internal Revenue Code, and § 404.6103(j)(1)-1(b) of present

temporary regulations, require the Internal Revenue Service to disclose return information to the Bureau for the purpose of structuring censuses and conducting related statistical activities authorized by law. Read literally, these disclosure provisions would apply to the disclosure of return information by the Service to the Bureau for purposes of carrying out statistical activities under chapter 1, as well as chapter 5, of Title 13.

The legislative history of section 6103(j)(1) of the Code indicates that, despite the language of section 6103(j)(1), Congress, in enacting that provision, was concerned with preserving the ability of the Bureau properly to carry out its functions under chapter 5 of Title 13 and not with statistical studies performed on a contractual basis under chapter 1. Accordingly, these proposed amendments of § 404.6103(j)(1)–1(b) would restrict the use of return information by the Bureau to censuses and related statistical activities conducted or prepared under the authority of chapter 5 of Title 13.

Disclosure of Taxpayer Name Information to the Bureau of the Census for Purposes of Carrying out a Chapter 5 Activity

Under § 404.6103(j)(1)–1 (b)(1) of present temporary regulations, the Bureau of the Census is authorized to use certain described return information for described censuses, statistical programs, and program evaluation. These regulations provide, however, that the taxpayer's name can be used only where necessary to evaluate the completeness of census coverage, *i.e.*, census undercount. It has since developed, however, that the Bureau needs the authority to use taxpayer names for other statistical activities carried out under chapter 5 of Title 13. For example, if the Bureau were denied the use of taxpayers' names, its ability to conduct samples necessary to these chapter 5 activities would be impaired. Section 404.6103(j)(1)–1 (b)(1) of present temporary regulations would, therefore, be amended to delete the restriction on the Bureau's use of taxpayers' names in conducting an activity under the authority of chapter 5.

Disclosure of Earned Income Credit Information

In order to improve its estimates of per capita income for all geographic areas included in the general revenue sharing program, the Bureau of the Census needs access to the amount by which the earned income credit claimed on individual returns exceeds Federal income tax liability. Accordingly, a new subdivision (xiv) is added to § 404.6103(j)(1)–1 (b)(1) to authorize the Service to disclose this information.

Waiver of Procedural Requirement of Treasury Directing

There is need for expeditious adoption of the regulations contained in this document in order to prevent impairment of the present ability of the Bureau of the Census satisfactorily to conduct and prepare intercensal estimates, statistics programs, censuses and related program evaluation authorized by chapter 5 of Title 13, United States Code. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of this regulation was David E. Dickinson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

*Adoption of Amendments to the Regulations*

In order to amend the temporary regulation on Procedure and Administration (26 CFR Part 404) to allow for certain additional disclosures to and by the Bureau of the Census, § 404.6103(j)(1)–1(b) of such regulations is amended as follows:

Paragraph 1. Paragraph (b)(1) is revised to read as follows:

**§ 404.6103(j)(1)–1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.**

* * * * *

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns of an individual taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code, intercensal estimates of population and per capita income for all geographic areas included in the general revenue sharing program and demographic statistics programs, censuses and related program evaluation:

(i) Taxpayer identity information (as defined in section 6103(b)(6)), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported;

(ii) District office and service center codes;

(iii) Marital status;

(iv) Numbers and classifications of reported exemptions;

(v) Adjusted gross income;

(vi) Wage and salary income;

(vii) Dividend income;

(viii) Interest income;

(ix) Gross rent and royalty income;

(x) Entity code;

(xi) Residence information from the revenue sharing question;

(xii) Code indicators for Form 1040; Schedules C, D, E, F, and SE;

(xiii) Julian date relative to filing; and

(xiv) Amount by which the earned income credit exceeds Federal income tax liability.

* * * * *

**Par. 2.** Paragraph (b)(2) is amended by deleting "for purposes of conducting, as authorized by law," and inserting in lieu thereof "for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code,".

**Par. 3.** Paragraphs (b) (3) and (4) are amended by deleting "for purposes of conducting and preparing, as authorized by law," and inserting in lieu thereof "for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of Title 13, United States Code,".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 6103(j)(1) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1678, 68A Stat. 917; 26 U.S.C. 7805 and 6103(j)(1)).

Jerome Kurtz,
*Commissioner of Internal Revenue.*

Approved: February 6, 1980.

Donald C. Lubick,
*Assistant Secretary of the Treasury.*

[FR Doc. 80-5362 Filed 2-21-80; 8:45 am]
BILLING CODE 4830-01-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Part 1952

### Approval of Supplements to Alaska State Plan

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

**ACTION:** Approval of Alaska Supplements.

**SUMMARY:** This rule approves two State responses to Federal program changes and one State-initiated supplement to the Alaska occupational safety and health plan. Two responses to Federal program changes relate to (1) De Minimis Violations and (2) Employee Complaint Processing Procedures. The third change is a State-initiated supplement concerning withdrawal of Alaska's Hygiene Laboratory.

**EFFECTIVE DATE:** February 22, 1980.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-6021.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Alaska Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this chapter on August 10, 1973 (38 FR 21628). Part 1953 of the chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

#### Description of Supplements

A. *De Minimis Violations.* This plan change supplement, comparable to the Federal program change, concerns procedures for processing violations which have no direct or immediate relationship to safety and health. Citation of "minor" violations will be determined by the "common sense" policy interpretation of the Act. The new guidelines will ease the employer's concerns over violations which can be classified as "minor".

B. *Employee Complaint Processing Procedures.* This supplement, comparable to the Federal program change, pertains to the procedures for processing employee complaints concerning alleged unsafe and unhealthful conditions at the workplace. Scheduling, review and investigation will be determined according to the type and seriousness of the complaint. Guidelines for these procedures are established in this supplement.

C. *Withdrawal of Alaska's Hygiene Lab.* This State-initiated supplement pertains to Appendix G of the Alaska plan, which states that the State employs a chemist and will provide for an Industrial Health Laboratory capacity by October 1, 1976. The section is revised to provide adequate monies to assure that samples of toxic and hazardous substances will be analyzed in a competent and timely manner by a nationally recognized laboratory.

#### Location of Plan Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: The Technical Data Center, Occupational Safety and Health Administration, Room N-2439, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174 and the Alaska Department of Labor, Juneau, Alaska 99801.

#### Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process for any good cause which may be consistent with applicable law. The Assistant Secretary finds that the Alaska plan supplements described above are substantially identical to the comparable Federal provisions, are consistent with commitments contained in the approved plan, which were previously made available for public comment as well as with the regulations for State plans at 29 CFR Part 1902, Subpart B. Accordingly, it is found that further public comment is unnecessary.

#### Decision

After careful consideration, the Alaska plan supplements described above are hereby approved under Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, Subpart R of Part 1952 of this chapter is amended by adding a new section outlining these and other changes, as follows:

**§ 1952.245 Changes to approved plans.**

(a) In accordance with Part 1953 of this chapter, the following Alaska plan changes were approved by the Assistant Secretary on February 22, 1980.

(1) *Employee complaint processing procedures.* This supplement, comparable to the Federal program change, pertains to the procedures for processing employee complaints.

(2) *Withdrawal of Alaska's hygiene laboratory.* This State-initiated supplement revises Appendix G of the Alaska plan, which states that the State employs a chemist and will provide for an Industrial Health Laboratory capacity by October 1, 1976, by providing adequate monies to assure that samples of toxic and hazardous substances will be analyzed in a competent and timely manner by a nationally recognized laboratory.

(Sec. 18 Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 22nd day of January 1980.

Eula Bingham,

*Assistant Secretary of Labor.*

[FR Doc. 80-5677 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-26-M

## VETERANS ADMINISTRATION

### 38 CFR Part 3

### Burial Benefits; Government-Furnished Headstone or Marker

**AGENCY:** Veterans Administration.

**ACTION:** Final Regulation.

**SUMMARY:** The Veterans Administration has increased the monetary allowance payable in lieu of a Government-furnished headstone or marker from $50 to $53. The need for this action resulted from the fact that the actual cost of a Government headstone or marker for fiscal year 1979 increased from $50 to $53.

**EFFECTIVE DATE:** This change is effective October 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** T. H. Spindle Jr. (202-389-3005).

**SUPPLEMENTARY INFORMATION:** On page 68489 of the Federal Register of November 29, 1979, there was published a proposed amendment to 38 CFR 3.1612(e)(2)(ii) to provide that the average actual cost of headstones and markers furnished at Government expense for fiscal year 1979 was $53. This action has the effect of increasing the maximum amount of the monetary allowance payable in lieu of a Government-furnished headstone or marker based on a non-Government

headstone or marker purchased during fiscal year 1980 from $50 to $53.

Interested persons were given until December 31, 1979 to submit comments, suggestions, or objections to the proposed amendment of § 3.1612(e)(2)(ii). We received one letter of comment. It was from the Monument Builders of North America (MBNA) objecting to our determination that the average actual cost of headstones and markers furnished at Veterans Administration expense for fiscal year 1979 was $53, a 6 percent increase over the fiscal year 1978 figure of $50. The MBNA feels that the Veterans Administration's cost should be greater than $53.

The MBNA bases their contention mainly on the fact that since our average actual cost of headstones and markers for fiscal year 1978 was $50, the average cost for 1979 should have increased by more than 6 percent. They point out that both production and freight costs incurred by the Monument Industry increased by more than 6 percent during fiscal year 1979 over corresponding costs for fiscal year 1978. The MBNA also believes that the Veterans Administration lowered its standards for headstones and markers furnished by the Veterans Administration in fiscal year 1979 compared with those furnished in fiscal year 1978, and that this should have been taken into account by the Veterans Administration in some manner.

Section 3.1612 authorizes payment of a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of § 1.631(a)(2) and (b). Section 3.1612(e)(2) provides that the amount of the monetary allowance is the lesser of (1) the actual cost of acquiring a non-Government headstone or marker, or (2) the average actual cost of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased. Consequently, there is only one determining factor in ascertaining the maximum amount of the monetary allowance: The average actual cost incurred by the Veterans Administration for headstones and markers furnished by it.

In determining this cost we include the direct costs of procurement and transportation of headstones and markers plus the indirect costs of compensation of employees and other administrative expenses associated with furnishing headstones and markers. The chart which follows provides a detailed comparison of these costs for fiscal year 1978 and 1979.

**Comparison of Headstone Allowances**

[Figures in parentheses are percent]

| | Fiscal year | | | | Changes | |
|---|---|---|---|---|---|---|
| | 1978 | | 1979 | | Amount | Percent |
| Units purchased | 225,435 | | 230,600 | | +5,165 | +2 |
| Direct costs: | | | | | | |
| Total procurement | $7,708,755 | (68) | $8,345,428 | (68) | +$636,673 | +8 |
| Total transportation | 1,952,488 | (17) | 2,037,325 | (17) | +84,843 | +4 |
| Indirect costs. Salaries and other overhead | 1,687,364 | (15) | 1,926,957 | (15) | +239,593 | +14 |
| Total all costs | 11,349,607 | (100) | 12,309,721 | (100) | +961,114 | +8 |
| Average unit costs | | | | | | |
| Procurement | $34.20 | | $36.19 | | +$1.99 | +6 |
| Transportation | 8.66 | | 8.83 | | +.17 | +2 |
| Indirect | 7.48 | | 8.36 | | +.88 | +12 |
| Average all costs | 50.34 | | 53.38 | | +3.04 | +6 |
| Rounded for claims | 50.00 | | 53.00 | | +3.00 | +6 |

The chart shows that the average unit cost for procurement in fiscal year 1979 was 6 percent greater than in fiscal year 1978 and that the corresponding increase for transportation costs was 2 percent. These increases are based on the actual costs incurred by the Veterans Administration. The fact that the increase in cost to the general public for these items may have been greater does not alter the fact that it is the costs incurred by the Veterans Administration that is the determining factor.

Our procurement is by contract bids. The evaluation factors for award, delivery or performance were set out in part IV of our Invitation For Bids 101(42)–1–79 and are reproduced below:

**Evaluation Factors for Award, Delivery or Performance**

*1. Offer Evaluation*

(a) Offers shall be evaluated on the basis of the offerors unit price plus motor carrier transportation costs from point of origin designated by the offeror in Part II of this solicitation to destination. Motor carrier transportation costs will be determined for each item of the schedule on the basis of the weights listed below only, regardless of actual shipping weights:

| Item | Evaluation weights (pounds) |
|---|---|
| 1 | 200 |
| 2 | 200 |
| 3 | 200 |
| 4 | 200 |
| 5 | 150 |
| 6 | 150 |

(b) For the purpose of evaluating offers, the destination shall be considered to be the largest city (by population) of each of the 48 contiguous states and the District of Columbia. Motor carrier rates to be used in the evaluation of offers shall be current official rates obtained from the General Services Administration on the date of the opening of offers. The Government, however, reserves the right to utilize any other means of transportation at the time of shipment.

*2. Evaluation of Bids for Multiple Awards*

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $50 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

Concerning indirect costs (salaries and other overhead) the chart shows that we allowed for an increase of 12 percent. This approximates the percentage cost increases that private business and consumers experienced in fiscal year 1979.

The Veterans Administration has not, as the MBNA believes, lowered its standards for Government-furnished headstones and markers. The specifications and standards have not been changed as they pertain to finish, quality, depth of inscription, or coloring agents, from previous years. The minor changes that have been made are even more stringent.

The figures and methods for determining the average actual cost of headstones and markers furnished by the Veterans Administration have been carefully reviewed. We find them to be correct. The $53 is adopted as proposed.

Approved: February 12, 1980.

By direction of the Administrator.

Rufus H. Wilson,

*Deputy Administrator.*

In § 3.1612, paragraph (e)(2)(ii) is revised to read as follows:

**§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.**

* * * * *

(e) *Payment and amount of the allowance.* * * *

(2) The amount of the allowance payable is the lesser of the following:

* * * * *

(ii) The average actual cost, as determined by the Veterans Administration, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones and markers furnished at Government expense for fiscal year 1978 (October 1, 1977 through September 30, 1978) is $50 and $53 for fiscal year 1979 (October 1, 1978 through September 30, 1979).

* * * * *

(Veterans' Housing Benefits Act of 1978, Pub. L. 95-476; (38 U.S.C. 906(d)))

[FR Doc. 80-5515 Filed 2-21-80; 8:45 am]

BILLING CODE 8320-01-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Health Care Financing Administration

### 42 CFR Part 447

### Medicaid Program; Payments for Long-Term Care Facility Services

**AGENCY:** Health Care Financing Administration (HCFA), HEW.

**ACTION:** Final rule with request for additional comments.

**SUMMARY:** This final rule amends the regulation limiting Medicaid payments for long-term care facility services. Under the current regulations, Medicaid payments for skilled nursing facility (SNF) and intermediate care facility (ICF) services are subject to cost limits published under 42 CFR 405.460. On August 31, 1979, we published a schedule of limits on adjusted SNF inpatient routine service costs (44 FR 51542). Those limits apply to Medicare and Medicaid payments in all States, including Medicaid payments made under State plans that do not use the same payment method as Medicare.

We are amending the current regulations to remove the requirement that Medicaid payments for SNF and ICF services be subject to the cost limits published under § 405.460. We also are requesting additional comments on whether Medicaid payments for SNF and ICF services should be subject to those limits, to limits developed on a State-by-State basis, or to limits derived by some other method. After we have analyzed the comments we receive, we will publish a notice that sets forth our position on this issue.

**EFFECTIVE DATE:** October 1, 1979.

**COMMENT DATE:** To assure consideration, comments should be received by: April 22, 1980.

**ADDRESSES:** Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17076, Baltimore, Maryland 21235. If you prefer, you may deliver your comments to: Room 5220, Switzer Building, 330 C Street, S.W., Washington, D.C.; or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore. Please refer to File Code BPP-69—FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5220 of the Department's offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-0950).

**FOR FURTHER INFORMATION, CONTACT:** Carl Slutter, 301-594-9344.

**SUPPLEMENTRY INFORMATION:** Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395(x)(v)(1)) authorizes the Secretary to set prospective limits on provider costs reimbursed under Medicare. These limits are based on estimates of the costs necessary in the efficient delivery of needed health services and may be applied to the direct or indirect overall costs incurred for specific items or services furnished by a Medicare provider. Regulations implementing this authority are set forth at 42 CFR 405.460.

Under this authority, we published proposed limits on SNF inpatient general routine service costs in the Federal Register on May 18, 1979 (44 FR 29362). We published a final schedule of limits in the Federal Register on August 31, 1979 (44 FR 51542). Those limits apply for cost reporting periods beginning on or after October 1, 1979.

We developed the final schedule by using actual SNF inpatient routine service cost data from the latest Medicare cost reports available as of January 31, 1979. In deriving the limits, we excluded capital-related costs and adjusted the remaining cost data to account for inflation. We then grouped SNFs according to whether they were hospital-based or freestanding, and by location (i.e., rural *vs.* urban). Limits for each resulting group were set at 115 percent of the mean of group costs, subject to adjustment for area wage differences. A complete description of the development and application of this schedule may be found in the Federal Register notices of May 18, 1979, and August 31, 1979.

Current Medicaid regulations, at 42 CFR 447.315(c), require that any limits developed under § 405.460 be applied to long-term care facility services under Medicaid. These limits apply regardless of whether the particular State plan provides for payment for these services based on their Medicare reasonable cost as determined under section 1861(v) of the Social Security Act, or on some other basis. Under this authority, we explained in the August 31, 1979, notice how the Medicare schedule of limits on adjusted SNF inpatient routine service costs would be applied to payments for long-term care facility services under Medicaid.

We believe that application of the Medicare limits to Medicaid payments for SNF and ICF services in all States is legally supportable under 42 CFR 447.315(c). However, we have encountered technical problems in applying these limits to Medicaid payments. Under the Medicaid law (section 1902(a)(13)(E) of the Social Security Act; 42 U.S.C. 1396a(a)(13)(E)), States are permitted, but not required, to pay for SNF and ICF services under Medicare's provider reimbursement principles (authorized by section 1861(v), and set forth in 42 CFR, Part 405 Subpart D).

Only two Medicaid plans require those services to be paid for under exactly the same method as Medicare. The remaining plans use a variety of other payment methods. Depending on the individual plan, payment may be made prospectively rather than retrospectively, may include costs not covered under Medicare, and may exceed a facility's costs if those costs are below a specified target rate. Many providers have questioned the appropriateness of applying the limits authorized by section 1861(v) of the Act to payments made under State plans that do not use the reasonable cost reimbursement system established by

that section to calculate the payment amounts.

In order to obtain the benefit of all useful comments and analysis on this issue, we have decided to have a further period of public comment on whether Medicaid payments for SNF and ICF services should be subject to the limits set forth in the August 31, 1979 notice, to limits set on a State-wide basis, or to limits derived by some other method. We are specifically requesting comments in response to the following questions:

1. Do the costs incurred by facilities that participate only in Medicaid differ in type, amount, or both, from the costs of Medicare facilities? If so, what are these differences, and how can HCFA take account of them in developing limits on Medicaid payments for long-term care facility services?

2. Is Medicare's method of classifying SNFs (i.e., by rural or urban location, and by hospital-based or freestanding mode of operation) appropriate to Medicaid-only facilities? If not, what characteristics of Medicaid-only facilities should HCFA consider in establishing comparison groups and setting group limits?

3. Would application of the Medicare limits under Medicaid adversely affect a disproportionately large number of facilities in any particular category (e.g., proprietary or nonprofit, large or small)?

4. In which States are facilities currently receiving Medicaid payments that exceed the Medicare limits? In each of these States, how many facilities receive these payments?

5. For each State in which Medicaid payment rates exceed the Medicare limits, by how much would Medicaid payments for the current fiscal year be decreased by applying the Medicare limits? If alternative limits are proposed, how would use of these limits affect Medicaid spending for long-term care in each State?

6. For purposes of applying Medicare's cost limits under Medicaid, how can Medicaid payment rates set under systems that differ from Medicare's provider reimbursement principles be adjusted to make them comparable to Medicare payments?

We are particularly interested in obtaining responses to these questions from State Medicaid agencies.

To ensure that the Medicare limits are not applied inappropriately, we are revising 42 CFR 447.315 to remove the requirement that those limits be applied to Medicaid payments. Since 42 CFR 447.316 could be construed to require indirect application of the Medicare limits to Medicaid payments made under retrospective methods, we are also amending that regulation. The amended regulations will be effective for cost reporting periods starting on or after October 1, 1979 (the effective date of our initial schedule of limits on SNF costs). These amendments will not prohibit individual States from incorporating the Medicare limits in their State Medicaid plans. For example, the limits will apply to Medicaid payment for SNF and ICF services made in the two States that pay for those services under exactly the same method as Medicare. However, HCFA will not require States to apply the Medicare limits under Medicaid. If a State does not currently incorporate the Medicare cost limits in its State plan, it would have to obtain our approval of a plan amendment in order to do so.

We will consider all comments received on this issue, and will publish a notice setting forth our position on this issue in the near future.

### Waiver of Public Comment

It is essential to avoid the problems that could arise if the technical difficulties mentioned previously were to result in inappropriate application of the Medicare limits on payment for SNF services to Medicaid payments computed under reimbursement methods that differ from Medicare's. Some providers could be seriously affected by inappropriate application of the Medicare limits under Medicaid, and this situation could lead to administrative appeals, litigation, or both.

Because of these considerations, HCFA has determined that good cause exists to waive the customary Notice of Proposed Rulemaking and the delayed effective date of the regulations. We are soliciting public comments on methods of imposing limits on Medicaid payments for skilled nursing facility and intermediate care facility services. We will consider these comments, and publish a notice which sets forth our position on this issue.

## PART 447—PAYMENTS FOR SERVICES

42 CFR Part 447 is amended as set forth below:

1. Section 447.315 is amended by deleting paragraph (c); as amended § 447.315 reads as follows:

**§ 447.315 Upper limits: General provisions.**

(a) The agency may not pay more for long-term care facility services than the provider's customary charge.

(b) Public facilities that provide services free or at a nominal charge may be reimbursed on a reasonable cost-related basis under this subpart.

2. Section 447.316 is amended by revising paragraph (a) to read as follows:

**§ 447.316 Upper limits: Retrospective payment.**

(a) If the agency pays a provider under a retrospective payment system, it may not pay more than would be paid under the medicare principles of provider reimbursement under part 405, subpart D, of this chapter except that any cost limits published under § 405.460 will not apply. Payments meet this requirement—

(1) If, in a random sample of all medicaid facilities, the payment is not more than the amount that would have been paid under medicare in at least 90 percent of the facilities in the sample; or

(2) If the average payment to all facilities within a class is not more than the amount that would have been paid under medicare.

* * * * *

(Section 1902.(a) of the Social Security Act (42 U.S.C. 1396b)

(Catalog of Federal Domestic Assistance Program No. 13.761, Medical Assistance Program)

Dated: February 12, 1980.

**Leonard D. Schaeffer,**

*Administrator, Health Care Financing Administration.*

Approved: February 15, 1980.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 80-5817 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-35-M

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## 42 CFR Part 463

## Review Responsibility and Authority of Professional Standards Review Organizations (PSRO's); PSRO Review of Intermediate Care Facilities if Medicaid State Agency Review Is Ineffective or Inefficient

**AGENCY:** Health Care Financing Administration (HCFA), HEW.

**ACTION:** Final Regulation.

**SUMMARY:** This rule establishes procedures and criteria for determinations of: (1) The effectiveness of a Medicaid State agency's review of the quality and necessity of health care services provided in intermediate care facilities (ICFs) and intermediate care facilities for the mentally retarded (ICFs-MR); and (2) the efficiency of the Medicaid State agency's review of the quality and necessity of health care services provided in those ICFs and ICFs-MR that are also skilled nursing

facilities (SNFs). This rule also provides for PSRO assumption of review responsibility in ICFs and ICFs-MR when a State requests that the PSRO assume review responsibility or where Medicaid review is not effective or efficient. These provisions implement section 1155(a)(7) of the Social Security Act. This section was added to the Act by section 5(d)(3) of the "Medicare-Medicaid Anti-Fraud and Abuse Amendments." (Pub. L. 95–142.)

**EFFECTIVE DATE:** These regulations are effective on February 22, 1980.

**FOR FURTHER INFORMATION CONTACT:** Alan Reider, Division of Peer Review, Dogwood East Building, 1st Floor, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, Phone: 301–594–3980

**SUPPLEMENTARY INFORMATION:** On February 14, 1979, a Notice of Proposed Rulemaking was published in the Federal Register (44 FR 9605). It proposed to amend 42 CFR 463.2(e) to provide cross-reference to the new policies provided in the proposed rule. It also proposed to add to 42 CFR Part 463 a new Subpart D entitled "PSRO Review of Intermediate Care Facilities if Medicaid State Agency Review is Ineffective or Inefficient."

Final regulations providing for assumption of review responsibility by PSROs are contained in Subpart A of 42 CFR Part 463 (43 FR 7400, published February 22, 1978). Section 463.2(e) provides for PSRO assumption of review responsibility in ICFs and ICFs-MR if HCFA finds Medicaid State agency review is not effective or efficient. The final rules published here provide the criteria and procedures for HCFA to make a finding of effectiveness and efficiency.

*Decription of Regulations*

These regulations provide procedures and criteria for making determinations that:

(1) The Medicaid State agency is not performing effective review in ICFs and ICFs-MR: or

(2) Medicaid State agency review of ICF services in combined facilities (SNF/ICF) is inefficient.

Specifically, these regulations provide that any person may request that HCFA determine the effectiveness or efficiency of State review mechanisms. Also, HCFA may initiate determinations of effectiveness if a Federal financial participation penalty is imposed for two successive calendar quarters.

The criteria for determining effectiveness of State agency review are: (1) Whether a State's utilization control program satisfies regulatory requirements; (2) whether a State's review in ICFs and ICFs-MR results in appropriate level of care decisions; and (3) whether the State has corrected any deficiencies that have existed in quality of care in ICFs or ICFs-MR.

The criteria for determining efficiency are: (1) Whether the cost of State review is greater than the additional cost to the PSRO of reviewing ICF and ICF-MR services; and (2) whether State and PSRO review procedures are compatible.

The regulations also provide that HCFA may consider a State's request for reinstatement of its review system after 1 year has passed following a determination of ineffectiveness or inefficiency.

Finally, these regulations provide that all initial determinations of the effectiveness and efficiency of State agency review mechanisms will be made by the Health Standards and Quality Bureau of the Health Care Financing Administration.. Reconsideration decisions will be addressed to the Administrator of the Health Care Financing Administration.

*Discussion of Comments*

Sixteen comments were received from PSROs, State Medicaid agencies, health care providers, and other interested parties. All comments were considered and are summarized below along with our responses to them and the changes made in the proposed rules.

**Subpart D—PSRO Review of Intermediate Care Facilities if Medicaid State Agency Review Is Ineffective or Inefficient**

*When Effectiveness or Efficiency Will Be Determined by HCFA*

1. One commentor questioned the provision in the proposed regulations permitting "any person" to request that HCFA determine the effectiveness or efficiency of Medicaid State agency review. The Department does not require that a person have specific authority to request a determination, because it does not wish to expressly limit requests to specific parties at the risk of excluding a bona fide request from consideration. Further, the Department believes that the requirement that a request contain sufficient information to indicate a significant lack of effectiveness or efficiency before HCFA will initiate a determination is responsive to the commentor's underlying concern about frivolous requests.

2. One commentor felt that HCFA should not make a determination of ineffectiveness based on a State being penalized for failure to meet utilization control requirements for two successive quarters. The commentor felt that a penalty was not necessarily indicative of a State's capability to administer an effective utilization control program. The regulation provides that HCFA may *initiate* the determination process when a State has been penalized for two consecutive quarters, not that this penalty will automatically result in a finding of ineffectiveness. If, during that determination process, the State can demonstrate that the penalty did not relate to its ability to effectively administer its utilization control program, it will retain responsibility for ICF review.

*Determination Procedures and Criteria*

3. One commentor suggested that HCFA conduct informal hearings prior to initial effectiveness and efficiency determinations in instances where parties disagree on the facts presented to document a State's capability of performing ICF review. We accepted the suggestion and have provided that HCFA may hold informal hearings where State officials, PSROs, and other parties are given the opportunity to appear and present evidence.

4. Two commentors were concerned that the criteria for determining effectiveness did not adequately address assurance for quality of care. They felt that the proposed criteria related more to fiscal control than quality assurance. We feel that the criterion contained in § 463.33(b)(3)—"The State Medicaid Agency detects any significant deficiencies that have existed in the quality of care provided in ICFs or ICFs-MR and takes corrective action to have the facility correct the deficiencies"—is adequate to address quality assurance concerns.

5. A number of commentors felt that the test for efficiency in review of combined facilities (that is, SNFs that are also ICFs or ICFs-MR) should be made for both the State Medicaid agency and the PSRO. We intend to apply the criteria for determination of efficiency to both the Medicaid State agency and the PSRO. Comparison of cost of review requires examination of both the cost of State review and cost of PSRO review. Regarding the provisions of proposed 42 CFR 463.33(c)(2), coordination of activities, several commentors felt that this placed an unfair burden on the State. We have revised this section to eliminate coordination as a consideration of State agency efficiency, because of the dual responsibility on the part of the State and the PSRO. Instead, we have added the criterion of compatibility of State

agency and PSRO review procedures as an indicator of efficiency.

6. One commentor was concerned that the measurement of cost of review by the State agency as described in proposed § 463.33(c)(1) may be unfair because some States' budgets merge State review costs with costs of the survey and certification program, and, therefore, review costs may appear unreasonably high. In examining cost data, the Department would consider only that portion of a State's budget directly relating to review cost, and the State would be given the opportunity to break out the cost of review from its overall costs.

*Notice of Determination*

7. One commentor requested clarification on the time frame in which HCFA will provide notice concerning its determination. While we believe that generally a notice of decision should be provided within 90 days after HCFA concludes its fact finding activities, the potential complexity of the issues involved may require additional time for consideration in exceptional cases. Therefore, the regulation does not specify a time frame for issuance of a decision.

*Reconsideration*

8. One commentor suggested that the right to a reconsideration should be guaranteed, and not subject to HCFA's discretion. HCFA's position is that if a party submits additional substantive information, a reconsideration will be granted. However, HCFA wishes to avoid holding a reconsideration whenever a request is made; we believe that a reconsideration should only be held when the requester presents new and material evidence.

9. One commentor requested that time requirements for the reconsideration decision be made part of the regulation. The amount of time spent on a reconsideration will vary greatly according to the amount and complexity of additional information submitted. Therefore, the Department believes that time guidelines are inappropriate.

*PSRO Assumption of Review Responsibility and Authority*

10. One commentor questioned what would happen if not all the PSROs in a State had been approved and funded for long-term care review, but the State was found ineffective in its review of ICFs. Section 463.36 of the regulations provides that if a determination of ineffectiveness or inefficiency is made, a PSRO shall assume review responsibility as soon as it has met the requirements of § 463.2. Those requirements include approval for long-term care review. Therefore, in a State of multiple PSROs, only those PSROs approved and funded for long-term care review would assume review responsibility in ICFs and ICFs-MR; the State would maintain review responsibility in the other PSRO areas until each respective PSRO received the requisite approval and funding.

11. A number of commentors were concerned that a PSRO may not be able to enter into a memorandum of understanding with the State for PSRO review when the State has been found to be ineffective or inefficient. One commentor suggested that the regulations should stress that the Secretary has the authority to waive the required memorandum of understanding if the State fails to negotiate in good faith.

The requirement for a memorandum of understanding is clearly outlined in existing PSRO regulations at 42 CFR 463.5. These regulations implement section 1171(a) of the Act and provide that the Secretary may waive the requirement for a memorandum of understanding if he finds that the State has refused to negotiate in good faith or in a timely manner with a PSRO. The Department believes that this regulation adequately covers the concern expressed.

*Cessation of Medicaid Agency Review Responsibility*

12. One commentor noted that the provisions of this section of the proposed rule are adequately covered in § 463.27 of Subpart A—Assumption of Review Responsibility by Conditional PSROs—of this Part. Therefore, we have deleted this section from these regulations.

*Reinstatement of State Agency Review Responsibility*

13. One State requested that the regulation include a provision which would allow a Medicaid State agency to resume review responsibility in ICFs and ICFs-MR if it could demonstrate review capability following an earlier determination of ineffectiveness or inefficiency. We accepted the suggestion because we believe that Congress intended to limit PSRO review in ICFs to instances where the State is ineffective or inefficient or where the State requests the PSRO to perform review. This provision is especially appropriate if the problems which led to the initial ineffective or inefficiency determinations were management oriented, rather than programmatic. For instance, certain ICFs and ICFs-MR may have been neglected by State reviewers because of geographic distances. While we realize administrative difficulties may arise due to repeated shifting of review responsibility, we expect the PSRO and State agency to coordinate and cooperate to assure smooth transition.

*Discussion of Miscellaneous Comments*

14. The Department does not agree that the proposed rule would be improved or that there exists authority to add provisions as suggested by some commentors and has rejected the following suggestions:

(a) That all PSRO review in the long-term care setting be suspended and an in-depth study be undertaken to measure its effectiveness.

Section 1155 of the Social Security Act requires that PSROs assume responsibility for all institutional services, including long-term care services, for which payment may be made (in whole or in part) under the Act. This general requirement is subject to the limitations concerning PSRO assumption of review in intermediate care facilities as addressed in these regulations and in ambulatory care settings.

Consistent with the Act the Department has funded PSROs to assume review in long-term care institutions. In addition, the Department has received a final evaluation of PSRO long-term care demonstration projects which concludes that PSROs have a positive impact on the long-term care setting.

(b) That PSRO review in ICFs is inappropriate because PSRO review is medically oriented and ICF review should include health-related social factors.

In providing for PSRO review in ICFs where State review is found to be ineffective or inefficient, or where a State requests PSRO assumption of review, Congress believed that PSRO review in ICFs is appropriate. Concern over the type of review appropriate in ICFs may be addressed by PSROs in the development of criteria for the review process.

(c) That PSRO review is inappropriate because it creates an additional review process.

On the contrary, review by a PSRO takes the place of utilization review by the facility for both Medicare and Medicaid, as well as the State's requirement under Medicaid for independent professional review. The PSRO review process is not duplicative.

(d) That PSRO review is inappropriate in ICFs because the State is more knowledgeable about ICFs and more capable of performing reviews.

HCFA wishes to stress, as stated in the preamble to the proposed regulations, that the responsibility of the State to conduct review in ICFs is recognized and respected. The provisions of these regulations will be implemented only if the State requests PSRO review or after documentation and consultation demonstrates that State agency review is ineffective or inefficient.

(e) That PSRO review should be implemented in all ICFs if the PSRO is found to be effective and efficient.

The language in Section 1155(a)(7) (A) and (B) of the Act is very clear; the PSRO has the duty to assume review in ICFs *only if* the Secretary finds that the State agency is ineffective or inefficient in its review, or if the State requests the PSRO to assume review.

(f) That a PSRO be authorized to delegate review to a facility capable of performing its own review.

Section 1155(e) of the Act provides that delegation to a skilled nursing facility or ICF is limited to those facilities which are also a part of a hospital. The Department has no authority to extend delegation beyond this restriction.

42 CFR Part 463 is amended as set forth below:

1. The table of contents is amended by adding a new Subpart D to Part 463 to read as follows:

**Subpart D—PSRO Review of Intermediate Care Facilities If Medicaid State Agency Review Is Ineffective or Inefficient**

Sec.
463.30 Scope and purpose.
463.32 When effectiveness or efficiency will be determined by HCFA.
463.33 Determination procedures and criteria.
463.34 Notice of determination.
463.35 Reconsideration.
463.36 PSRO Assumption of review responsibility and authority.
463.37 Reinstatement of State Medicaid agency review.

Authority: Secs. 1102 and 1155(a)(7) of the Social Security Act (42 U.S.C. 1302 and 1320c–4(a)(7).

2. Section 463.1 is revised to read as follows:

**§ 463.1 Definitions.**

As used in this part, unless otherwise specified:

*"Act"* means the Social Security Act (42 U.S.C. Chapter 7).

*"Combined facility"* means a health care institution that functions both as a skilled nursing facility and as an intermediate care facility or intermediate care facility for the mentally retarded.

*"Conditional PSRO"* means a Professional Standards Review Organization designated on a conditional basis in accordance with sections 1152(a) and 1154 of the Act.

*"Health care institution"* means an organization involved in the delivery of health care services or items for which reimbursement may be made in whole or in part under the Act.

*"HCFA"* stands for Health Care Financing Administration.

*"Intermediate care facility (ICF)"* means a health care institution or distinct part of an institution that (a) provides health related care and services (above the level of room and board) to individuals who do not require hospital or skilled nursing facility care, and (b) is certified to participate in the Medicaid program (see Part 442 of this chapter).

*"Intermediate care facility for the mentally retarded (ICF–MR)"* means a health care institution or distinct part of an institution (a) whose primary purpose is to provide health or rehabilitative services (above the level of room and board) for mentally retarded individuals, or persons with related conditions, and (b) that is certified to participate in the Medicaid program (see Part 442 of this chapter).

*"Medicaid State agency"* means the State agency that is established or designated to administer the State plan for medical assistance under Title XIX of the Act.

*"Medicare fiscal agents"* means intermediaries which are parties to agreements entered into by the Secretary pursuant to section 1816 of the Act and carriers which are parties to contracts entered into by the Secretary pursuant to section 1842 of the Act.

*"MOU"* Stands for memorandum of understanding.

*"Phase-in timetable"* means a schedule, contained in the PSROs formal plan and updated as necessary, specifying the estimated dates when a conditional PSRO will assume review responsibilities in particular health care institutions either directly or through delegation to the health care institutions.

*"Review responsibility"* means (1) the responsibility of the PSRO to perform review functions prescribed under Title XI, Part B of the Act and the regulations of this part; and (2) the authority of a PSRO to make conclusive determinations regarding the medical necessity, quality, and appropriateness of health care.

*"Secretary"* means the Secretary of Health, Education, and Welfare or any other officer or employee of the Department of Health, Education, and Welfare to whom the Secretary has delegated a specified authority.

*"Skilled nursing facility (SNF)"* means a health care institution or distinct part of an institution that (a) is primarily engaged in providing skilled nursing care or rehabilitative services to injured, disabled, or sick persons, and (b) is certified to participate in Medicare or Medicaid, or both (see Part 405, Subpart K and Part 442 of this chapter).

*"State survey agency"* means an agency performing provider surveys under section 1864(a) of the Act.

*"Title V State agency"* means an agency established or designated to administer the State plan for maternal and child health and crippled children services under Title V of the Act.

3. Section 463.2(e) (3) and (4) are revised to read as follows:

**§ 463.2 Evaluation of capability.**

* * * * *

(e) *Extension of PSRO review activities.* * * *

(3) Except as provided in paragraph (e)(4) of this section, a PSRO shall assume review responsibility in intermediate care facilities and in intermediate care facilities for the mentally retarded only if:

(i) HCFA finds that the Medicaid State agency is not performing effective review of the quality and necessity of health care services provided in those facilities (see Subpart D of this part); or

(ii) The State requests the PSRO to assume this responsibility.

(4) A PSRO shall assume review responsibility for intermediate care facility services furnished in a combined facility if HCFA finds that performance of ICF review by the Medicaid State agency is inefficient (see Subpart D of this part).

* * * * *

4. A new Subpart D is added to read as follows:

## Subpart D—PSRO Review of Intermediate Care Facilities If Medicaid State Agency Review Is Ineffective or Inefficient

**§ 463.30 Scope and purpose.**

This subpart implements section 1155(a)(7) of the Act, which requires PSROs to assume responsibility for reviewing the professional activities in one or more ICFs and ICFs–MR if the Secretary finds that:

(a) The Medicaid State agency is not performing effective review in ICFs or ICFs–MR; or

(b) Medicaid State agency review of ICF services in combined facilities is inefficient.

The subpart sets forth the procedures and criteria that HCFA will use to make such findings.

**§ 463.32 When effectiveness or efficiency will be determined by HCFA.**

(a) *Upon request.* Any person may request that HCFA determine the effectiveness of the Medicaid State agency's review in one or more ICFs and ICFs–MR or the efficiency of its ICF review in one or more combined facilities. HCFA will initiate determination procedures if the requesting party provides sufficient information to indicate that there may be a significant lack of effectiveness or efficiency.

(b) *Failure to meet utilization control requirements.* HCFA may initiate determinations of the effectiveness of Medicaid State agency review, if:

(1) Federal financial participation (FFP) is reduced for two successive calendar quarters because of the State's failure to submit a satisfactory and valid quarterly utilization control showing (see Part 456 of this chapter); and

(2) The deficiencies leading to the reduction in FFP have not been corrected.

**§ 463.33 Determination procedures and criteria.**

(a) *Fact-finding activities.* (1) HCFA will assess the effectiveness of the Medicaid State agency's review in ICFs and ICFs–MR or the efficiency of its ICF review in combined facilities:

(i) By requiring the Medicaid State agency and the PSRO to submit pertinent information; and

(ii) Through meetings with the Medicaid State agency, the PSRO, and other involved parties.

(2) When parties disagree on the facts presented to document a State's capability to perform ICF review HCFA may convene an informal hearing where all parties listed in paragraph (a)(1) (ii) of this section may appear and present evidence.

(b) *Criteria for a determination of effectiveness.* When determining the effectiveness of a Medicaid State agency's review, HCFA will consider whether:

(1) The Medicaid State agency has a utilization control program in ICFs and ICFs–MR that satisfies the requirements of Part 456 of this chapter;

(2) The Medicaid State agency's review in ICFs and ICFs–MR results in appropriate level-of-care determinations in accordance with the definitions provided in Parts 440 and 442 of this chapter; and

(3) The Medicaid State agency detects any significant deficiencies that have existed in the quality of care provided in ICFs or ICFs–MR and takes action to have the facility correct the deficiencies.

(c) *Criteria for a determination of efficiency.* When determining the efficiency of Medicaid State agency review in combined facilities, HCFA will consider whether:

(1) The costs of Medicaid State agency review are significantly greater that the additional costs to the PSRO to expand its review activities in these facilities; and

(2) The Medicaid State agency's and PSRO's review procedures are compatible.

**§ 463.34 Notice of initial determination.**

(a) Following its fact finding activities HCFA will provide notice to the Medicaid State agency, the pertinent PSROs, and any other interested parties of:

(1) Its determination of effectiveness or efficiency;

(2) The basis for this determination;

(3) The consequences of this determination; and

(4) The right to request reconsideration under § 463.35.

(b) If HCFA finds deficiencies in the Medicaid State agency review system which are not so significant as to call for a determination of ineffective or inefficient review, HCFA:

(1) Will offer the State technical assistance to improve its review system; and

(2) May require that the State develop and implement a plan of correction.

**§ 463.35 Reconsideration.**

The Medicaid State agency, the PSRO, or the party that requested the determination may, within 30 days from the date of the notice, submit new and material information and request HCFA to reconsider its determination. HCFA will notify all interested parties whether it will grant a reconsideration request. If HCFA grants a reconsideration request, all parties to the initial determination may submit additional information. HCFA will notify all interested parties of its decision to affirm or reverse its original determination of effectiveness or efficiency.

**§ 463.36 PSRO assumption of review responsibility and authority.**

(a) If HCFA determines that the Medicaid State agency review is ineffective or inefficient; the PSRO shall assume review responsibility as soon as it has met the requirements of § 463.2.

(b) Except in unusual circumstances, the PSRO shall phase in review in all ICFs and ICFs–MR affected by a determination under paragraph (a) of this section within 1 year of initiating review in the first of the affected facilities.

**§ 463.37 Reinstatement of medicaid State agency review.**

(a) After 1 year following a determination of ineffectiveness or inefficiency under § 463.34 of this Part, the State agency may present evidence to HCFA to demonstrate that its review program is no longer ineffective or inefficient.

(b) HCFA may request the PSRO and any other party to the original determination under § 463.34 to submit additional evidence relating to the effectiveness and efficiency of State agency review.

(c) Based on the information presented, if HCFA finds State agency review to be effective or efficient, HCFA may reinstate State agency review in ICFs and ICFs–MR, or combined facilities, respectively, beginning the next calendar quarter following the determination.

(Secs. 1102 and 1155(a)(7) of the Social Security Act. (42 U.S.C. 1302 and 1320c–4(a)(7))

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

Dated: January 6, 1980.

**Leonard D. Schaeffer,**

*Administrator, Health Care Financing Administration.*

Approved: February 15, 1980.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 80-5418 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-35-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1011

### Commission Organization; Delegations of Authority

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** Section 1011.6 provides generally for various employee boards, each of which is to handle matters which arise under particular sections of the Act. By a notation vote on June 14, 1979, the Commission voted to establish a Revocation Board in the Bureau of Operations and to amend § 1011.6(b) and 6(d) of the Organization Rules. To

follow the directives of the Commission, § 1011.6 subparts (a) to (d) of Title 49 of the Code of Federal Regulations will be revised.

**EFFECTIVE DATE:** This revision became effective on June 14, 1979.

**FOR FURTHER INFORMATION CONTACT:** John L. Chaney, (202) 275–7842.

**SUPPLEMENTARY INFORMATION:** Section 1011.6(b) is amended by deleting subsections (2) and (3) and renumbering subsections (4), (5), and (6) as (2), (3), and (4). Section 1011.6(d) is amended by adding a subsection to be numbered (4) containing the material deleted from § 1011.6(b)(2) and (3) and renumbering § 1011.6(d)(4) as subsection (5).

This document is promulgated under the authority contained in 49 U.S.C. 10321 and 5 U.S.C. 553 and 559. Prior to public notice and opportunity for hearing have been dispensed with for the reason that this document deals with the revision of the Commission's internal organization and in no way effects the rights of the public, therefore comment upon the notice of revision is unnecessary. Accordingly, § 1011.6 is amended as set forth below. The revision is made effective as of June 14, 1979, because the Revocation Board came into existence on that date.

By the Commission.

Agatha L. Mergenovich,

*Secretary.*

Section 1011.6(a) through (d) are revised to read:

**§ 1011.6 Employee boards.**

The following matters are assigned to boards of employees. Except as provided in paragraph (h) of this section, a board may certify any matter assigned to it to the Commission.

(a) Suspension and Fourth Section Board. (1) Matters arising under sections 15(7), 15(8), 216(g), 218(c), 307(g) and (i), and 406(e) of the Act: The Board is authorized (i) initially to dispose of these matters, by declining to suspend a rate or a classification, rule, or practice related to a rate, or by suspending such rate, classification, rule, or practice and ordering an investigation; (ii) to institute investigations into rates, fares, charges, and practices of regulated carriers; and (iii) prior to the submission of evidence, to discontinue any proceeding when the proposed rate, classification, rule, or practice has been canceled. This delegation of authority does not include authority over petitions or requests, relating to rates, classifications, rules or practices filed in purported compliance with decisions of the Commission, or a division, or actions in connection with suspensions to be taken during or after formal hearings or investigations.

(2) Matters arising under section 4 of the Act, except proceedings made subject of formal hearing, matters prompted by an order of requirement of the Commission or a division, or matters arising from general increase proceedings.

(b) Motor Carrier Board. (1) Matters arising under sections 210a and 311 of the Act, relating to applications for temporary authority by common or contract carriers by motor vehicle or water, except matters involving broad questions of policy, matters in which the decision of the Board would be inconsistent with an order of the Commission or a division, and matters in which substantially the same question is already before the Commission or a division.

(2) Determination of applications, which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under (i) section 204(a)(4) of the Act, relating to transfer of brokers' licenses and changes in control of corporations or associations holding brokers' licenses; (ii) sections 206(a) (6) and (7) relating to transfer of certificates of registration and rights to operate pending determination of applications for certificates of registration; (iii) sections 212(b) and 312 relating to transfer of certificates and permits, and (iv) section 410(g) relating to transfer of permits.

(3) Determination of applications seeking the elimination of gateways, where the applications are filed as matters directly related to applications under section 212(b) of the Act and seek only to eliminate gateways created as a result of a grant of authority in the 212(b) proceeding involving a unification of irregular route operating rights.

(4) A matter referred to the Board that is subsequently assigned for public hearing shall be withdrawn from the Board.

(c) Finance Board. (1) Determination of applications, under (i) sections 20a (1) through (11) and 214 of the Act relating to securities when not connected with an application under section 1a, 5(2), or 5(3), and (ii) section 20a(12), for authority to hold the position of officer or director of more than one corporation, provided that these applications have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) A matter referred to the Finance Board that is subsequently assigned for taking testimony at a public hearing shall be withdrawn from the Board.

(d) Operations Boards. (1) Insurance Board:

(1) Matters arising under section 211(c) of the Act, relating to bonds or other security to assure financial responsibility of brokers; section 215, with respect to the furnishing by motor carriers of bonds, insurance, or other security, for the protection of the public, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(ii) Matters arising under section 221 (a) and (c) of the Act relating to the designation by motor carriers and brokers of persons on whom orders and notices may be served and the designation of agents upon whom service of process may be made, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) Motor Carrier Leasing Board. Matters arising under sections 204 (e) and (f) and 204(a)(6) of the Act, insofar as they relate to the lease and interchange of vehicles by motor carriers, and the lease and interchange regulations (49 CFR Part 1057), except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(3) Railroad Service Board. Matters relating to car-service except controversies between carriers as to compensation, under provisions of sections 1 (15) and (16)(a) which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(4) Revocation Board. Entry of show cause orders under sections 204(c) and 212(a) of the Act directed to motor carriers who have failed to file annual reports; determination of uncontested motor carrier broker, water carrier, and freight forwarder, suspension, change or revocation proceeding under sections 212(a), 312(a) and 410(f) of the Act which have not involved taking testimony at a public hearing.

(5) Any matter referred to an Operations Board that is subsequently assigned for taking testimony at a public hearing shall be withdrawn from the Board.

* * * * *

In all other respects the language of Part 1011.6 of Title 49 of the Code of Federal Regulations remains unchanged.

[FR Doc. 80-5547 Filed 2-21-80; 8:45 am]

BILLING CODE 7035-01-M

## 49 CFR Part 1247

[No. 37312]

## The Elimination of the Classification of Express Company Employees for Reports of Employees

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** This rule eliminates the only remaining regulation governing express companies. The current regulation is unnecessary because there are no express companies under the Commission's jurisdiction.

**DATES:** Effective for the reporting year beginning January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Bryan Brown, Jr., (202) 275-7448.

**SUPPLEMENTARY INFORMATION:** On January 3, 1978 (43 FR 2726), the Commission ordered the elimination of the regulations prescribed in Parts 1203 and 1241.31 of Chapter X of Title 49 of the Code of Federal Regulations. The parts that were deleted contained the Uniform System of Accounts and the requirement for filing annual reports of express companies, respectively. Because there are no express companies under the Commission's jurisdiction, the intent of the order was to eliminate all regulations pertaining strictly to express companies. Part 1247 pertains only to express companies, but it was inadvertently omitted from the January 3, 1978 order.

We have concluded that this revision does not require a rulemaking proceeding pursuant to Section 553 of the Administrative Procedure Act (5 U.S.C. 553) because there are no active express companies.

This decision does not affect the quality of the human environment.

### Part 1247 [Deleted]

Accordingly, Part 1247—*Classification of Express Company Employees for Reports of Employees,* is deleted.

This revision is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: January 31, 1980. By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-5548 Filed 2-21-80; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 26

## Public Entry and Use; Chassahowitzka National Wildlife Refuge

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Special regulations.

**SUMMARY:** The Service is renewing seasonal regulations which restrict boat speeds in designated areas within Chassahowitzka National Wildlife Refuge for the protection of manatees.

**DATES:** The regulations will be effective during the period May 1 to August 31 in both 1980 and 1981.

**FOR FURTHER INFORMATION CONTACT:** John C. Oberheu, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207. Telephone: (904) 791-2267.

**SUPLEMENTARY INFORMATION:** The primary author of this document is John C. Oberheu.

**BACKGROUND:** Surveys by the Fish and Wildlife Service have shown that significant numbers of manatees utilize the Chassahowitzka River during the months of May through August. Those reaches of the river most often used are within the boundaries of the Chassahowitzka National Wildlife Refuge. Boats traveling this river are a potential hazard to manatees, and reduced boat speeds can minimize these hazards (see Federal Register Vol. 44, No. 95, page 28330 dated May 15, 1979 for more detail). Boat speeds are, therefore, restricted to "Slow Speed/ Minimum Wake" in a designated portion of the Chassahowitzka River.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer certain areas for public recreation (as an appropriate incidental or secondary use), only to the extent that it is practicable and not inconsistent with the primary objectives for which the refuge was established. In addition, the Refuge Recreation Act requires (1) that any recreation use permitted will not interfere with the primary purpose for which the refuge was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

**DISCUSSION:** The recreational use authorized by these regulations will not interfere with the primary purpose for which the Chassahowitzka National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976, and the Refuge Manager's analysis of compatibility dated March 30, 1979. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions for these special regulations supplement the regulations which cover boating on National Wildlife Refuge areas which are set forth in Title 50, Code of Federal Regulations, § 27.32. Part 27 of 50 CFR provides that U.S. Coast Guard Regulations, Title 33 and 46 CFR, are also applicable on navigable waters.

As provided by 50 CFR 26.33, the Service hereby issues the following regulations:

### § 26.34 Special regulations governing public access, use and recreation within the Chassahowitzka National Wildlife Refuge, Florida

Effective May 1 and continuing through August 31, 1980 and 1981, all power boats will be restricted to SLOW SPEED/MINIMUM WAKE on the main channel of the Chassahowitzka River between the east refuge boundary and the Hernando County line. The restricted area will be posted with signs reading "MANATEE PROTECTION AREA, SLOW SPEED—MINIMUM WAKE". This speed restriction may be exceeded if it is reasonably necessary to prevent the loss of human life due to weather conditions or due to other reasonably unforseen circumstances. In addition all boating is subject to the regulations in 50 CFR 26.

For the purpose of this regulation, the term "SLOW SPEED—MINIMUM WAKE" is defined as any through-the-water speed (not over-the-bottom speed) less than 8 MPH and slow enough that the boat is neither "planing" nor moving with an elevated bow. Through-the-water speed is created by a boat's power and is independent of any movement caused by water currents. A boat that is "on plane" is not at slow speed. A boat that has slowed until it is "off plane" but is still moving with an elevated bow is making an exaggerated wake, not "minimum wake." When the moving attitude of a shallow-draft boat is similar to its normal resting position, it is moving at "slow speed" *and* "minimum wake".

All air-thrust boats are required to have a special refuge airboat permit which is issued annually on July 1. Airboats are restricted to certain designated routes of travel within the refuge as described on the refuge permit.

The provisions of this regulation supplement the regulations which govern public access, use and recreation on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations Part 26. The public is invited to offer suggestions and comments at any time. For maps and further information contact Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, FL 32646. Telephone: (904) 628-2201.

Dated: February 13, 1980.

John C. Oberheu,

*Acting Area Manager.*

[FR Doc. 80-5618 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1952

## Approval of Plan Supplements to the Utah Plan

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

**ACTION:** Approval of Supplements to Utah State Plan.

**SUMMARY:** This notice gives approval of amendments to Utah Rules and Regulations providing for employee access to medical records and the use of compulsory process prior to an inspection. Amendments to the regulations were made by the State to bring them into conformity with regulation changes made by the Occupational Safety and Health Administration.

**EFFECTIVE DATE:** February 22, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3613, Washington, D.C. 20210 (202) 523-8081.

**SUPPLEMENTARY INFORMATION:**

### Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1978, notice was published in the Federal Register of the approval of the Utah plan and of the adoption of Subpart E of Part 1952 containing the decision (38 FR 1178). On July 13, 1978 and March 3, 1979, the State of Utah submitted supplements to the plan involving Federal program changes (see Subpart C of 29 CFR Part 1953).

### Description of the Supplement

The amendments to the Utah Rules and Regulations involve preservation of records and objections to inspections and are generally identical to OSHA's regulations. The amendments require each employer to make available, upon request, to the Administrator of the Utah Occupational Safety and Health Division, all employee exposure records and employee medical records for examination and copying. The amendments also provide that a compulsory process may be sought in advance of an inspection or investigation, if in the judgment of the Administrator and the Attorney General, circumstances exist which make the preinspection process desirable or necessary.

### Location of the Plan and its Supplement for Inspection and Copying

A copy of the supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Room S-6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; and the Utah Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111.

### Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The Assistant Secretary finds that the Utah plan supplement described above is substantially identical to OSHA policies and procedures. Accordingly, it is found that further public comment is unnecessary.

### Decision

After careful consideration, the Utah plan supplement is hereby approved under Subpart C of 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart E of 29 CFR 1952 is amended by adding the following section:

**§ 1952.115 Changes to approved plans.**

(a) In accordance with Subpart C of Part 1953 of this chapter, an amendment to the Utah Rules and Regulations requiring each employer to make available all employee exposure records and employee medical records for examination and copying was approved by the Assistant Secretary on February 22, 1980.

(b) In accordance with Subpart C of Part 1953 of this chapter, an amendment to the Utah Rules and Regulations providing for compulsory process in advance of an inspection or investigation was approved by the Assistant Secretary on February 22, 1980.

(Sec. 18 Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 22nd day of January 1980.

Eula Bingham,

*Assistant Secretary of Labor.*

[FR Doc. 80-5728 Filed 2-21-80; 9:57 am]

BILLING CODE 4510-26-M

# Proposed Rules

Federal Register
Vol. 45, No. 37
Friday, February 22, 1980

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

## DEPARTMENT OF AGRICULTURE

### Food Safety and Quality Service

### 7 CFR Parts 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899

### Freedom of Information; Availability of Records to the Public

**AGENCY:** Food Safety and Quality Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to establish procedures for obtaining Food Safety and Quality Service records under the Freedom of Information Act in accordance with departmental regulations issued pursuant to the Act. The departmental regulations, as implemented by the regulations in this part, govern the availability of records of the Food Safety and Quality Service. This document also proposes to reserve Parts 2890–2899 of Title 7 of the Code of Federal Regulations for agency-wide administrative provisions.

**DATE:** Comments must be received on or before April 22, 1980.

**ADDRESS:** Written comments to Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Linda A. Wood, Office of Executive Secretariat, Policy and Program Planning Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2109.

**SUPPLEMENTARY INFORMATION:**

#### Comments

Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Executive Secretariat and should bear reference to the date and page number of this issue of the Federal Register. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Executive Secretariat during regular hours of business.

#### Background

The Freedom of Information Act (FOIA), 5 U.S.C. 552, requires each Federal agency, upon receipt of a request for records from any person which (a) reasonably describes such records, and (b) is made in accordance with published rules stating procedures to be followed, to make the records promptly available, except to the extent that requested records or parts of them may be covered by one of the FOIA's nine exemptions. The Act further requires agencies to make available for public inspection and copying certain records, including final agency opinions, orders, statements of policy, administrative staff manuals and instructions to staff.

The Department has published regulations implementing the FOIA (7 CFR Part 1, Subpart A). In addition to setting out the rules under which the Department's records will be made available to the public, they also provide (7 CFR 1.4) that each agency of the Department shall promulgate regulations setting forth information concerning:

1. The location and hours of operation of the Agency's FOIA office;
2. The availability of indexes and supplements thereto of certain agency actions which have not been published in the Federal Register;
3. The title and mailing address of the agency official authorized to receive requests for records and to make determinations regarding whether to grant or deny requests;
4. The title and mailing address of the official of the agency who is authorized to receive appeals from denials of requests and to make determinations regarding whether to grant or deny such appeals; and
5. Fees charged for providing records pursuant to the FOIA.

The following proposed regulations are the Food Safety and Quality Service's proposed implementation of the Department's requirement. The Food Safety and Quality Service sees no practical alternatives to implementing these regulations as proposed. However, we are soliciting any comments as to how these proposed regulations could be clarified.

Also, since the Food Safety and Quality Service has not yet promulgated an agency-wide administrative provisions' section in the Code of Federal Regulations, this document, while proposing regulations to implement the aforementioned provisions under the Freedom of Information Act, will also propose to reserve Parts 2890–2899 for agency-wide use.

In consideration of the above, Parts 2890–2899 of 7 CFR would be recodified under a new Subchapter F for agency-wide use. Parts 2891–2899 would be reserved and Part 2890 would be added to read as follows:

#### SUBCHAPTER F—FOOD SAFETY AND QUALITY SERVICE—ADMINISTRATIVE PROVISIONS

Part
2890—Freedom of Information.
2891–2899—Reserved.

## PART 2890—FREEDOM OF INFORMATION

Sec.
2890.1 Scope and purpose.
2890.2 Published materials.
2890.3 Index.
2890.4 Facilities for inspection and copying.
2890.5 Requests for records.
2890.6 Fee schedule.
2890.7 Appeals.
2890.8 Agency response to requests.

Authority: Freedom of Information Act, as amended (5 U.S.C. 552).

#### § 2890.1 Scope and purpose.

These regulations are issued pursuant to the Freedom of Information Act, as amended 95 U.S.C. 552), and in accordance with the directives of the Department of Agriculture regulations in Part 1, Subpart A, of this title. The availability of records of the Food Safety and Quality Service (FSQS), and the procedures by which the public may request such information, shall be governed by this Act and by these Department regulations as implemented and supplemented by the regulations in this part.

#### § 2890.2 Published materials.

Rules and regulations of FSQS relating to its regulatory responsibilities are continuously published and made available to the public in the Federal Register, and codified in Chapter XXVIII, Title 7 and Chapter III, Title 9 of the Code of Federal Regulations. FSQS also issues numerous publications relating to agency programs which implement the laws listed in the

Delegation of Authority, § 2.15(a) of this title. Most of these publications are available free from the USDA Publications Division, Office of Governmental and Public Affairs, or at established rates from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**§ 2890.3 Index.**

Pursuant to the regulations in § 1.4(b) of this title, FSQS will maintain and make available for public inspection and copying an index providing information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). Quarterly publication of these indexes is unnecessary and impracticable, since the material is voluminous and does not change often enough to justify the expense of quarterly publication. The agency shall provide copies of any index, upon request, at a cost not to exceed direct cost of duplication.

**§ 2890.4 Facilities for inspection and copying.**

Facilities for public inspection and copying of the material described in §§ 2890.2 and 2890.3 will be provided by FSQS pursuant to 7 CFR 1.4(a) in a reading area, on business days between the hours of 8:15 a.m. and 4:45 p.m., upon request to the Freedom of Information Act Coordinator or designee at the following address: Freedom of Information Act Coordinator (FOIA), Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Copies of such material may be obtained in person or by mail.

**§ 2890.5 Requests for records.**

(a) The FOIA Coordinator of FSQS or designee is authorized to receive requests and to exercise the authority under 7 CFR 1.4(c) of this title to (1) make determinations to grant or deny such requests, (2) extend the 10-day deadline, (3) make discretionary releases of exempt records, and (4) make determinations regarding the charging of fees pursuant to the established schedule.

(b) Requests for FSQS records or information shall be made in writing, in accordance with 7 CFR 1.3, and submitted to the FSQS Freedom of Information Act Coordinator at the following address: Freedom of Information Act Coordinator (FOIA Request), Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

The submitter shall identify each record requested with reasonable specificity as prescribed in § 1.3 of this title. Initial requests for records customarily released by FSQS may be made orally, but in certain instances, the Coordinator in his/her discretion, may deem it necessary to require a written submission from the requester.

(c) In exercising his/her authority under 7 CFR 1.4(c) to grant and deny requests, the Coordinator or designee will comply with subsection (b) Freedom of Information Act (5 U.S.C. 552(b)), as amended, which requires that any reasonably segregable portion of a document shall be provided to a person requesting such document after deletion of any portions within the scope of the request for which an exemption is being claimed under the Act. Therefore, unless the disclosable and nondisclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the nondisclosable portions deleted. The Coordinator or designee may exercise discretion as limited by 7 CFR 1.11 to release the entire document, or to make only a minimum number of deletions.

**§ 2890.6 Fee schedule.**

Departmental regulations provide for a schedule of reasonable standard charges for document search and duplication. See 7 CFR 1.10. Fees to be charged are set forth in 7 CFR Part 1, Subpart A, Appendix A.

**§ 2890.7 Appeals.**

(a) If the request for information, or for a waiver of search and/or duplication fees is denied, in whole or in part, the Freedom of Information Act Coordinator or designee will set forth in the letter of response the grounds for any denial of access and offer the requesting party an opportunity to file an administrative appeal from the denial, pursuant to 7 CFR 1.3(e). The appeal should be filed in writing within 45 days of the date of denial (departmental regulations, § 1.5(a)(3) of this title), and should be addressed as follows: Administrator, Food Safety and Quality Service (FOIA Appeal), U.S. Department of Agriculture, Washington, DC 20250.

(b) The Administrator of FSQS is authorized under § 1.4(d) of this title to (1) extend the 20-day deadline, (2) make discretionary releases, and (3) make determinations regarding the charging of fees.

**§ 2890.8 Agency response to requests.**

(a) The response to Freedom of Information requests and appeals by the officials named in §§ 2890.5 and 2890.7 shall be governed by and made in accordance with 7 CFR 1.5 and the regulations in this part.

(b) Requests for records and information may be submitted to field stations. The field station shall immediately notify the FOIA Coordinator or designee by telephone. Unless the FOIA Coordinator or designee orally authorizes a release of the requested records, the field station receiving the request shall transmit the request directly to the FOIA Coordinator for a response. For purposes of compliance with the statutory time limit, the request will be considered as having been received on the date of its arrival in the office of the Coordinator or designee.

(c) Any person whose request for records has been granted may inspect and copy such records (or copies) at the office listed in § 2890.4 in accordance with the provisions of that section as well as § 2890.6, relating respectively to time and fees. Copies may also be obtained by mail.

**PARTS 2891–2899 [RESERVED]**

(5 U.S.C. 552; 42 FR 35625, 35626, 35631)

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Linda A. Wood, Office of Executive Secretariat, Policy and Program Planning Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2109.

Done at Washington, DC, on February 15, 1980.

Donald L. Houston,

*Administrator, Food Safety and Quality Service.*

[FR Doc. 80-5417 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-DM-M

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 35**

**[Docket No. RM79-64]**

## Revised Requirements for Filing Changes in Electric Rate Schedules and for the Preparation and Submittal of Supporting Data

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to revise that portion of its regulations governing the filing of changes in the electric rate schedules of public utilities under Part II of the Federal Power Act. The Commission proposes the revision to help expedite the disposition of electric rate change cases. The revised § 35.13 would consolidate the data expressly required to be filed under the existing § 35.13 with the data routinely requested of a utility following submittal of the original rate change application. By obtaining full and detailed cost of service information earlier in the ratemaking process, the Commission expects to arrive at quicker decisions about just and reasonable electric rates. Certain data required to be filed under the revised § 35.13 are not presently filed in rate change applications. The proposed rule also raises the dollar threshold for filing abbreviated cost of service information. The effect of the proposed rule will be to help minimize decisional delays in the ratemaking process.

**DATES:** Written comments are due no later than Monday, April 1, 1980.

**ADDRESS:** Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Filed comments should reference Docket No. RM79-64.

**FOR FURTHER INFORMATION CONTACT:** Leo T. Markey, Director, Division of Rates and Corporate Regulation, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376-9195 or James Hoecker, Division of Regulatory Development, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

Issued February 15, 1980.

The Federal Energy Regulatory Commission (Commission) gives notice that it proposes to revise its regulations governing the filing of changes in the electric rate schedules of public utilities under the Federal Power Act. The Commission takes this action in the belief that revision of § 35.13 will contribute to the general goal of more expeditious disposition of wholesale rate change cases. The proposed revision consolidates the data expressly required to be filed under existing § 35.13 with the data routinely requested following the initial application for a change in a rate schedule. Certain data required to be filed under the revised § 35.13 are not now filed in rate change proceedings.

### *I. Background*

On September 26, 1963, the Commission's predecessor agency, the Federal Power Commission (FPC), issued Order No. 271[1] that required the filing of cost of service statements in support of major electric rate increase applications. Order No. 271 also established cost of service data statements A through O.[2] The FPC considered these statements adequate to provide information sufficient for threshold decisions with respect to further investigation of any of the then infrequent wholesale rate increase proposals. In a major subsequent amendment to § 35.13, the FPC required cost-supporting data for each of two periods as criteria for just and reasonable rates. Period I was created as a historical twelve-month period of actual data and Period II constituted a twelve-month test period for estimated cost data.[3] The use of estimated Period II data was devised to help utilities keep up with inflation in the costs of operation.

In 1976, the FPC issued Administrative Order No. 157 which established "top sheet procedures" in natural gas pipeline and public utility rate cases.[4] The top sheet is a summary cost of service schedule prepared by staff to facilitate the settlement process by expediting the dissemination of staff's analysis of cost of service information.

The regulations in this docket are proposed in response to the increased frequency and dollar amounts of electric rate increase applications in the past several years. Since staff has frequently found it necessary to supplement the information supplied in the original filing by requesting additional data from the filing utility, the recent volume of rate change applications has made the use of data requests an increasingly frequent and time-consuming part of rate proceedings.

The existing § 35.13 does not require detailed cost of service information for rate change applications which would amount to less than $50,000 annually. That threshold was established in an effort to avoid an unnecessary burden on utilities filing for moderate rate increases; however, fewer applications now qualify under the threshold for the alternative of submitting only summary cost of service data under § 35.12(b)(2) and (5). Because inflation has led to requests for comparatively larger increases in rates, the Commission proposes to raise the threshold to permit applicants for rate changes of less than $200,000 annually to provide only summary data, if those data sufficiently support the application. Moreover, if all wholesale customers in the affected rate class consent to the rate increase, the threshold below which a utility may file less detailed data is proposed to be raised to $1,000,000.

The revised § 35.13 addresses other difficulties posed by the present regulation, such as the lack of clear guidelines for preparing and submitting rate change applications and cost of service data statements. The Commission has found that this weakness has resulted in rate change filings that are not sufficiently detailed and explanatory to allow efficient prehearing review. The objective of the proposed rule is to clarify the filing requirements and to present in one place a range of data usually requested during a rate change proceeding. Although the revised § 35.13 is more detailed than the existing section, the Commission is not requiring the filing of substantially more data than are presently required for its proceedings. The Commission Chairman has recently made the point, in a report to the Congress, that the ratemaking process requires the compilation and organization of certain kinds of data sooner or later and "the sooner it is done, the greater the benefit to everyone involved in the regulatory provess.[5] This docket is created to help eliminate decisional delay.

The Commission anticipates that the revised § 35.13 would benefit all participants in Commission rate change proceedings in the following ways. First, the amount of time required for the preharing disposition of rate change applications set for hearing will be

[1] 30 FPC 850, 28 *Fed. Reg.* 10573 (October 2, 1963).

[2] Statement P, dealing with rate design information, was added by Order No. 537, issued October 9, 1975, 40 *Fed. Reg.* 48673 (October 17, 1975).

[3] Order No. 487, issued July 17, 1973, 50 FPC 125, 38 *Fed. Reg.* 1967 (July 26, 1973).

[4] Issued April 1, 1976, 41 *Fed. Reg.* 15090 (April 9, 1976).

[5] Charles B. Curtis, *Decisional Delay in Wholesale Electric Rate Increase Cases: Causes, Consequences and Possible Remedies*, January 23, 1980, at 72.

reduced. The regulation would require that information routinely needed for the processing of an application, but heretofore retrieved by data requests subsequent to the initial filing of an application, be provided as part of the original filing. Efficient collection of cost of service data will also be facilitated by requiring the transfer of important information currently provided only in work papers to specific statements where it is more readily accessible. Although the Commission or its staff would not be precluded from making any additional requests for information that particular cases may require, it is expected that the savings of time between the filing for a change in rates and approval of the new rate will be substantial. The proposed revision also promotes the objectives of Order No. 157 that established topsheet procedures by requesting cost of service data in a tabular form that will facilitate computer programming by Commission staff for more rapid analysis and distribution. The revised regulation also seeks to incorporate filing requirements that reflect generic decisions adopted by the Commission in specific cases.[6]

A. *Cost of Compliance.* Participants in the technical conferences (discussed below) that were held to review a staff draft of this proposal were invited to offer estimated cost information regarding compliance by utilities with both the present and proposed § 35.13. The most complete response by a participant reported a survey of seven utility companies.[7] There was considerable variation among the seven reporting companies as to the estimated costs to file a major rate increase under current regulations. The average estimated cost was $140,000. The companies estimated an average additional $40,000 to respond to discovery data requests, for a total of $180,000 per filing.

The survey pertained only to new cost of service Statements AA to AT in paragraph (h). Compliance with the proposed regulations through Statement AT was estimated to cost on average about $100,000 more than current costs of $140,000 for the first compilation and submittal of data. There would then be a recurring cost for subsequent filing of about $40,000 more than the current $140,000, for a total of $180,000 per filing to maintain and submit data under the new system. Although the survey did not attempt to make any precise reconciliation between costs under present and proposed regulations, it appears that the $40,000 for responding to present discovery requests is roughly equivalent to the estimated additional recurring cost of filing under the proposed new regulations.

The staff believes that a substantial amount of the estimated additional costs attributed to this rulemaking were the result of the original proposal to require monthly data for all rate base items and for deferred tax balances by function. This proposal makes these requirements less stringent and the estimated cost of compliance would probably be little, if any, greater than the cost is under the current regulations, if the costs of discovery under the present system are added in. This is especially true for those utilities whose rate filings already demonstrate well developed cost support.

The Commission solicits comment and supporting data about the cost of submitting cost of service information under the existing § 35.13, the cost of responding to related discovery data requests in cases set for hearing under the existing § 35.13, and the relative cost of submitting information under the revised § 35.13 proposed in this docket. Information on the cost of filing under the proposed rule should be supplied both in terms of the initial cost of collecting, organizing, and submitting the data for the first time and in terms of the continuing costs of compliance for subsequent rate change filings. Commenters are asked to identify specifically the portions of the revised cost of service statements that would result in any significant increases in costs of utilities.

B. *Technical Conferences.* Prior to issuing a Notice of Proposed Rulemaking in this docket, the Commission staff held four technical conferences, October 4, 5, 18 and 19, 1979, in Washington, D.C. (44 FR 53538, September 10, 1979). Twenty-four persons were invited to discuss a draft of this rulemaking. Questions and comments were also welcomed from the public. The participants included representatives of public utilities and intervenor groups experienced in the electric ratemaking process and Department of Energy and Commission personnel. Among the major contributions of the conferences to the evolution of this rulemaking are the following:

1. The requirement of the thirteen-figure averages for various plant values and depreciation is now more narrowly applied. Averages for the beginning and end of the year or test period were deemed sufficient for other plant and depreciation components of rate base.

2. Certain data are apparently not always available according to major functions of plant. To avoid requiring added studies by the utilities, functionalized data is requested for certain statements only if they are available.

3. Statement BC, reliability data, is clarified as an informational data collection statement only, not a requirement to develop objective standards for power supply reliability.

4. Form 61, a form on which the utilities would have provided most cost of service information in a computer compatible format, is eliminated because of the burdens envisioned by utilities. In its place is a tabular summary of data (Statement BJ) that will facilitate ready access to the data and ensure its completeness.

5. The seven-month rule governing how old Period I data is permitted to be is altered to allow greater use of calendar year data and to avoid the large number of mid-year rate filings encouraged by the current rule.

6. The use of abbreviated cost of service information will be permitted for rate changes that amount to less than $200,000, an increase from the current $50,000, or for rate changes of less than $1,000,000 if customers consent to the change. In addition, Period II data is not required for increases of $1,000,000 or more if wholesale customers consent to the rate change.

C. *Advisory Committee Recommendations.* The proposed regulations will implement the bulk of the relevant recommendations of the Subcommittee on Filing and Substantive Regulatory Requirements of the FERC Advisory Committee on Rules of Practice and Procedure stated its report of October 2, 1979. Those recommendations generally tend to parallel the changes in existing § 35.13 that were made in the staff draft of this rulemaking or that were suggested by technical conferees.

## *II. Discussion of the Proposed Regulation*

A. *General filing requirements.* Paragraphs (a) through (g) of the proposed regulation set forth the basic requirements for submitting and supporting an application for a change in an electric rate schedule that must be filed with the Commission. The procedures and substantive

[6] Order No. 555, issued November 8, 1976, 41 *Fed. Reg.* 51392, alowed pollution control and fuel conversion construction work in progress to be included in rate base (Account 107). This is reflected in Statement AG. Order No. 561, issued February 22, 1977, 42 *Fed. Reg.* 9161, established maximum rates to be used in computing AFUDC and provided accounting and reporting requirements. This is reflected in Statement AO.

[7] Technical Conference on Docket No. RM79-64, Revison of § 35.13 of the Commission's Regulations, Transcript of October 19, 1979, at 147 (Central Files, Federal Energy Regulatory Commission).

requirements in these paragraphs are substantially the same as those in existing § 35.13. The provisions have been restructured, however, to sharpen the focus of the regulation on what material must be filed and by whom, the size or nature of the proposed rate change, and the kind of test period data needed to justify the proposed rate change.

The proposed § 35.13 seeks to reorder the basic filing requirements found in existing paragraphs (a), (c), and (d), and portions of (b). Proposed paragraph (a) specifies which provisions apply to certain applicants for a rate change, depending on the nature of the proposed change. Proposed paragraph (b) requires of all filing parties the submission of the same variety of general information as required under existing paragraph (a). Similarly, the standard information on the efects of the proposed rate change is included under proposed paragraph (c).

The present requirement for comparative revenue date for the 12 months before and 12 months after the proposed effective data is proposed to be modified to permit comparative revenues to be reported for the historical (Period I) and estimated (Period II) 12-month cost of service periods. This will eliminate unnecessary preparatory effort for a filing. However, this change in the basis of comparative revenue data will necessitate conforming or compensation changes in § 36.2 of the Commission's regulations, pertaining to filing fees.

The requirement that utilities file specific historical and estimated cost information to substantiate the justness and reasonablness of the proposed rate is revised for clarity in proposed paragraph (d).

Paragraph (d) contains an important change in the Commission's definition of "Period I." The requirement that Period I end not earlier than seven months prior to the filing date is modified. It is proposed that the data for the last month of Period I be no older than 15 months on the date of the rate change filing, thereby permitting more extensive use of calendar year data for Period I. Modification of the "seven-months rule" may also decrease seasonal peaking of the Commission workload seven months after the close of the last calendar year.

The proposed change in the definition of Period I is accompanied by a revised definition of Period II. The estimated cost of service data for the twelve months of Period II, when required, would follow the end of Period I data. However, Period II may begin not earlier than twelve months before the proposed effective date of the rate change nor later than the proposed effective date. Under this approach, Period II estimated data could be largely historical at the time of filing, particularly if the Period I data is as old as permitted under the new definition of Period I. For this reason and because the Commission does not otherwise want to inhibit the use of calendar year estimated data, the use of an alternative Period II definition was considered by the Commission on February 6, 1979. The twelve months of this alternative Period II would be required to begin not later than three months after, nor more than nine months before, the date on which the new rate is proposed to become effective. The Commission solicits comments on the relative merits of the definition of Period II provided in the proposed rule and the alternative definition of Period II. Commenters should specifically address the effect of each definition on the ability of a filing utility to use calendar year data and any consequences the either definition might have on the concentration of filings during certain times of the year.

Several miscellaneous provisions set forth throughout the existing regulation are brought forward and placed before the extensive cost of service statements provision. Paragraph (e), describing the filing utility's burden of proof and the treatment to be given testimony and exhibits, is derived from existing § 35.13(b)(5). Existing paragraph (c) is revised and relocated as paragraph (f); it informs an applicant not required to support a rate change proposal with cost of service information that the Commission may request such information by letter, if such data are necessary for evaluation of the proposal. Proposed paragraph (g) is comparable to paragraph (d) in the existing § 35.13. Paragraph (g) states that a filing utility must conform cost of service filings under § 35.13 to requirements of general applicability and all applicable Commission orders.

The most important filing provisions may be summarized as follows:

A filing utility, whether filing for an increase in rates individually or as a party concurring in coordination and interchange agreements, must file the information required in paragraphs (b), (c), (d), (e), and (h), except under any of three special circumstances. Under proposed paragraph (a)(2), utilities proposing rate increases that would amount to less than a specified amount, involve short-term service, or pertain to integral parts of a coordination and interchange aggreement may choose to submit summary information to support a proposed rate increase. Changes in rates less than the threshold amount may be supported by full cost of service information, if the utility so chooses. Likewise, rate changes that do not result in a rate increase or changes that result from changes in delivery points, delivery voltage, or similar changes in service need be supported only by general information in paragraphs (b) and (c), subject to any necessary data requirements imposed by the Commission. For rate changes which are proposed in coordination and interchange rate schedules, a representative may be designated by the parties to the transaction to file the required information.

A filing utility that is required under paragraph (a)(1) to submit the detailed cost of service statements described in paragraph (h), or that elects to submit such data, must use historical data for "Period I," which is defined in paragraph (d). If the proposed rate change would have amounted to one million dollars or more in revenue during Period I, the utility must also submit "Period II" data which is estimated for a twelve-month period after the end of Period I that begins not later than the proposed effective date of the rate change and not earlier than twelve months before the proposed effective date. The utility provides supporting data for both periods in the paragraph (h) statements.

If the proposed rate increase would amount to less than one million dollars, the filing utility may elect not to file Period II data and instead file only Period I data, in which case Period I will be the criterion for the just and reasonable rate. In other words, Period I will be the test period. In this case, however, the Commission will permit adjustment of the Period I information which otherwise is not updated to reflect changes in revenues and costs. This practice has been permitted under the current regulations. If Period II data is filed, it will be the test period and such estimated costs must be supported by the utility's work papers. The requirement to file Period II data is the same as in the existing § 35.13. However, the Commission now proposed to modify this requirement to excuse the filing of Period II data if all wholesale customers in the affected rate class have consented to the proposed rate increase.

B. *Cost of service statements.* Revision of an elaboration on the cost of service statements are the major objectives of this rulemaking. The new statements are contained in paragraph (h).

The existing § 35.13(b) contains 17 cost of service statements, A through P. The Commission proposed to reorder

and expand the statements. Proposed paragraph (h) contains 37 cost of service and supporting statements, AA through BL in paragraphs (h)(1) through (h)(37). The increase in the number of statements does not represent a substantial increase in information requested beyond that required in existing § 35.13 and routinely obtained by data requests. The proposed statements are more precise and descriptive in their delineation of what is needed to support a proposed rate increase. With the exception of parts of Statements AV (Rate of Return Claimed) and BB (Allocation Demand and Capacity Data), the first 35 statements are intended to be data reports. The last two statements (Statements BK and BL) are designed to reflect analytical interpretation of all elements of cost of service data.

Although Statement BJ is new it is simply a concise summary of specific data taken from the other data reporting statements. This information gathered from the various cost of service statements will further facilitate Commission decisionmaking when integrated into staff's computerized cost of service program.[8] In addition, an applicant that prepares Statement BJ will be rechecking the information contained in the statements from which the data is taken. This statement will, therefore, assist in minimizing deficient filings and the consequent revenue loss.

Statement BK is also a noteworthy revision to several of the cost of service statements. It consolidates related information now provided under three statments: Statement L on overall cost of service; Statement M on allocated cost of service; and Statement N on comparisons of cost of service. Statement BK provides for the filing utility to indicate its total cost of service and that part of the cost allocated to the wholesale services subject to the proposed change in rates.

Statement BL carries forward the requirements of present Statement P in which the filing utility must justify the proposed rate design in terms of allocated cost and other considerations. Statement P was added to the existing § 35.13 in 1975 by Order No. 537 (*see* Footnote 3). The current interest in marginal cost pricing concepts and in time-of-use rate differentiation make it appropriate to recount the policy set forth in the preamble of that order, which policy is also carried forward in Statement BL in this rulemaking:

> The Federal Power Act establishes criteria for this Commission in the exercise of its rate regulatory authority. Rates must be just and reasonable, non-preferential and non-discriminatory. We believe that it would be appropriate for the Commission to consider the extent to which application of marginal cost pricing principles will result in rates which conform more closely with these criteria while at the same time achieving the objectives outlined above. The record before us in this proceeding, however, does not provide a sufficient basis to determine the feasibility of applying marginal cost pricing principles to the design of rates subject to our jurisdiction, particularly rates charged to distributor systems for firm power. *Issuance of the subject filing requirements will not prejudice any party's rights, including those of our staff, to offer innovative rate design proposals through evidentiary presentations.* Indeed, we believe that this matter should be examined by all electric systems with a view to determining whether alternate pricing mechanisms, particularly those based on marginal cost principles, for wholesale sales subject to the jurisdiction of this Commission would be economically sound as well as in accordance with statutory requirements. We note that at the present time a number of studies of rate design alternatives are in progress. We would welcome the introduction into evidence in rate proceedings before this Commission materials that become available from these studies to assist us in reaching judgments that are in the public interest. [Footnote omitted.] [Emphasis added.] 54 FPC at 1537–1538.

Statement BL is not therefore intended to discourage marginal cost pricing or the filing of time-of-day rates.

Certain other statements in paragraph (h) are of special interest.

Statement AF identifies specific internal sources of capital which should be considered as potential deductions from the otherwise required net original cost rate base used to establish capital costs. Statement AG identifies capital requirements other than working capital that should be considered as potential additions to net original cost rate base. It is important to note that Statements AF and AG identify as potential rate base deductions or additions certain information that in recent experience have been infrequently considered for such purposes. The Commission is placing the information in the following balance sheet accounts in the cost of service statements so that its significance for rate base determinations may be assessed.

*Account No. and Description*

252—Customer advance for construction.
255—Accumulated deferred investment tax credits (eligibility dependent upon applicant's election under law).
261—Property insurance reserve.
262—Injuries and damages reserve.
263—Pensions and benefits reserve.
265—Miscellaneous operating reserves.
182—Extraordinary property losses.

Statement AD establishes reporting patterns for many of the other statements. It requires reporting of an average for thirteen monthly balances (the beginning of the first month and the end of each month of a period) for all production and transmission plant to be claimed in the basis of capital costs. It also establishes definitive criteria for selection by the filing utility of subfunctional categories of major functional classifications of electric plant in service which categories are recognized throughout the statements. The statement also sets forth the instances in which general, intangible, common, and other plant categories need not be divided into subfunctional categories.

Statement AL has been drafted to refer to proposed § 35.24 set forth in the Commission's Notice of Proposed Rulemaking, issued June 7, 1979 in Docket No. RM79–49. (44 FR 33410, June 11, 1979.) The proposed § 35.24 establishes a formula for calculating the working cash allowance of working capital. The Commission's policy during the pendency of the rulemaking is stated in *Carolina Power and Light Company*, Opinion No. 19–A, issued February 21, 1979 (Docket No. ER76–495):

> Where a fully developed and reliable lead-lag study is available in the record, we will utilize that study to determine the working capital allowance. Where a study meeting these criteria is not available we will continue to apply the 45-day convention. However, two adjustments will be made in the latter instance, provided the information is available. Fossil fuel expense has come to represent a major expense item for many utilities and, therefore, a substantial component of the O&M expenses. Where this is the case, and the actual lag in the payment for fossil fuel is known, the amount thereof will be substituted as an adjustment to the results otherwise attained by the 45-day rule. Second, where an adjustment for fuel expense lag is made, a further adjustment will be performed, as an add-on to the results under the formula, to recognize the increased importance to the utilities of purchased power expense. This item has not heretofore been comprehended within the operation of the rule. In our opinion, the combination of these two adjustments with the formulary method will produce a more accurate reflection of the utility's actual operating cash needs.

Statement AV (Rate of Return) is similar to present Statement G. However, Statement AV requires more information dealing with the cost of capital. This information is required in prehearing discovery and its inclusion in Statement AV is intended to minimize the need for data requests.

[8] The Electric Cost of Service (ECS) Program developed by the Office of Electric Power Regulation was issued in May 1978 and is available to the public on request. It includes a user's manual.

Several statements are designed to obtain in detail the information described in current statements only in general terms. Examples of this elaboration can be found in proposed Statements AF, AG, AP through AT, BE, and BF.

Statement AX is designed to elicit information not generally requested on a routine basis. Statement AX would provide information about rate change cases which the filing utility might have pending before another regulatory body or agency, especially with respect to revenues collected subject to refund.

The following table illustrates the relationship of the existing and revised statements for § 35.13:

| Proposed | Description | Presently acquired through existing statements or prehearing discovery [1] |
|---|---|---|
| AA | Balance Sheets | A |
| AB | Income Statements | B |
| AC | Retained Earnings Statements | C |
| AD | Cost of Plant | D |
| AE | Accumulated Depreciation and Amortization | E |
| AF | Specified Deferred Credits and Operating Reserves | Discovery |
| AG | Specified Plant Accounts and Deferred Debits | M, L, E1 |
| AH | Operation and Maintenance Expenses | H |
| AI | Wages and Salaries | M, Discovery |
| AJ | Depreciation and Amortization Expenses | I |
| AK | Taxes Other than Income Taxes | K, Discovery |
| AL | Working Capital | F, Discovery |
| AM | Construction Work in Progress | Discovery |
| AN | Notes Payable | Discovery |
| AO | Allowance for Funds Used During Construction | Discovery |
| AP | Federal Income Tax Deductions—Interest | J |
| AQ | Federal Income Tax Deductions—Other than Interest | J |
| AR | Federal Tax Adjustments | J |
| AS | Additional State Income Tax Deductions | J |
| AT | State Tax Adjustments | J |
| AU | Revenue Credits | M, Discovery |
| AV | Rate of Return | G, Discovery |
| AW | Cost of Short Term Debt | Discovery |
| AX | Other Recent and Pending Rate Changes | Discovery |
| AY | Income and Revenue Tax Rate Data | Discovery |
| BA | Wholesale Customer Rate Groups | M, N, Discovery |
| BB | Allocation Demand and Capability Data | M, N, Discovery |
| BC | Reliability Data | Discovery |
| BD | Allocation Energy and Supporting Data | M, N, Discovery |
| BE | Specific Assignment Data | M, N, Discovery |
| BF | Exclusive-Use Commitments of Major Power Supply Facilities | M, N, Discovery |
| BG | Revenue Data to Reflect Proposed Rates | M, N, Discovery |
| BH | Revenue Data to Reflect Present Rates | M, N, Discovery |
| BI | Fuel Cost Adjustment Factors | O, Discovery |
| BJ | Summary Data Tables | — |
| BK | Electric Utility Department Cost of Service, Total and as Allocated | L, M, N |
| BL | Rate Design Information | P |

[1] Certain of the revised cost of service statements require data that have not been reported in all previous rate change proceedings. While the Commission proposes to request some information not obtained under the existing system, most of the "new data" in the proposed cost of service statements have been routinely requested during discovery.

*III. Proposed Effective Date*

The revised § 35.13 is proposed to be effective for any electric rate change application filed after 180 days from the date of issuance of the final rule. However, the Commission will encourage public utilities to file under the final revised rule during the 180 day period. The Commission is therefore proposing to waive the requirements of the existing § 35.13 for those utilities that request use of the revised cost-of-service format. This policy is a recognition that the ability of public utilities to retool for the filing requirements in the proposed § 35.13 may vary widely.

*IV. Comment Procedure*

Interested persons are invited to submit written data, views, comments or suggestions concerning the regulations proposed in this notice. The Commission requests that commenters specifically address certain issues presented in this preamble, namely the initial and continuing cost of compliance with the proposed rule in relation to the cost of the entire rate change application process as it now exists and the merits of the alternative definitions of "Period II" in terms of the use of calendar year data for test period purposes and the effect of each definition on the overall timing of rate change filings.

An original and 14 copies of any comment should be filed with the Secretary of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments must be received by April 14, 1980 and should refer to Docket No. RM79-64. Written submissions will be available for public inspection at the Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all written comments submitted by the above date before acting on the proposed regulation.

(Federal Power Act, 16 U.S.C. §§ 792-828c; Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; Executive Order No. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission proposes to amend Part 35, Chapter 1, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

*Secretary.*

Section 35.13 is revised to read as follows:

**§ 35.13 Filing of changes in rate schedules.**

(a) *General rule.* Every public utility shall file the information required by this section, as applicable, at the time it files with the Commission under § 35.1 a rate schedule, or part thereof, to supersede, supplement, or otherwise change the provisions of a rate schedule that is required to be filed with the Commission under § 35.1.

(1) *For any rate change not otherwise excepted.* Except as provided in subparagraphs (2) and (3), any public utility filing for a rate schedule change shall submit with its filing the information specified in paragraphs (b), (c), (d), (e), and (h) of this section, in accordance with paragraph (g) of this section.

(2) *For certain rate increases.* Any public utility filing for a rate schedule change that provides for a rate increase shall submit with its filing the information required in paragraph (a)(1) or the information required in paragraphs (b) and (c) of this section and in § 35.12(b)(2) and (5), in accordance with paragraph (g) of this section, if the proposed change is:

(i) an increase of less than $200,000 annually for the twelve months of Period I as defined in paragraph (d)(1)(ii);

(ii) a rate increase:

(A) To which all wholesale customers that belong to the affected rate class consent; and

(B) That is less than one million dollars annually for the twelve months of Period I as defined in paragraph (d)(1)(ii);

(iii) For a service of relatively short duration, and of a type for which the need and usage may not be reasonably forecastable, such as short-term power; or

(iv) An integral part of a coordination and interchange arrangement. This exception does not apply to interchange schedules providing for firm services, that is, schedules that include reserve assurance according to the criteria for general utility services established by the supplier.

(3) *For rate changes other than increases.* Any public utility filing for a rate schedule change that does not provide for a rate increase, or that results from a change in delivery points, a change in delivery voltage, or a similar change in service shall submit with its filing the information specified in paragraphs (b) and (c) of this section.

(4) *For parties concurring in coordination and interchange arrangements.* For coordination and interchange arrangements in the nature of power pooling transactions, all information required to be submitted in support of a rate schedule filing under paragraphs (a)(1) through (3) shall also be submitted by parties filing certificates of concurrence under § 35.1. If a representative is designated and authorized in accordance with § 35.1 to file supporting information on behalf of all parties, the representative may file the information for all parties under this paragraph in place of individual submittals by each party to a rate schedule.

(b) *General information.* Any public utility which files for a change in rate schedule under paragraph (a) shall include with its filing the following general information:

(1) A list of documents submitted with the filing;

(2) The date or dates on which the filing utility proposes to make the changes effective;

(3) The names and addresses of persons to whom a copy of the proposed rate schedule has been mailed;

(4) A brief description of the proposed changes;

(5) A statement of the reasons for the proposed changes;

(6) A showing that all requisite agreement to the proposed rate schedule change, or to the filing of the rate schedule change, including any contract contained in any agreement, has in fact been obtained;

(7) A statement showing any expenses or costs included in cost of service statements for Period I or Period II which expenses or costs have been alleged or judged to be illegal, duplicative, or unnecessary labor costs demonstrably the product of discriminatory employment practices; and

(8) A form of notice suitable for publication in the Federal Register in accordance with § 35.8.

(c) *Information relating to the effect of the proposed changes.* Any public utility which files for a change in rate schedule under paragraph (a) shall also submit with its filing the following information or materials:

(1) A statement comparing sales and services and revenues from sales and services—

(i) By months and for the entire year, under both the rate schedule to be superseded or supplemented and the proposed changed rate schedule, each applied to the transactions for the twelve months immediately before and for the twelve months immediately after the proposed effective date of the new rate schedule, except as otherwise permitted under paragraph (c)(4); and

(ii) For each class of service, for each customer, and for each delivery point or points that constitute a billing unit, including billing quantities involved in the computation of the charges;

(2) A comparison of the proposed rate with other rates of the filing public utility for similar wholesale for resale and transmission services; and

(3) If any specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rate schedule, an appropriate available map or sketch and single line diagram showing the additions or changes to be made.

(4) If the utility files Statements BG and BH under paragraph (h), the utility may report the information required under paragraph (c)(1) for the twelve months of Period I instead of for the twelve months immediately before the proposed effective date of the rate change and, if applicable, for the twelve months of Period II instead of for the twelve months immediately after the proposed effective date of the rate change.

(d) *Cost of service information.* (1) *Definitions.* For purposes of submitting cost of service information—

(i) "Test period" means a finite time span during which a utility incurs costs and receives revenues, which costs and revenues are examined in the determination of a just and reasonable rate for a service rendered by the utility.

(ii) "Period I" means the most recent twelve consecutive months or the most recent calendar year for which actual data are available, the last day of the twelfth month of which is not more than fifteen months prior to the date of tender for filing of the proposed notice of change in rates and charges.

(iii) "Period II" means any period of twelve consecutive months after the end of Period I that begins:

(A) Not earlier than 12 months before the date on which the rate is proposed to become effective; and

(B) Not later than the date on which the rate is proposed to become effective.

(2) *Filing of Period I data.* (i) *Unadjusted data.* Any filing utility required to submit cost of service information under paragraph (a)(1), or which elects to file such information, shall submit Statements AA through BL described in subparagraph (h) using Period I unadjusted system cost data or Period I adjusted system cost data under clause (ii).

(ii) *Adjusted data.* For any utility filing under paragraph (a)(1) for a rate increase that would have amounted to less than one million dollars during Period I, the filing of Period II system cost data under paragraph (d)(3) is optional. If a utility does not file Period II data—

(A) The utility may adjust Period I data to reflect changes that affect revenues and costs prior to the proposed effective date of the rate change and that are known and measurable with reasonable accuracy at the time of the filing, provided that:

(*1*) All Period I data are adjusted to reflect such changes; and

(*2*) The adjustments are fully supported in the appropriate cost of service statements;

(B) Period I will be the test period.

(3) *Filing of Period II data.* (i) *Statements.* (A) Any filing utility that is required to submit cost of service information under paragraph (a)(1) and that proposes a rate increase that would have amounted to one million dollars or more during Period I, shall submit Statements AA through BL described in paragraph (h) using estimated costs for Period II, except that a utility is not required to file Period II data if all wholesale customers that belong to the affected rate class have consented to the proposed rate increase.

(B) Any utility proposing a rate increase that would amount to less than one million dollars during Period I may submit Period II data under this subparagraph.

(C) *Test Period.* If Period II data are submitted under this subparagraph, Period II will be the test period.

(ii) *Work papers.* A filing utility shall submit work papers relating to Period II data statements whenever such statements are submitted under paragraph (d)(3)(i). Comprehensive explanation of the bases of the

estimated figures shall be included. If the Period II estimated figures are derived from a regularly prepared corporate budget, the work papers shall include relevant excerpts from such budget. The work papers and additional explanatory material required to be provided in connection with a Period II submittal shall be organized and indexed according to both subject matter and witness, with index references to the specific statement supported by each segment of the material. Working papers shall also be cut or folded to letter size, and shall be assigned page numbers to assist in review and referencing.

(4) *Attestation.* A filing utility shall include an attestation by its chief accounting officer or other officer that the cost statements and supporting data submitted under paragraphs (d)(2) and (3) are true and accurate representations of the utility's books, budgets or other corporate documents, to the best of that officer's knowledge, information, and belief.

(5) *Additional informational requirements.* If the Commission orders an investigation of a proposed rate change filed under this section, the filing utility shall submit any information required under this subparagraph during the first month of each calendar quarter that begins after issuance of the order initiating the investigation and continuing until the Commission by final order concludes the investigation. The information required by this subparagraph is limited to material not previously submitted to the Commission.

(i) A filing utility shall inform the Commission of any actions involving significant changes in its financial condition, accounting methods, or operations, including the following:

(A) Issuance of securities;

(B) Significant increase or decrease in proposed construction program expenditures;

(C) Merger, consolidation or other major changes in the corporate organization; and

(D) Changes in the capital structures.

(ii) A filing utility shall submit to the Commission a copy of each order issued by any regulatory agency approving, rejecting or otherwise disposing of an application for an increase in the electric rates of the utility and a copy of each application for a rate increase pending before a state regulatory agency.

(e) *Testimony and exhibits.* (1) *Burden of Proof.* Any utility filing for an increase in rates and charges shall be prepared to go forward at a hearing on reasonable notice on the data submitted, to sustain the burden of proof under the Federal Power Act, and to establish that proposed charges are just and reasonable and not unduly discriminatory or preferential or otherwise unlawful within the meaning of the Act.

(2) *Requirements to File.* If the rate schedule change is required to be filed under paragraphs (a) and (d), accompanied by Statements AA through BL, the filing utility shall submit testimony and exhibits with its rate increase filing. In order to avoid delay in processing rate filings, such testimony and exhibits shall be the case-in-chief of the utility in the event the matter is set for hearing. In addition to the material the utility chooses to submit as part of its case, the exhibits shall include the full cost of service data described in Statements AA through BL of paragraph (h), and the accompanying testimony shall include an explanation of these exhibits, including support for all adjustments to book or budgeted data relied on in preparing such exhibits.

(3) *Reference to filed information.* To the extent that testimony and exhibits required to be filed pursuant to paragraph (e)(2) duplicate information required to be submitted in Statement AA through BL described in paragraph (h), the testimony and exhibits may include relevant material by reference to the specific statement which contains such material.

(f) *Cost of service data required by letter.* A filing public utility may be required by letter of the Secretary, to submit specified cost data, if such data may be needed for Commission analysis, even if a rate schedule required to be on file with this Commission is not required to be supported by cost of service data as set forth in this section.

(g) *Commission precedents and policy.* When submitting the supporting cost of service data required under paragraph (d), a filing utility shall conform all filings to any cost of service requirements that are generally applicable to all utilities, including the provisions of this part and any order of this Commission applicable to such utility.

(h) *Cost of service statements.* The following Statements AA through BL shall be submitted by the filing utility as required by paragraph (d) and in accordance with this paragraph:

*Statement*

AA—Balance sheets
AB—Income statements
AC—Retained earnings statement
AD—Cost of plant
AE—Accumulated depreciation and amortization
AF—Specified deferred credits and operating reserves
AG—Specified plant accounts (other than plant in service) and deferred debits
AH—Operation and maintenance expenses
AI—Wages and salaries
AJ—Depreciation and amortization
AK—Taxes other than income taxes
AL—Working capital
AM—Construction work in progress
AN—Notes payable
AO—Allowance for funds used during construction
AP—Federal income tax deductions—interest
AQ—Federal income tax deductions—other than interest
AR—Federal tax adjustments
AS—Additional state income tax deductions
AT—State tax adjustments
AU—Revenue credits
AV—Rate of return
AW—Cost of short-term debt
AX—Other recent and pending rate changes
AY—Income and revenue tax rate data
BA—Wholesale customer rate groups
BB—Wholesale customer rate groups
BC—Reliability data
BD—Allocation energy and supporting data
BE—Specific assignment data
BF—Exclusive-use commitments of major power supply facilities
BG—Revenue data to reflect proposed rates
BH—Revenue data to reflect present rates
BI—Fuel cost adjustment factors
BJ—Summary data tables
BK—Electric utility department cost of service, total and as allocated
BL—Rate design information

(1) *Statement AA—Balance sheets.* Statement AA consists of balance sheets as of the beginning and the end of Period I and Period II, and the most recently available balance sheet, including any applicable notes, and an explanation of any significant accounting changes since the most recent filing by the utility under this section that involves the same wholesale customer rate class. Balance sheets should be constructed in accordance with the annual report form for electric utilities specified in Part 141.

(2) *Statement AB—Income statements.* Statement AB consists of income statements for Period I and Period II, and the most recently available income statement, including any applicable notes, and an explanation of any significant accounting changes since the most recent filing by the utility under this section that involves the same wholesale customer rate class. Income statements shall be prepared in accordance with the annual report form for electric utilities specified in Part 141.

(3) *Statement AC—Retained earnings statement.* Statement AC consists of retained earnings statement for Period I and Period II, and the most recently available retained earnings statement, including any notes applicable thereto.

Retained earnings statements shall be prepared in accordance with the annual report form for electric utilities specified in Part 141.

(4) *Statement AD—Cost of plant.* Statement AD is a statement of the original cost of total electric plant in service according to functional classification for Period I and Period II. If the plant functions and subfunctions of Period I and Period II are different, the differences shall be explained and justified.

(i) For each separately identified function and subfunction of production plant or transmission plant, the original cost shall be stated as of the beginning of the first of the month and the end of each month of Period I and Period II, with an average of the thirteen balances for each period. If any of the Period I or Period II thirteen monthly balances is not available or not representative of normal planning of the utility for plant in service, the statement shall include an explanation of the relevant circumstances.

(ii) For each separately identified function and subfunction of plant other than production or transmission, the original cost shall be stated as of the beginning and the end of both Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I or Period II balances is not available or not representative of normal planning of the utility for plant in service, the statement shall include an explanation of the relevant circumstances.

(iii) Electric plant in service shall be shown in accordance with each of the following five major functional classifications:

(A) Production;
(B) Transmission;
(C) Distribution;
(D) General and Intangible; and
(E) Common and Other.

(iv) To the extent feasible, completed construction not classified in accordance with paragraph(h)(4)(iii) of this section shall be shown in accordance with tentative classification to major functional accounts. If this is not feasible, such facilities shall be included as other plant under paragraph (h)(4)(iii)(E) of this section.

(v) To the extent necessary to support the proposed rate, a utility shall supply the original cost information for the five major functional plant classifications in paragraph(h)(4)(iii) of this section divided into subfunctional categories. Where subfunctional original cost information is provided, the filing utility shall explain the importance of providing such information to support the proposed rate. Each category shall be described in substantive terms, such as steam electirc production or high voltage transmission.

(vi) Subfuncitional categories shall be selected as appropriate under the following criteria:

(A) Plant categories shall be established as necessary to segregate costs for production services with special characteristics, such as base, intermediate or peaking load production services. Statement AD shall include a description of each such service and shall list a brief descriptive title for each corresponding subfunctional category.

(B) Transmission plant categories shall be chosen to reflect the extent to which the facilities are proposed to be allocated on a common basis among all or specific segments of utility services. For descriptive purposes, plant may also be categorized according to accounting or engineering terminology, such as hight voltage overhead lines. Statement AD shall include brief descriptive transmission category titles and explain the basis for the titles. If all transmission plant will be allocated among utility services on the basis of a single set of allocation data, original cost shall be shown in total without subfunctionalization.

(C) Distribution plant categories shall be selected according to engineering or use characteristics meaningful in terms of allocations or assignments to wholesale services such as substations, overhead lines, meters, or non-wholesale. Statement AD shall include a brief descriptive distribution category titles and shall explain the basis for the titles.

(D) A filing utility is not required to divide general, intangible, common, and other categories into subfunctional categories if the functions of plant are stated as being related to utility labor expense. If the utility divides the categories of plant into subfunctional categories, the subfunctional categories shall be chosen to group together facilities that are generally equivalent in sharing a significant correlation to selected plant or expense items for which an allocation to wholesale services is independently determimable. Statement AD shall include a brief descriptive title for each general and intangible category, and for each common and other category, with an explanation of the basis of each category selection.

(E) A separate category shall be provided for each specific assignment of plant reported in Statement BE. Such assignments are applicable principally but not necessarily exclusively to distribution facilities. Statement AD shall include brief descriptive titles consistent with Statement BE.

(F) A separate category shall be provided for each exclusive-use commitment of major power supply facilities as required to be reported at Statement BF. Statement AD shall include brief descriptive titles consistent with Statement BF.

(5) *Statement AE—Accumulated depreciation and amortization.* Statement AE is a statement of the accumulated provision for depreciation and amortization of electric plant according to functional classification for Period I and Period II.

(i) For each function and subfunction of electric production or transmission plant in service identified in statement AD, the filing utility shall set forth the accumulated depreciation and amortization as of the beginning of the first month and the end of each month of Period I and Period II. The utility shall state an average for each period computed and stated as the average of the thirteen balances. If any of the Period I or Period II thirteen monthly balances is not available or not representative of historical planning of the utility for depreciation reserves, the statement shall include an explanation of the relevant circumstances.

(ii) For each function and subfunction of electric plant in service other than production or transmission, identified in Statement AD, the filing utility shall state the accumulated depreciation and amortization as of the beginning and the end of Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I or Period II balances is not available or not representative of the historical planning of the utility for depreciation reserves, the statement shall include an explanation of the relevant circumstances.

(iii) Accumulated depreciation and amortization shall be shown by the major functional classifications selected by the filing utility in Statement AD under paragraph (h)(4), as follows:

(A) Production;
(B) Transmission;
(C) Distribution;
(D) General and Intangible; and
(E) Common and Other.

(iv) The major functional classifications of accumulated depreciation and amortization data shown in clause (iii) shall be divided into the subfunctional categories selected by the utility in Statement AD under paragraph (h)(4), to the extent such data are available.

(v) If accumulated depreciation and amortization data are not available for

any subfunction selected in Statement AD, Statement AE shall:

(A) provide a comparison of the current depreciation rate of the major functional classification and the depreciation rate estimated to be appropriate to the subfunctional category; and

(B) state and explain the estimation techniques which the utility proposes to utilize in the absence of subfunctional data, such as the proration of accumulated depreciation and amortization data among the subfunctional categories according to the data for electric plant in service in Statement AD. If any of the proposed estimation techniques require data that is not provided elsewhere in the cost of service statements in paragraph (h) of this section, the filing utility shall supply the necessary data in Statement AE.

(6) *Statement AF—Specified deferred credits and operating reserves.* Statement AF is a statement of balances of specified accounts and items which are to be considered in the determination of the net original cost rate base. All required balances are to be stated as of the beginning and end of both Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I and Period II balances are not available or not representative of the historical experience of the utility, the statement shall include an explanation of the relevant circumstances. If subaccounts are maintained to reflect differences in ratemaking treatment among regulatory authorities that have jurisdiction, balances shall be provided in accordance with such subaccounts, with detailed explanations of the bases upon which the subaccounts were established and are maintained. The balances of deferred credits and operating reserves required to be filed in the statement are described in paragraph (h)(6) (i) through (x) of this section. All references to numbered accounts refers to the Commission's Uniform System of Accounts, 18 C.F.R. Part 101.

(i) For each resale customer group whose rates are at issue, balances shall be stated for customer advances for construction Account 252, with details of circumstances under which the advances were made and are to be refunded. Total electric balances shall be stated to include those for the resale customer groups.

(ii) Total electric balances shall be stated for accumulated deferred investment tax credits Account 255. If the filing utility maintains records to show Account 255 component balances according to the major functional classification identified in Statement AD under paragraph (h)(4), the statement shall provide the component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statement in this paragraph, the filing utility shall supply the necessary data, such as historical functional patterns of plant additions eligible for the tax credits, in Statement AF. The filing utility shall state whether the Internal Revenue Code general rule is applicable with respect to restrictions on credit treatment for ratemaking purposes. If the general rule is not applicable, the filing utility shall state which election it has made with respect to special rules for ratable or immediate flow-through for ratemaking purposes.

(iii) Total electric component balances shall be stated for accumulated deferred income tax Account 281 pertaining to accelerated amortization property. Separate components shall be shown for defense facilities, pollution control and fuel conversion facilities, and other facilities. Balances shall be shown for each component and totaled for the electric utility department. If the filing utility maintains records to show Account 281 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall provide such component balances. If data are not available by function, the filing utility shall describe the procedure that it believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data in Statement AF.

(iv) Total electric component balances shall be stated for accumulated deferred income tax Account 282 pertaining to electric utility property other than accelerated amortization property. The balances in Account 282 shall be itemized in detail sufficient to identify the specific properties involved and shall be listed according to the accounting entries, such as liberalized depreciation, for which interperiod tax allocation was used and included in this account. Component balances shall be itemized and totaled for the electric utility department. If the filing utility maintains records to show Account 282 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall provide such component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data, such as historical functional patterns of plant additions, in Statement AF.

(v) Total electric component balances shall be stated for accumulated deferred income tax Account 283 pertaining to interperiod income tax allocations not related to property. The component balances in Account 283 shall be itemized in detail and listed according to the accounting entries for which interperiod tax allocation was used. Component balances shall be shown individually and in total for the electric utility department. If the filing utility maintains records to show Account 283 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall provide such component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data in Statement AF.

(vi) The total electric component balances shall be stated for property insurance reserve Account 261. If the utility maintains records to show Account 261 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall provide such component balances by function. If the data are not

available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data in Statement AF.

(vii) Electric utility balances shall be stated for damages reserve Account 262.

(viii) Electric utility balances shall be shown for pensions and benefits reserve Account 263.

(ix) Electric utility component balances shall be shown for miscellaneous operating reserves Account 265. Balances shall be itemized in detail sufficient to indicate the nature of each reserve requirement. Component balances shall be shown individually and in total for Account 265.

(x) Electric utility balances shall be shown for every other item that the applicant believes should be included in Statement AF. The statement shall explain the reasons for inclusion of each item.

(7) *Statement AG—Specified plant accounts (other than plant in service) and deferred debits.* Statement AG is a statement of balances of specified accounts and items that are to be considered in the determination of the net original cost rate base. All required balances are to be stated as of the beginning and the end of Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I or Period II balances is not available or not representative of the historical experience of the utility, the statement shall include a full explanation of the relevant circumstances. If subaccounts are maintained to reflect differences in ratemaking treatment among regulatory authorities having jurisdiction, balances shall be provided in accordance with such subaccounts, with detailed explanations of the bases upon which the subaccounts were established and maintained. The balances required to be submitted under Statement AG are described in paragraph (h)(7)(i) through (vii) of this section.

(i) For each separately identified major functional classification selected by the utility in Statement AD, the electric utility land and land rights balances shall be stated for electric plant held for future use (Account 105). If itemized in detail, balances should be totaled for each major functional classification.

(ii) Electric utility component balances shall be stated for each item of construction work in progress (Account 107) for pollution control or fuel conversion facilities that qualify for inclusion in rate base. Component balances shall be shown individually and in total.

(iii) For each major functional classification under Statement AD and with respect to property otherwise includable in rate base, the balances shall be stated for extraordinary property losses Account 182. If itemized in detail, balances shall be totaled for each major functional classification. The filing utility shall provide information about Commission authorization for any loss included in Account 182 and shall state when the loss was claimed for tax purposes.

(iv) For each major functional classification under Statement AD, the component balances shall be stated for research, development and demonstration (RD&D) expenditures Account 188. The data shall include both the monthly amounts charged to Account 188 and the monthly amounts transferred to each expense account for each RD&D project.

(v) Total electric component balances shall be stated for accumulated deferred income taxes Account 190. Components of balances in Account 190 shall be itemized in detail sufficient to show the nature of the specific transactions which give rise to interperiod tax allocation. balances shall be itemized and totaled for the electric utility department. If the utility maintains records to show Account 190 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall provide such component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data, such as historical functional patterns of plant additions, in Statement AG.

(vi) Balances shall be shown for every other item that the applicant believes should be included in Statement AG. The statement shall provide support for inclusion of each item, and a brief descriptive title for each such item.

(8) *Statement AH — Operation and maintenance expenses.* Statement AH is a statement of electric utility operation and maintenance expenses for Period I and Period II.

(i) For Period I and Period II, operation and maintenance expenses shall be reported in separate accounts according to the form prescribed by the Commission's Uniform System of Accounts, 18 C.F.R. Part 101. The statement shall include by function additional operation and maintenance expenses attributable to the common and other plant classification identified in Statement AD under paragraph (h)(4). The filing utility shall apply the following principles in developing Period I and Period II data for this statement:

(A) Total production operation and maintenance expenses shall be segregted into energy, demand, and other components. The applicant shall specifically state and support its criteria for classifications between energy and demand, and for use of the production "other" classification, such as specific assignments related to sales from particular generating units.

(B) Fuel expense for cost of service purposes shall be total as-burned expense incurred. If the applicant defers a porton of such expense for accounting purposes, the deferral amount shall be separately stated and accompanied by material that shows computational detail in support of such ammount. If a claimed nuclear fuel expense reflects a change in the estimated net salvage value of nuclear fuel, the amounts involved shall be shown and relevant circumstances explained.

(C) If the amount of a production fuel expense is affected by abnormal Period I water availability for hydroelectric generation, the amount shall be shown as an individual item of production energy related expense. Supporting detail is required.

(ii) For Period I and Period II, the utility shall itemize and subtotal all operation and maintenance expenses according to the major functional classification of Statement AD in paragraph (h)(4) and the subfunctional categories of those classifications. The operation and maintenance expenses itemized under the production classification and each of its subfunctional categories shall be further divided to reflect expenses relating to the energy component (list each item by account number and compute fuel costs on an asburned basis), the demand component, and any other production expenses.

(iii) For Period I and Period II, the utility shall itemize and subtotal all

operation and maintenance expenses incurred under the categories of customer accounting, sales and customer service and information.

(iv) For Period I and Period II, the utility shall itemize administrative and general expenses by groups that are directly assignable, such as regulatory Commission expenses, or that are related to selected plant or expense items for which an allocation to wholesale services is indepedently determinable, such as items related to labor expense or to a category of production plant in service. Administrative and general expenses shall include a detailed itemization of the general advertising Account 930.1 and the miscellaneous general expenses Account 930.2. Where applicable, separate items shall be shown for general plant maintenance, and for common and other plant maintenance.

(v) In addition to annual data for each of the two periods, monthly expense data by accounts is required for fuel (Accounts 501, 518, and 547) and purchased power (Account 555). Monthly purchased power data shall be subtotaled for each type of transaction, such as firm power or economy interchange power. List the other party to each type of transaction. For monthly fuel Accounts 501, 518, and 547 and for each type of purchased power transaction, the monthly data shall identify components to be claimed under the fuel adjustment clause of the filing utility.

(9) *Statement AI—Wages and Salaries.* Statement AI consists of statements of the electric utility wages and salaries, for Period I and Period II, that are included in operation and maintenance expenses reported in Statement AH.

(i) For Period I and Period II, the distribution of wages and salaries shall be shown by function according to the form prescribed for operation and maintenance expenses by the Commission's Uniform System of Accounts (18 CFR Part 101). The statement shall also include by function additional wages and salaries attributable to common and other plant classification identified in Statement AD in paragraph (h)(4).

(ii) For Period I and Period II, total production wages and salaries shall be itemized and subtotaled into energy and demand related components in accordance with classifications of Statement AH operation and maintenance production expenses of which production wages and salaries are a part.

(10) *Statement AJ—Depreciation and amortization expenses.* Statement AJ shall consist of statements of depreciation and amortization expenses for Period I and Period II.

(i) For Period I and Period II, the depreciation and amortization expenses and the depreciable plant balances of the filing utility shall be shown in accordance with major functional classifications selected by the utility in Statement AD under paragraph (h)(4), as follows:

(A) Production;
(B) Transmission;
(C) Distribution;
(D) General and intangible; and
(E) Common and other.

(ii) The major functional classifications of depreciation and amortizaiton expenses shown in paragraph (h)(10) (i) of this section shall be divided into the subfunctional categories selected for electric plant in service in Statement AD, to the extent such data are available.

(iii) If depreciation and amortization expense data are not available for any subfunctional category selected in Statement AD, Statement AJ shall:

(A) provide a comparison of the current depreciation rate of the major functional classification and the depreciation rate estimated to be appropriate to the subfunctional category; and

(B) state, and explain the estimation techniques that the utility utilized in developing each estimated subfunctional depreciation rate. If utilization of such estimation techniques requires data that is not provided elsewhere in the cost of service statements in this paragraph, such data shall be supplied in Statement AJ.

(iv) For Period I and Period II, the statement shall show the annual depreciation rate applicable to each function and subfunction for which depreciation expense is reported. The statement shall indicate the basis upon which the depreciaiton rates were established. If Period I or Period II data reflect changes in depreciaiton rates, detailed studies in support of such changes shall be included in or appended to Statement AJ.

(11) *Statement AK—Taxes other than income taxes.* Statement AK consists of statements of taxes other than income taxes for Period I and Period II.

(i) For Period I and Period II, the utility shall itemize and total any taxes other than income taxes according to paragraph (h)(11)(i) (A) through (D) of this section.

(A) *Revenue taxes.* Statement AK shall show total revenue taxes levied by each taxing authority and identify the revenue taxes, under present rates and under proposed rates, applicable to wholesale services for which a change is proposed. Identify revenue taxes associated with each revenue credit item reported in Statement AU under paragraph (h)(21).

(B) *Real estate and property taxes.* The filing utility shall itemize and total all real estate and property taxes. If the filing utility maintains records to show tax component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the statement shall supply the component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraphs, the filing utility shall supply the necessary data in Statement AK.

(C) *Payroll taxes.* The filing utility shall itemize and total all payroll taxes. If the filing utility maintains records to show tax component balances according to the major functional classifications identified in Statement AD in paragraph (h)(4), the statement shall provide the component balances by function. If the data are not available by function, the filing utility shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rates. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall provide the necessary data in Statement AK.

(D) *Miscellaneous taxes.* The utility shall itemize and total all miscellaneous taxes which are directly assignable or which are related to any selected plant or expense item for which an allocation to wholesale services is independently determinable, such as items related to transmission plant in service or to net distribution plant.

(ii) If any of the taxes itemized under paragraph (h)(11)(i) of this section are levied by a taxing authority that is a customer, or is related to a customer, whose services would be affected by the proposed rate schedule change, the utility shall show amounts of such taxes according to taxing authority, identify the related customer, and provide an explanation of the relevant circumstances.

(12) *Statement AL—Working capital.* Statement AL consists of statements for Period I and Period II designed to establish the need for working capital to maintain adequate levels of operating supplies, to meet required prepayments, and to meet ongoing cash disbursements that must be made at a time different than related revenue receipts for utility services rendered.

(i) The utility shall supply statements to show monthly balances of operating supplies and prepayments itemized under paragraph (h)(12)(i) (A) through (C) of this section. All required balances shall be stated as of the beginning of the first month and the end of each month of Period I and Period II, with an average of the thirteen balances for each period. If any of the Period I or Period II balances is not available or not representative of normal utility operations, the statement shall include an explanation of the relevant circumstances. Operating supply and prepayment balances shall be itemized under the following categories:

(A) *Fuel supplies.* Statement AL shall indicate the fuel supply balances for each type of electric utility production plant, except hydraulic. The filing utility shall describe its overall fossil fuel supply objectives for Period I and Period II, in terms of projected average days of burn for major fossil fuel generating stations, if feasible. The filing utility shall explain substantial differences, if any, between actual Period I inventories and the target objectives, or between Period II objectives and Period I objectives. Nuclear fuel balances shall include fuel in stock, fuel in the reactor and spent fuel in the process of cooling (Accounts 120.2, 120.3, 120.4), less accumulated provision for amortization of nuclear fuel assembles (Account 120.5).

(B) *Plant materials and operating supplies.* Statement AL shall indicate material and operating supply balances for each of the major electric utility operating functions of production, transmission, and distribution, and for each significant type of miscellaneous operating supplies. Miscellaneous supplies shall be grouped to facilitate suitable allocations or assignments among utility services.

(C) *Prepayments.* Statement AL shall indicate prepayment balances for each major prepayment item, together with a brief description of the item. Balances shall be grouped and subtotaled to facilitate suitable allocations or assignments among utility services.

(ii) Statement AL shall indicate average monthly working cash requirements that reflect the extent to which utility service revenues are received later or earlier than cash disbursements necessary to provide the services. The working cash requirements shall be computed in accordance with § 35.24 of this chapter.

(13) *Statement AM—Construction work in progress.* Statement AM is a statement of the amounts of construction work in progress described according to functional classification for Period I and Period II. For production plant and transmission plant; the utility shall state the balances as of the beginning of the first month and the end of each month of Period I and Period II, with an average of the thirteen balances for each period. For each function of plant identified in Statement AD other than production or transmission, the utility shall state the balances as of the beginning and the end of Period I and Period II, with an average of the beginning and end balances for each period. If any Period I or Period II balance is not available, the statement shall include an explanation of the relevant circumstances. Pollution control or fuel conversion facility amounts reported in Statement AG should be excluded from amounts reported in this statement.

(14) *Statement AN—Notes payable.* Statement AN is a statement of the electric utility portion of average notes payable for Period I and Period II. The utility shall indicate balances as of the beginning of the first month and the end of each month of Period I and Period II, and an average of the thirteen balances for each period. If any of the Period I or Period II balances is not available or not representative of normal operations, the statement shall include an explanation of the relevant circumstances. If applicable, the statement shall also show the allocations between electric and other utility departments on a basis that includes consideration of construction work in progress.

(15) *Statement AO—Allowance for funds used during construction.* Statement AO is a statement of the basis of the rate for computing the allowance for funds used during construction for Period I and Period II.

(i) The filing utility shall show the computations of the maximum rates for the construction allowances computed in accordance with plant instructions of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The rates shown shall be those required to be computed annually, and shall be provided for each annual period that includes any part of Period I or Period II. If the filing utility proposes to use a net of tax rate, the utility shall show the derivation for both the gross and net rates.

(ii) If the book allowance amounts do not reflect the maximum rates for allowances for funds computed in accordance with paragraph (h)(15)(i), of this section the utility shall show the derivation for the actual rates utilized in computing allowances for funds used during construction, including derivation of any net of tax rate utilized by the filing utility.

(16) *Statement AP—Federal income tax deductions—interest.* Statement AP is a statement of electric utility interest charges for Period I and Period II. For each period, the total electric utility interest shall be stated in terms of three or more component items described in paragraph (h)(16)(i) through (iv) of this section.

(i) The Account 432 allowance for borrowed funds used for electric utility construction shall be stated as a separate component item of interest. Supporting detail shall be shown, including computation of the amounts on the basis of AFUDC rates claimed at Statement AO.

(ii) The statement shall include a separate component item consisting of Account 431 interest for borrowed funds used for electric utility construction. If applicable, the statement shall also show all elements of Account 431 related to purposes other than electric utility construction, with detailed supporting material, such as a computation of allocations between electric and other utility departments with explanatory material to support the basis of such allocations.

(iii) The interest on long-term debt required for rate base investment shall be stated as a separate component. The interest amount shall be consistent with that shown and utilized in Statement BK under paragraph (h)(36).

(iv) The statement shall show other interest items appropriate in the determination of net taxable income allocable to the wholesale services at issue. Each such item shall be described and supported, and accompanied by a statement of the basis on which the item is allocable to the wholesale services. Statement AP shall also list a short descriptive title for each item.

(17) *Statement AQ—Federal income tax deductions—other than interest.* Statement AQ is a statement of other deductions from net operating income before Federal income taxes, for Period I and Period II, which deductions are appropriate in determining the net taxable income allocable to the wholesale services subject to the proposed rate change. Unallowable deductions shall be included as negative entries in this statement. Deductions shall be itemized in accordance with

paragraph (h)(17) (i) through (iii) of this section and individually identified by a brief descriptive title.

(i) The differences between tax and book depreciation may be stated as a separate component item in total, or as several individual items. Sufficient detail shall be provided to identify the effects of each constituent element of the total difference between tax and book depreciation.

(ii) Taxes and pensions capitalized shall be stated as a separate component item.

(iii) Other deduction items appropriate in the determination of net taxable income allocable to the wholesale services at issue. Each such item shall be described and supported.

(18) *Statement AR—Federal tax adjustments.* Statement AR is a statement of adjustments to Federal income taxes for Period I and Period II. If subaccounts are maintained to reflect differences in ratemaking treatment among regulatory authorities having jurisdiction, adjustment amounts shall be provided in accordance with such subaccounts. The statement shall contain detailed explanations of the bases upon which the subaccounts were established and are maintained.

(i) For each major function of plant identified in Statement AD under paragraph (h)(4), the electric utility component adjustment shall be stated for the Federal portions of the provision for deferred income tax Account 410.1. If the data are not available by function, the filing utility shall state the amounts for total electric utility and shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rate. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data in Statement AR. The utility shall provide the adjustment amounts for total electric, and to the extent available each such major functional component, accompanied by summary totals segregated in accordance with related balance sheet Accounts 281, 282, 283, and 190 [*see* Statements AF and AG]. Account 190 items require a negative sign for entries in Statement AR. The summarized items shall be identified by the account number.

(ii) The data required by paragraph (h)(18)(i) for Account 410.1 shall also be provided for the Federal portions of the provision for deferred income tax-credit Account 411.1.

(iii) For each major functional classification of plant identified in Statement AD under paragraph (h)(4), the electric utility component shall be provided for investment tax credits generated for Period I and Period II, credits utilized for each period, and the allocations to current income for each period. If the data are not available by function, the filing utility shall state the amounts for total electric utility and shall describe the procedure that the utility believes will reasonably apportion the total electric balances on an estimated basis among the major functional classifications for the purpose of allocation to electric service under the proposed rule. If such estimated apportionment procedure requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing utility shall supply the necessary data in Statement AR. If itemized in detail, balances shall be subtotaled for each major function, and totaled for the electric utility department. Detailed data must be consistent with that provided in Statement AF under paragraph (h)(6).

(iv) Additional Federal income tax adjustments shall be listed and designated as other adjustment items, and a brief descriptive title shall be provided for each item. The statement shall explain the reasons for inclusion of each item, and shall indicate the basis on which each will be assigned or allocated to the wholesale services subject to the proposed rate change and to the other electrical utility services.

(19) *Statement AS—Additional State income tax deductions.* Statement AS is a listing of State income tax deductions for Period I and Period II, in addition to those listed at Statements AP and AQ for Federal tax purposes. The statement shall explain the reasons for inclusion of each item. The statement shall indicate the basis on which each item is to be assigned or allocated to the wholesale services at issue and to the other electric utility services. If applicable, unallowable deductions shall be included as negative entries in this statement. The statement shall provide the percentage of Federal income tax payable which may be deductible for State income tax purposes, if applicable. [*See* also Statement AY, dealing with tax rate data.]

(20) *Statement AT—State tax adjustments.* Statement AT is a statement of adjustments to State income taxes for Period I and Period II. The data in Statement AT shall be prepared and presented as prescribed for Federal tax adjustments in Statement AR. Statement AT data shall be annotated as necessary to identify State tax adjustments that are not properly deductible for Federal tax purposes.

(21) *Statement AU—Revenue credits.* Statement AU is for Period I and Period II, a statement of other operating revenue accounts (Accounts 450 through 456), and other revenue items, such as short-term firm sales in Account 447, that are appropriately credited to the cost of service for determinations of costs allocable to the wholesale services subject to the proposed rate change. Statement AU shall include revenue credits proposed for exclusive-use commitment of major power supply facilities according to instructions for preparation of Statement BF under paragraph (h)(31). When applicable, revenue taxes shall be stated for each revenue credit item. The statement shall explain the reasons for inclusion of each item, and shall indicate the basis for assigning or allocating each item to the wholesale services subject to the proposed rate change and to the other electric utility services.

(22) *Statement AV—Rate of return.* Statement AV is a statement and explanation of the percentage rate of return requested by the utility. This statement shall include the complete capital structure, including ratios, component costs and weighted component costs claimed by the filing utility. The filing utility shall submit additional data where any component of the capital of the filing utility is not primarily obtained through its own financing, but is primarily obtained from a company by which the filing utility is controlled, as defined in the Commission's Uniform System of Accounts. The additional data, if required, shall be submitted with respect to the debt capital, preferred stock capital and common stock capital of such controlling company or any intermediate company through which such funds have been secured. The utility shall provide a copy of the latest prospectus issued by the controlling company, any superimposed holding company or subsidiary companies. A filing utility shall update the data in Statement AV as required in § 35.13(d)(5).

(i) *General.* This statement shall show, based on the capitalization of the utility, the cost of debt capital and preferred stock capital, the return on the common equity of the filing utility and the resulting overall rate of return requested.

(A) For Period I and, if applicable, Period II, the applicant shall show in tabular form the following:

*(1)* Cost of each capital element, including claimed return on equity capital;

*(2)* Capitalization amounts and ratios;

*(3)* Weighted cost of each capital element; and

*(4)* Overall claimed rate of return.

(B) When a Period II filing is submitted, the filing company will provide:

*(1)* A full explanation of, and supporting worksheets for, the *pro forma* adjustments to the actual capitalization data to arrive at the Period II capitalization; and

*(2)* The *pro forma* adjustment to Period I data to arrive at the Period II amount for unappropriated undistributed subsidiary earnings (Account 216.1).

(C) If not included elsewhere in the filing, the amount for Account 216.1 for Period I is to be submitted as part of this statement.

(ii) *Debt capital.* (A) This statement shall show the weighted cost for all issues of long-term debt capital as of the end of Period I and, if applicable, Period II. The weighted cost is calculated by: *(1)* multiplying the cost of money for each issue under paragraph (h)(22)(ii)(B)*(6)* of this section by the principal amount outstanding for each issue, which yields the annualized cost for each issue; and *(2)* adding the annual cost of each issue to obtain the total for all issues, which is divided by the total principal amount outstanding for all issues to obtain the weighted cost for all issues.

(B) This statement shall show the following for each class and series of long-term debt outstanding as of the end of Period I and estimated to be outstanding as of the end of Period II, if applicable:

*(1)* Title;

*(2)* Date of offering and date of maturity;

*(3)* Interest rate;

*(4)* Principal amount of issue;

*(5)* Net proceeds to the filing utility;

*(6)* Cost of money, which is the yield to maturity at issuance based on the interest rate and net proceeds to the company determined by reference to any generally accepted table of bond yields;

*(7)* Principal amount outstanding;

*(8)* Name and relationship of issuer and if the debt issue was issued by an affiliate; and

*(9)* If the filing utility has acquired at a discount or premium, some part of the outstanding debt which could be used in meeting sinking fund requirements, or for some other reason, it shall show the annual amortization of the discount or premium for each issue of debt from the date of the reacquisition over the remaining life of the debt being retired. The filing utility shall separately show the total discount and premium to be amortized, and the amortized amount applicable to Period I and, if applicable, Period II.

(C) The statement shall show the interest coverage before and after taxes, for the twelve months of Period I experience based on the indenture requirements. The statement shall provide a copy of the indenture references used in the calculation and a copy of the worksheets used to make the calculations, together with explanations appropriate to understand the calculations.

(iii) *Preferred stock and preference stock capital.*

(A) This statement shall show the weighted cost for all issues of preferred and preference stock capital as of the end of Period I and, if applicable, Period II. The weighted cost is calculated by: *(1)* multiplying the cost of money for each issue under paragraph (h)(22)(iii)(B)*(9)* of this section by the par amount outstanding for each issue, which yields the annualized cost for each issue; and *(2)* adding the annual cost of each issue to obtain the total for all issues, which is divided by the total par amount outstanding for all issues to obtain the weighted cost for all issues.

(B) The statement shall show for each class and issue of preferred and preference stock outstanding as of the end of Period I and estimated to be outstanding as of the end of Period II, if applicable:

*(1)* Title;

*(2)* Date of offering;

*(3)* If callable, call price;

*(4)* If convertible, terms of conversion;

*(5)* Dividend rate;

*(6)* Par of stated amount of issue;

*(7)* Net proceeds to the filing utility;

*(8)* Ratio of net proceeds to gross proceeds received by the filing utility;

*(9)* Cost of money (dividend rate divided by the ratio of net proceeds to gross proceeds for each issue);

*(10)* Par or stated amount outstanding;

*(11)* If issue is owed by an affilitate, state name and relationship of owner.

(iv) *Common stock capital.* This statement shall show the following information for each sale of common stock during the five-year period preceding the date of the balance sheet for the end of Period I and for each sale of common stock between the end of Period I and the date that the proposed rate is filed:

(A) Number of shares offered;

(B) Date of offering;

(C) Gross proceeds at offering price;

(D) Underwriter's commission;

(E) Dividends per share;

(F) Net proceeds to company;

(G) Issuance expenses; and

(H) Whether issue was offered to stockholders through subscription rights or to the public and whether common stock was issued for property or for capital stock of others.

(v) *Supplementary financial data.* The utility shall submit a statement indicating the sources and uses of funds for Period I and as estimated for Period II and a copy of the filing utility's most recent annual report to the stockholders and the filing utility's prospectus for its most recent issue of securities.

(23) *Statement AW—Cost of short-term debt.* In Statement AW, the utility shall provide a statement of the short-term debt cost rate of the filing utility as of the end of Period I and as estimated for the end of Period II, together with details supporting each of these two stated cost rates. The short-term debt cost shown in Statement AW should include only the cost that appears on the income statement as interest expense and should not include nominal forms of financing, such as trust agreements.

(24) *Statement AX—Other recent and pending rate changes.* Statement AX is a statement describing the extent to which operating revenues are subject to refund for Period I and, if applicable, Period II, for each rate change filed with the Federal, state, or other regulatory body that has jurisdication. The utility shall list and submit a copy of any orders in which applications for a rate increase have been acted on by state regulatory bodies during Period I, Period II, or the interval between Period I and Period II, and a copy of pending applications that have not been acted on. Statement AX shall reflect information available at the time of submittal under this paragraph. A filing utility shall thereafter update the data in Statement AX as required in § 35.13(d)(5).

(25) *Statement AY—Income and revenue tax rate data.*

(i) Statement AY is a statement of tax rate data for Period I and Period II arranged as follows:

(A) Nominal Federal income tax rate;

(B) Nominal state income tax rate;

(C) Proportion of Federal income taxes payable which is deductible for state income tax purposes. If an allowable deduction is stated in other terms, the filing utility shall provide an estimate of the effective deduction as a percentage of Federal tax payable; and

(D) *Revenue tax rate.* If the revenue tax rate is scaled, the statement shall show approximate weighted average rates for relevant revenue levels and full supporting data.

(ii) If the filing utility serves in more than one jurisdiction for revenue or state income tax purposes, the appropriate tax rates shall be stated for each wholesale customer group at issue and for all other customers as a composite group. (*See,* Statement BA under paragraph (h)(26) for wholesale customer grouping criteria.) If there are any changes in tax rates for either Period I or Period II, the filing utility shall describe such changes and the effective date of the changes.

(26) *Statement BA—Wholesale, customer rate groups.*

(i) Statement BA is a statement of wholesale customers by group for the purpose of:

(A) Allocating of the allowable costs of the filing utility to such customer groups on the basis of electric utility services rendered; and

(B) Comparing proposed revenues from each customer group with the cost of service as allocated to that group.

(ii) The number of wholesale customer groups listed shall be limited to the minimum required under the following criteria:

(A) At least one customer group shall be specified for each separate proposed wholesale rate subject to the proposed rate change.

(B) In general, all customers proposed to be served on the same rate shall be included in a common group. If there are significant differences in services provided under the same rate, the filing utility shall subdivide the common group serve by the same rate into separate customer groups characterized by the type of service provided each group and shall demonstrate whether the common rate is cost-based by means of cost-justification for each service group. Certain customer groupings, such as cooperatives or municipals, may also be utilized to facilitate purchaser evaluations of rate change proposals.

(C) In all cases customer groupings shall be selected on a basis consistent with rate design information provided in Statement BL under paragraph (h) (37).

(iii) Statement BA shall enumerate all wholesale customer rate groups, together with a brief descriptive title for each group. For example:

*Group 1.* Full Requirements Tariff FR–1.

*Group 2.* Partial Requirements Tariff PR–1.

(27) *Statement BB—Allocation demand and capability data.* Statement BB is a statement of electric utility demand and capability data for Period I and Period II, that includes consideration of the data as a basis for allocating related costs to the wholesale services at issue.

(i) For each month of Period I and Period II, and as averaged separately for the twelve months of each of those periods, the statement shall show the maximum 60-minute peak firm kilowatt demand on the power supply system of the filing utility, and the 60-minute kilowatt demands of the wholesale services that coincide with the system monthly maximum power supply demand, including for Period I the date and hour for such coincidental peak demands. The wholesale service data for each individual customer delivery point shall include demands at delivery. The individual customer data shall be summarized and subtotaled in accordance with Statement BA customer groupings. A loss adjustment shall be shown for each wholesale customer group to reflect demand at the power supply level. The data shall be totaled to show total customer group demand at power supply level for each month and for Period I and Period II.

(ii) Data provided as required in clause (i) shall not include demands associated with interruptible power supply services, firm or nonfirm transmission wheeling services, or demands associated with other services the revenues from which are shown as revenue credits in Statement AU under paragraph (h)(21). If applicable and to the extent data are available, Period I and Period II monthly and maximum demand data shall be stated for interruptible power supply services, firm wheeling services, and nonfirm wheeling services. The statement shall also provide, to the extent data are available, firm wheeling demand data for any of the 60-minute periods that coincide with the times of power supply peak demands shown under clause (i). The filing utility shall indicate the basis of all demands, such as metered demands or contract demands, reported under this clause. For interruptible services, the statement shall provide a description of the conditions under which service may be interrupted or curtailed. Data shall include a statement of available information on actual interruptions or curtailments during a three-year period that includes Period I. If any of the proposed wholesale rates at issue are for interruptible or curtailable service, the filing utility shall provide any demand data specifically relevant to such service.

(iii) If Statement AD under paragraph (h)(4) establishes plant categories for the purpose of supporting proposed wholesale rates for firm power supply services with special characteristics, such as base load, intermediate, or peaking, Statement BB shall provide the demand data required by clause (i) in total and in separate constituent demand values consistent with the service characteristics. Constituent values shall be stated for the system demand of the filing utility, and for each applicable wholesale service group.

(iv) If Statement AD establishes plant categories for the purpose of supporting proposed wholesale rates for nonfirm power supply services, such as capacity sales, this statement shall include for each month of Period I and Period II, the monthly capability data relied on by the filing utility in developing costs allocable to such rates, with an explanation of the underlying cost allocation rationale.

(v) If Statement AD establishes production plant categories for the purpose of supporting wholesale rates based on specialized ratemaking theories, this Statement BB shall include all demand and capability data relied on by the filing utility in developing support on a cost of service basis, with appropriate explanatory material.

(vi) For each month of Period I and Period II, Statement BB shall provide any additional demand data that the filing utility believes relevant to the allocation of electric utility costs to the wholesale services at issue. All such data shall be fully supported as part of this statement, and explained in terms of the rationale and the specific application proposed.

(vii) Based upon information reported in Statements BB and BC, the filing utility shall list select months that are nomally the months of greatest significance in determining the need of the utility for power supply capability throughout the year. All twelve months may be selected, if appropriate. Selections shall take into account any effects of local weather seasons and, particularly, the extent to which peak demands may tend to be similar in magnitude in two or more months of a weather season. The filing utility shall explain the reasons for the selections and describe the significance for the selections of seasonal variations in the weather.

(28) *Statement BC—Reliability data.* Statement BC is a statement of data relating to reference standards of the filing utility for electric power supply reliability, and with information designed to reflect monthly availability of generating capacity reserves.

(i) For Period II, Period I, and each of the three calendar years preceding Period I, the filing utility shall state its objective reference standard of production power supply reliability, such as one day in ten years if loss of load probability is used. The filing utility

shall also state the rationale underlying its choice of a reliability standard, and whether it participates with other electric utilities in the selection of a common standard on an area or pool basis. Statement BC shall identify any such participating utilities, and provide a general explanation of the basis upon which the reliability standard was jointly developed.

(ii) The filing utility shall describe how its electric generating facility construction planning and purchased power planning are related to its objective standard for production power supply reliability.

(iii) For the peak day of each month of Period II, Period I, and to the extent data are available for the peak day of each month of the three calendar years preceding Period I, Statement BC shall include tabular schedules designed to show the following:

(A) Net Peak Load in megawatts, itemized to show:

(*1*) Peak firm load, including all firm sales assured available by the available reserve capacity of the filing utility;

(*2*) All firm purchases assured available by the reserve capacity of the supplier;

(*3*) Net Peak load;

(B) Net Available Dependable Capacity in megawatts, itemized to show:

(*1*) The owned dependable capacity of the filing utility for each production plant category selected in Statement AD;

(*2*) Scheduled maintenance of owned dependable capacity of the filing utility;

(*3*) Purchased dependable capacity of the filing utility;

(*4*) Scheduled maintenance of purchased dependable capacity of the filing utility;

(*5*) Net available dependable capacity;

(C) Available Reserves in megawatts, which is the Net Available Dependable Capacity under paragraph (h)(28)(iii)(B) of this section minus Net Peak Load under paragraph (h)(28)(iii)(A) of this section.

(D) Available Reserves as a percent of peak load, which is the Available Reserves under paragraph (h)(28)(iii)(C) of this section divided by Net Peak Load under paragraph (h)(28)(iii)(A).

(29) *Statement BD—Allocation energy and supporting data.* Statement BD is a statement of electric utility energy data for Period I and Period II to be considered as based for allocating related costs to the wholesale services subject to the proposed rate change.

(i) For each month of Period I and Period II, and as totaled for the twelve months of each period, the statement shall show the megawatt-hours of firm power supply energy system required by the system of the filing utility and the megawatt-hour energy requirements of the wholesale customer groups whose services will be subject to the proposed rate change. The wholesale service data for each individual customer delivery point is to include megawatt-hours at delivery. These individual customer data shall be summarized and subtotaled in accordance with Statement BA customer groupings under paragraph (h)(26). The statement shall show a loss adjustment for each wholesale customer group to reflect energy at the power supply level. The data shall be totaled to show total customer group energy requirements at power supply for each month and for Period I and Period II.

(ii) Data provided under clause (i) shall not include energy associated with interruptible or curtailable services, or energy associated with other services revenues from which services are shown as revenue credits in Statement AU under paragraph (h)(21). Period I and Period II monthly and total energy data shall be separately stated for any such services provided by the filing utility. If any of the proposed wholesale rates at issues are for interruptible or curtailable service, Statement BD shall provide descriptive material and energy data specifically relevant to such services.

(iii) If the utility selected subfunctional categories in Statement AD under paragraph (h)(4) for the purpose of supporting proposed wholesale rates for firm power supply services with special characteristics, such as base load, intermediate, and peaking services, the energy data required by paragraph (h)(29) (i) of this section shall be separated into constituent energy values consistent with the service characteristics, and consistent with energy-related expense categories utilized in Statement AH under paragraph (h)(8). Constituent values shall be stated for the filing utility's system energy, and for each applicable wholesale service group.

(iv) If Statement AD establishes plant categories for the purpose of supporting proposed wholesale rates for non-firm production services, or proposed wholesale rates based on specialized ratemaking theories, Statement BD shall include all energy data relied on by the filing utility in developing the support on a cost of service basis and relevant explanatory material. Energy data provided under this clause shall be consistent with related expense categories utilized in Statement AH under paragraph (h)(9).

(v) For each month of Period I and Period I, and as totaled for the twelve months of each period, Statement BD shall show the megawatt-hours generated, itemized in accordance with Statement AD production subfunctional categories, and the megawatt-hours purchased or interchanged, itemized to show each type of transaction, such as firm energy or economy interchanged energy. Such data shall be quantitatively reconciled with the system allocation energy reported in this statement, and with energy data underlying the fuel and purchase power expense reported in Statement AH.

(30) *Statement BE—Specific assignment data.*

(i) Statement BE is a statement of specific components of the electric costs of service of the filing utility for Period I and Period II. Statement BE costs of service are those apportioned among wholesale services subject to the proposed change in rates and other utility services, on a basis other than:

(A) Demand, capability, or energy data provided in Statements BB and BD;

(B) A proportional relationship based on a selected plant category or expense item for which an allocation to wholesale services is to be independently determined; or

(C) Exclusive-use commitment in Statement BF under paragraph (h)(31).

(ii) The statement shall include specific assignments considered appropriate by the filing utility. Typical cost of service components that may be specifically assigned are distribution plant [*See* examples listed in Statement AD under paragraph (h)(4)], certain total electric wages and salaries provided in Statement AI under paragraph (h)(9) such as wages and salaries for customer accounting and for customer service and information, and certain administrative and general expense items. [*See* examples listing in Statement AH under paragraph (h)(8).]

(iii) Specific assignments shall be limited to the minimum required to adequately provide for costs not otherwise appropriate allocable.

(iv) For each specific assignment, Statement BE information provided should include at least the following data:

(A) Data Source Statement, such as Statement AD—Cost of Plant;

(B) Brief descriptive component title, such as Distribution Substations or Rate Case Expenses;

(C) Total electric amount;

(D) Wholesale customer group amounts stated individually for each wholesale customer rate group identified in Statement BA under paragraph (h)(26), and stated in total for all such groups;

(E) Explanation of the basis on which assignments were made, accompanied by supporting computational detail.

(31) *Statement BF—Exclusive-use commitments of major power supply facilities.* Statement BF is a statement describing and justifying the commitment to exclusive-use for particular services of all or a stated portion of electric utility generation units or plants, or major transmission facilities.

(i) For Period I and Period II, the utility shall list each transaction in which all or a stated portion of the output of a specified applicant-owner generating unit or group of units was committe exclusively to a particular customer or group of customers, or to a power pool or similar power supply entity. For each such transaction, the utility shall provide the following information:

(A) Data source statement;

(B) Name of plant and unit designation;

(C) Name of the purchaser or power pool or other similar power supply entity;

(D) Duration of the transaction;

(E) Basis of rates or charges, stated in terms of whether a transaction reflects marginal, incremental, or fully distributed costs, the specific overall and common equity rates of return included in costs, provided on both a claimed and earned basis to the extent such information is available, the approximate date of the cost analysis on which the rates and charges were based, and any other considerations significant to the transaction;

(F) Revenue received for each month of Period I and Period II or, if applicable, monthly quantities of power and energy received or available from power pools as consideration for commitment to pool; and

(G) Proposed treatment in the cost of service determinations for the wholesale services at issue; for example, a credit of revenue to the total electric cost of service, in Statement AU under paragraph (h)(21), may be proposed to account for unit capacity sales based upon incremental capital costs. Statement BF shall include explanatory material and support for the proposed procedures.

(ii) For Period I and Period II, the utility shall list each transaction in which all, or a portion, of a major transmission facility owned by the filing utility was committed exclusively to a particular customer or group of customers. For each such transaction, the utility shall provide information similar to that required by paragraph (h)(31)(i) of this section.

(32) *Statement BG—Revenue data to reflect proposed rates.* Statement BG is statement of revenues for Period I and Period II, including those under proposed rates for wholesale services at issue.

(i) For each month of Period I and Period II, and in total for each of the two periods, the utility shall show all billing determinants and metered quantities for each delivery point or set of points that constitute an individual wholesale customer billing unit, and the result of applying each specific rate component to the billing determinants for each billing unit stated, with the total of the computed monthly bill for the customer. If the rates include a fuel clause, revenues under the fuel clause shall be computed and totaled to reflect fuel costs incured during each month of Period I and Period II; that is, the fuel clause revenues for the first month of Period I shall reflect fuel costs incurred for that month, and so on for each month of Period I and Period II. In computing fuel cost revenues, the filing utility shall determine fuel clause according to § 35.14 of this chapter.

(ii) If the form of the proposed fuel clause would produce revenues differing from those computed in accordance with paragraph (h)(32)(i) of this section, such fuel clause revenues shall be separately computed and stated for each customer for each month of Period I and Period II.

(iii) Revenue data computed in accordance with paragraph (h)(32) (i) and (ii) of this section shall be summarized for each month and in total separately for Period I and Period II, in accordance with wholesale rate groups specified in Statement BA under paragraph (h)(26). Total electric revenues shall be shown for each period to include revenues under proposed rates for all such wholesale customer rate groups.

(iv) For Period I and as estimated for Period II, the utility shall summarize all billing determinants and revenues received from interruptible or curtailable services. Billing determinants and revenue data shall be consistent with interruptible demand and energy data in Statements BB and BD. This statement shall include an explanation of the extent to which interruptible or curtailable revenues are or are not included in revenue credits at Statement AU under subparagraph (h)(21).

(33) *Statement BH—Revenue data to reflect present rates.* Statement BH is a statement of revenues for Period I and Period II, including those under present rates for wholesale services at issue, and for total electric service to reflect such revenues for wholesale services. This statement shall be prepared to include date consistent with criterial specified for presentation of revenue under proposed rates at Statement BG under paragraph (h)(32).

(34) *Statement BI—Fuel cost adjustment factors.* Statement BI is a statement of monthly fuel cost adjustment factors under the proposed rates and under the present rates, for Period I and Period II.

(i) If the proposed rate schedule embodies a fuel cost adjustment clause, the utility shall show detailed derivations of fuel cost adjustment factors computed to reflect fuel cost incurred during each month of Period I and Period II. Fuel cost adjustment factors are those required for revenue determinations in accordance with paragraph (h)(32)(i) of Statement BG.

(ii) If additional proposed fuel clause revenue data are reported in accordance with paragraph (h)(32)(ii) of Statement BG, this statement shall show detailed derivation of applicable monthly fuel adjustment factors.

(iii) If the present rate includes a fuel cost adjustment clause, the utility shall show detailed derivations of fuel cost adjustments factors for each month of Period I and Period II. Statement BI shall include derivations for all monthly factors required in the computation of present fuel clause revenues reported in Statement BH. Statement BI shall include an explanation of the differences between the present and proposed fuel clauses.

(iv) All fuel cost adjustment factors shall be cost-based. The utility shall make a computational showing that shall develop adjustment factors in a manner consistent with the requirements of § 35.14 of this chapter. The supporting detail shall include cost by type of fuel and mode of electric energy generation, and shall show separately by the type of transaction the allowable fuel clause cost component of purchased or interchanged energy. All fuel cost data shall be consistent with that included in operation and maintenance expenses in Statement AH under paragraph (h)(8), and particularly the expense data reported in accordance with paragraph (h)(8)(v) of Statement AH.

(35) *Statement BJ—Summary Data Tables.* Statement BJ is a tabular summary of Period I and Period II data from specific cost of service statements in this paragraph. The statement shall summarize the Period I and Period II data from the following provisions in paragraph (h):

(i) *Single data entries:*

(A) Statement AD—(h)(4) (i) and (ii);

(B) Statement AE—(h)(5) (i) and (ii);

(C) Statement AF—(h)(6) (i) through (x);
(D) Statement AG—(h)(7) (i) through (vi);
(E) Statement AH—(h)(8) (ii) through (iv);
(F) Statement AI—(h)(9)(ii);
(G) Statement AJ—(h)(10)(i);
(H) Statement AK—(h)(11)(i);
(I) Statement AL—(h)(12) (i) and (ii);
(J) Statement AM—(h)(13);
(K) Statement AN—(h)(14);
(L) Statement AP—(h)(16) (i) through (vi);
(M) Statement AQ—(h)(17) (i) through (iii);
(N) Statement AR—(h)(18) (i) through (iv);
(O) Statement AS—(h)(19);
(P) Statement AT—(h)(20);
(Q) Statement AU—(h)(21);
(R) Statement AV—(h)(22)(i)(A);
(S) Statement AW—(h)(23);
(T) Statement AY—(h)(25)(i);
(ii) *Multiple data entries:*
(A) Statement BB—(h)(27) (i) through (vi);
(B) Statement BD—(h)(29) (i) through (iv);
(C) Statement BE—(h)(30)(iv) (B), (C), and (D);
(D) Statement BG—(h)(32)(iii);
(E) Statement BH—(h)(33).

(36) *Statement BK—Electric utility department cost of service, total and as allocated.* Statement BK is a statement of the claimed fully allocated cost of service of the filing utility developed and shown for Period I and Period II. Statement BK shall include analytical support for each rate proposed to be differentiated on a time-of-use basis. The filing utility shall also include any marginal or incremental cost information that is required to support rate proposal developed on a marginal or incremental cost basis. Statement BK shall show allocations of fully distributed costs to the wholesale services subject to the proposed rate change and is accompanied by a comparison allocated costs with revenues under the proposed rates.

(i) The fully distributed cost of service and the allocations thereof shall be based upon data provided in the accompanying detailed statements required under this section and additional data which the filing utility may submit and support in connection with this statement. The cost of service data of the filing utility shall conform to these requirements;

(A) The total electric rate base and cost of service shall be itemized and summarized by major functions and in a format designed to facilitate review and analysis.

(B) Based on the total electric rate base and cost of service, and on allocated or assigned component elements, the cost of service for each Statement BA wholesale customer rate group under paragraph (h)(26) shall be itemized and summarized by major functions in a format consistent with that shown for total electric.

(C) The costs of service data for total electric and for each of the wholesale customer groups shall include data that shows the return and the income taxes by the elements and in total, based upon the rate of return claimed by the applicant in Statement AV under paragraph (h)(22).

(D) The fully distributed cost of service study of the filing utility shall disclose the principal determinants for allocation of total electric costs among the wholesale customer groups, including but not limited to the following:

(*1*) Computations showing the energy responsibilities of the wholesale services, with supporting detail;

(*2*) Computations showing the demand responsibility of the wholesale services, with supporting detail; and

(*3*) Computations showing the specific assignment responsibilities of the wholesale services with supporting detail.

(ii) For the total electric service and for each wholesale customer rate group, the fully distributed cost of service shall be compared with the revenues under the proposed rates. Based on the comparison, the statement shall show the revenue excess or deficiency and the earned rate of return computed for the total electric service and for each wholesale customer rate group.

(iii) The work papers and additional explanatory material needed specifically for Statement BK of a Period II submittal shall be indexed according to the names of witnesses and shall include index references to the specific elements of Statement BK supported by each segment of the material. All working papers shall be assigned page numbers to assist in review and referencing.

(iv) Statement BK shall include a tabular comparison of Period II total electric fully distributed cost items with those of Period I. The comparisons shall show item amounts for each of the two periods, and shall also show Period II item amounts as percentages of equivalent items for Period I. Comparisons shall include at least the following items, accompanied by explanatory notes with respect to significant variations among the comparative percentages:

(A) Rate Base;
(B) Production Expenses;
(C) Transmission Expenses;
(D) Customer Accounting Customer Service and Information, and Sales Expenses;
(E) Depreciation Expenses;
(F) Taxes Except Income and Revenue;
(G) Income Taxes Claimed
(H) Revenue Taxes; and
(I) Return.

(37) *Statement BL—Rate design information.* In support of the design of the proposed rates, the filing utility shall submit the following material:

(i) A narrative statement describing and justifying the objectives of the design of the proposed rate. If the purpose of the rate design is to reflect costs, the narrative shall state how that objective is achieved, and shall be accompanied by a summary cost analysis that would justify the rate design, including any discounts or surcharges based on delivery voltage level or other specific considerations. Such summary cost analysis shall be consistent with, and derived from, the data in cost of service Statement BK. If the rate design is not intended to reflect costs, whether fully distributed, marginal, incremental, or other, a statement shall be provided to justify the departure from cost-based rates.

(ii) If the billing determinants, such as quantities of demand, energy, or delivery points, are on different bases than the cost allocation determinants supporting such charges, an explanation shall be submitted setting forth the economic or other considerations that warrant such departure. The information shall include at least the following:

(A) The individual rates for the demand, energy and customer charges do not correspond to the comparable cost classifications supporting such charges, a detailed explanation shall be submitted stating the reasons for the differences.

(B) If the rates being charged contained more than one demand or energy block, a detailed explanation shall be submitted indicating the rationale for the blocking and the considerations upon which such blocking is based, including adequate cost support for the specific blocking.

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## TENNESSEE VALLEY AUTHORITY

### 18 CFR Part 1309

### Nondiscrimination With Respect to Age

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to add a new Part 1309 to TVA's regulations. The proposed new part implements the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6201, et seq. (1976). This proposed part sets forth enforcement procedures, and standards and rules on what practices are discriminatory on the basis of age in programs receiving financial assistance from TVA.

**DATES:** Comments must be received on or before March 30, 1980.

**ADDRESS:** Send comments to: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

**FOR FURTHER INFORMATION CONTACT:** Justin M. Schwamm, Sr., Assistant General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B25, Knoxville, Tennessee 37902, (615) 632-2361.

**SUPPLEMENTARY INFORMATION:** TVA was created by the Tennessee Valley Authority Act of 1933, as amended, as a corporate agency and instrumentality of the Federal Government, with "the duty of constantly studying the whole situation presented by the Tennessee River Valley, and the adjoining territory, with the view of encouraging and guiding in the orderly and balanced development of the diverse and rich resources of that section" (H.R. Rep. No. 130, 73d Cong., 1st Sess. 19 (1933)). Under its broad statutory mandate, (16 U.S.C. 831-831dd (1976)), TVA engages in a number of programs including experiments and demonstrations concerned with the advancement of the national defense and the physical, social and economic development of the area in which TVA operates, energy supply and conservation, the development of agriculture and fertilizers, the improvement of navigation and control of destructive floods, the fostering of recreation, industrial development, and many other things.

The TVA Act does not provide for grants or statutory entitlements to State or local agencies, as do many Federal social development or welfare programs. However, TVA does carry out many aspects of its programs by contracts which in TVA's view involve the provision of Federal financial assistance within the meaning of the Age Discrimination Act of 1975, as amended (Act). The contracts include such activities as providing fertilizer materials for farm test demonstrations in cooperation with land grant colleges; granting land to State and local entities for recreational purposes; providing recreational planning and other technical services; and providing a variety of other types of assistance to meet the needs of individual communities, including mitigating the effects upon local housing, schools, public health, and law enforcement services, of the construction by TVA of electric power generating plants. Characteristically, the funds and value of property and services involved are relatively small, and the assistance is provided in localized areas, rather than on a regional or statewide basis. Moreover, TVA assistance is often provided "ad hoc," as contrasted with the long-range financial assistance programs administered by some Federal departments and other agencies.

TVA's financial assistance contracts already contain provisions binding the contractor to comply with the Act and also contain agreements by the contractor to comply with all applicable TVA or other Federal regulations which may be issued. In view of the contractural nature of TVA's financial assistance program, many implementation functions are or will be carried out through standard contract provisions. Part 1309 will serve to inform the public of TVA's manner of implementing the Act, as well as of its standards and enforcement provisions.

TVA has generally worked at the local level as the best way of implementing its statutory goals, and understanding and meeting the needs of the people it serves. This part parallels the guidelines adopted by the Department of Health, Education and Welfare, so far as is practicable in light of the nature of TVA's programs, the small amount of funds, property or services involved in its financial assistance contracts, and the highly localized impacts. TVA has attempted to insure sufficient flexibility in the proposed rule to avoid creating situations in which administrative and other costs required of recipient communities with very limited resources would result in decisions by those communities that these costs exceed the value of the assistance which TVA can provide. Such decisions, of course, would impair the usefulness of both the substantive program carried out by TVA and the purposes of the Act.

The proposed new Part 1309 of Title 18, Code of Federal Regulations, will read as set forth below.

Dated: February 13, 1980.

W. F. Willis,

*General Manager.*

## PART 1309—NONDISCRIMINATION WITH RESPECT TO AGE

Sec.

1309.1 What are the defined terms in this part and what do they mean?
1309.2 What is the purpose of the Act?
1309.3 What is the purpose of this part?
1309.4 What programs and activities are covered by the Act and this part?
1309.5 What are the rules against age discrimination?
1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?
1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?
1309.8 Who has the burden of proving that an action is excepted?
1309.9 How does TVA provide financial assistance in conformity with the Act?
1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?
1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?
1309.12 What are a recipient's responsibilities on compliance reviews and access to information?
1309.13 What are the prohibitions against intimidation or retaliation?
1309.14 How will complaints against recipients be processed?
1309.15 How will TVA enforce compliance with the Act and this part?
1309.16 What is the alternate funds disbursal procedure?
1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?
1309.18 Under what circumstances must recipients take remedial or affirmative action?
1309.19 When may a complainant file a civil action?

Authority: TVA Act of 1933, 48 Stat. 58 (1933), as amended, 16 U.S.C. 831-831dd (1976), and sec. 304 of the Age Discrimination Act of 1975, 89 Stat. 729 (1975), as amended, 42 U.S.C. 6103 (1976).

### § 1309.1 What are the defined terms in this part and what do they mean?

As used in this part the following terms have the stated meanings:

(a) "Act" means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq. (Title III of Pub. L. 94-135).

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration;

(c) "Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age-related term" means a term which necessarily implies a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) "Financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement, by which TVA provides or otherwise makes available to a recipient assistance in any of the following forms:

(1) Funds;

(2) Services of TVA personnel;

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the share of its fair market value provided by TVA is not returned to TVA.

(g) For purposes of §§ 1309.6 and 1309.7, "normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(h) For purposes of §§ 1309.6 and 1309.7, "statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(i) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any State-created or recognized public or private agency, institution, organization, or other entity, or any person to which TVA extends financial assistance directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(j) "Secretary" means the Secretary of the Department of Health, Education, and Welfare, and its successors.

(k) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

(l) "TVA" means the Tennessee Valley Authority.

**§ 1309.2 What is the purpose of the Act?**

The Act is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this part.

**§ 1309.3 What is the purpose of this part?**

The purpose of this part is to effectuate the Act in all programs or activities of recipients which receive financial assistance from TVA, and to inform the public and the recipients of financial assistance from TVA of the Act's requirements and how it will be enforced.

**§ 1309.4 What programs and activities are covered by the Act and this part?**

(a) The Act and this part apply to any program or activity receiving financial assistance from TVA.

(b) The Act and this part do not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

**§ 1309.5 What are the rules against age discrimination?**

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving financial assistance from TVA.

(b) *Specific rules.* In any program or activity receiving financial assistance from TVA, a recipient may not directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving financial assistance from TVA, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving financial assistance from TVA.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) The rules stated in this section are limited by the exceptions contained in §§ 1309.6 and 1309.7.

**§ 1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?**

A recipient is permitted to take an action, otherwise prohibited by § 1309.5, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) It is impractical to measure the other characteristic(s) directly on an individual basis.

**§ 1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?**

A recipient is permitted to take an action otherwise prohibited by § 1309.5 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

**§ 1309.8 Who has the burden of proving that an action is excepted?**

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 1309.6 and 1309.7 is on the recipient of financial assistance from TVA.

**§ 1309.9 How does TVA provide financial assistance in conformity with the Act?**

(a) TVA contributes financial assistance only under agreements which contain a provision which specifically requires compliance with the Act and

this part. If the financial assistance involves the furnishing of real property, the agreement shall obligate the recipient, or the transferee in the case of a subsequent transfer, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where the financial assistance involves the furnishing of personal property, the agreement shall obligate the recipient during the period for which ownership or possession of the property is retained. In all other cases the agreement shall obligate the recipient for the period during which financial assistance is extended pursuant to the agreement. TVA shall specify the form of the foregoing agreement, and the extent to which an agreement shall be applicable to subcontractors, transferees, successors in interest, and other participants in the program.

(b) In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of TVA financial assistance, or in the case where TVA financial assistance was provided in the form of a transfer by TVA of real property or an interest therein, the instrument effecting or recording the transfer of title shall contain a covenant running with the land assuring compliance with this part and the guidelines contained herein for the period during which the real property is used for a purpose for which the TVA financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of TVA financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the nature of (1) the program under which the real property is obtained, (2) the recipient, and (3) the instrument effecting or recording the transfer of title. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

**§ 1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?**

(a) A recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and afford TVA access to its records to the extent required by TVA to determine whether the recipient is in compliance with the Act.

(b) TVA has responsibility to attempt to secure a recipient's compliance with the Act by voluntary means, to the fullest extent practicable, and to provide assistance and guidance to recipients to help them comply voluntarily. TVA may use the services of appropriate Federal, State, local, or private organizations for this purpose. TVA also has the responsibility to enforce the Act when a recipient fails to eliminate violations of the Act.

**§ 1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?**

(a) *Written notice, technical assistance, and educational materials.* TVA shall:

(1) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where the recipient initially receiving funds makes the funds available to a subrecipient, the recipient must notify the subrecipient of its obligations under the Act. The notice may be made a part of the contract under which financial assistance is provided by TVA.

(2) Provide technical assistance to recipients, where necessary, to aid them in complying with the Act.

(3) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

(b) *Self-evaluation.* (1) Each recipient employing the equivalent of 15 or more full time employees shall complete a written self-evaluation of its compliance under the Act within 18 months of the effective date of this part. Each recipient's self-evaluation shall identify and justify each age distinction imposed by the recipient. Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of the Act.

(2) Each recipient shall make its self-evaluation available on request to TVA and to the public for a period of 3 years following its completion.

**§ 1309.12 What are a recipient's responsibilities on compliance reports and access to information?**

(a) *Compliance reports.* Each recipient shall keep such records and submit to TVA timely, complete and accurate compliance reports at such ties, and in such form and containing such information, as TVA may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient passes through financial assistance from TVA to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(b) *Access to sources of information.* Each recipient shall permit access by TVA during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person, and such agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(c) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives financial assistance, and make such information available to them in such manner as TVA finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

**§ 1309.13 What are the prohibitions against intimidation or retaliation?**

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by the Act or this part, or because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, mediation, hearing, or other proceeding under 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, mediation, hearing, or judicial proceeding arising under the Act or this part.

**§ 1309.14 How will complaints against recipients be processed?**

(a) *Receipt of complaints.* Any individual who claims (individually or on behalf of any specific class of individuals) that he or she has been subjected to discrimination prohibited by this part (including § 1309.13) may file a written complaint with TVA. The written complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by TVA for good cause shown. A complaint shall be signed by the complainant, give the name and mailing address of the complainant and the recipient, identify the TVA financial assistance program involved, and state the facts and occurrences (including dates) which led the complainant to believe that an act of prohibited discrimination has occurred. Anonymous complaints will not be accepted or filed under this section, but may be the basis for a compliance review. TVA will reject any complaint which does not fall within the coverage of the Act and this part, and may reject or require supplementation or clarification of any complaint which does not contain sufficient information for further processing as set forth in this paragraph. A complaint shall not be deemed filed until all such information has been provided to TVA.

(b) *Prompt resolution of complaints.* The complaint shall be resolved promptly. To this end, TVA shall proceed with the complaint without undue delay so that the complaint is resolved within 180 calendar days after it is filed with TVA. The recipient and complaint involved in each complaint are required to cooperate in this effort. Failure to cooperate on the part of the complainant may result in cancellation of the complaint, while such failure on the part of the recipient may result in enforcement action as described in § 1309.15.

(c) *Mediation of complaints.* All complaints which fall within the coverage of the Act and this part will be referred to a mediation agency designated by the Secretary.

(1) The participation of the recipient and the complaint in the mediation process is required, although both parties need not meet with the mediator at the same time.

(2) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing. The mediator shall send a copy of the settlement to TVA. No further action shall be taken based on that complaint unless it appears that the complainant or the recipient is failing to comply with the agreement.

(3) Not more than 60 days after the complaint is filed, the mediator shall return a still unresolved complaint to TVA for initial investigation. The mediator may return a complaint at any time before the end of the 60-day period if it appears that the complaint cannot be resolved through mediation.

(4) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(d) *Investigation.* (1) TVA will make a prompt investigation whenever a complaint is unresolved within 60 days after it is filed with TVA or is reopened because of a violation of the mediation agreement. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with the Act and this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with the Act and this part.

(2) As part of the initial investigation, TVA shall use informal fact finding methods including joint or individual discussions with the complainant and recipient to establish the facts, and, if possible, to resolve the complaint to the mutual satisfaction of the parties. TVA may seek the assistance of any involved State program agency.

(3) If TVA cannot resolve the matter within 10 calendar days after the mediator returns the complaint, it shall complete the investigation, attempt to achieve voluntary compliance satisfactory to TVA, if the investigation indicates a violation, and arrange for enforcement as described in § 1309.15, if necessary.

**§ 1309.15 How will TVA enforce compliance with the Act and this part?**

(a) If a compliance report, self-evaluation, or preaward review indicates a violation or threatened violation of the Act or this part, TVA shall attempt to secure the recipient's voluntary compliance with the Act and this part. If the violation or threatened violation cannot be corrected by informal means, compliance with the Act and this part may be effected by the following means:

(1) Termination of a recipient's financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an appropriate hearing officer.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this part.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency which will have the effect of correcting a violation of the Act or this part.

(iii) Commencement by TVA of proceedings to enforce any rights of TVA or obligations of the recipient created by the contract, the Act, or this part.

(b) Any termination under paragraph (a)(1) of this section shall be limited to the particular recipient and the particular program or activity (or portion thereof) receiving financial assistance from TVA which is found to be in violation of the Act or this part. No termination shall be based in whole or in part on a finding with respect to any program or activity which does not receive financial assistance from TVA.

(c) No assistance will be terminated under paragraph (a)(1) of this section until:

(1) TVA has advised the recipient of its failure to comply with the Act or this part and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after TVA has sent a written report of the circumstances and grounds of the termination of assistance to the committees of the Congress having legislative jurisdiction over the TVA program or activity involved. A report shall be filed in each case in which TVA has determined that assistance will be terminated under paragraph (a)(1) of this section.

(d) TVA may defer granting new financial assistance to a recipient when termination proceedings under paragraph (a)(1) of this section are initiated.

(1) New financial assistance includes all assistance administrated by or through TVA for which an application or approval, including renewal or

continuation of existing activities, or authorization of new activities, is required during the deferral period. New financial assistance does not include assistance approved prior to the beginning of termination proceedings.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under paragraph (a)(1) of this section. A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and TVA. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

**§ 1309.16 What is the alternate funds disbursal procedures?**

When TVA withholds funds from a recipient under this part, TVA may contract to disburse the withheld funds directly to any public or nonprofit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to comply with this part and to achieve the goals of the program or activity involved.

**§ 1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?**

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1309.15(a)(1), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient. This notice shall advise the recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the recipient may request of TVA that the matter be scheduled for hearing or (2) advise the recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. A recipient may waive a hearing and submit witten information and argument for the record. The failure of a recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and § 1309.15(a)(1) and a consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held a the time and place fixed by TVA unless it determines that the convenience of the recipient requires that another place be selected. Hearings shall be held before a hearing officer who shall be designated by TVA's General Manager, and who shall not be a TVA employee.

(c) *Right to counsel.* In all proceedings under this section, the recipient and TVA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof by TVA's Board of Directors shall be conducted in conformity with this part and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters, as prescribed by the hearing officer. Both TVA and the recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or received for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under the Act, the TVA Board may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of the rules of procedure applicable to such hearings by such other departments or agencies. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with paragraph (f) of this section.

(f) *Decisions.* (1) After the hearing, or after the hearing is waived under paragraph (a) of this section, the hearing officer shall make an initial decision. The recipient may file exceptions to the decision with the TVA Board within 10 days of receipt of the decision. If exceptions are not filed within the specified time, the hearing officer's initial decision becomes the final TVA decision.

(2) Based on the hearing record, investigation, and any written submission to the hearing officer or the TVA Board, the Board shall render its decision accepting the initial decision, or rejecting it, in whole or part.

(3) The final decision may provide for suspension or termination of, or refusal to grant or continue financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no financial assistance will thereafter be extended under such program to the recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompliance and satisfies TVA that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) A recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive financial assistance from TVA if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request TVA to restore fully its eligibility to receive financial assistance from TVA. Any such request shall be supported by information showing that the recipient has met the requirements of subparagraph (1) of this paragraph. If TVA determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If TVA denies any such request, the recipient may submit a written request for a hearing, specifying why it

believes TVA to have been in error. The recipient shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by TVA. The recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f)(3) of this section shall remain in effect.

**§ 1309.18 Under what circumstances must recipients take remedial or affirmative action?**

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which TVA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children, in addition to persons of other ages, provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

**§ 1309.19 When may a complainant file a civil action?**

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and TVA has made no finding with regard to the complaint; or

(2) TVA issues any finding in favor of the recipient.

(b) If either of the conditions set forth in paragraph (a) of this section is satisfied, TVA shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right, under Section 305(e) of the Act, to bring a civil action for injunctive relief that will effect the purposes of the Act; and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint;

(iii) That before commencing the action the complainant shall give 30 days' notice by registered mail to the Secretary, the Attorney General of the United States, TVA, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### 21 CFR Part 170

**[Docket No. 77N-0222]**

## Nitrates and Nitrites in Poultry Products; Proposed Declaration That No Prior Sanction Exists

**AGENCY:** Food and Drug Administration.

**ACTION:** Extension of comment period on proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is allowing an additional 30 days for comments on a proposed regulation that would declare that the use of nitrates and nitrites in poultry products is not the subject of any prior sanction granted by FDA under the Federal Food, Drug, and Cosmetic Act.

**DATE:** Comments by March 20, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of December 21, 1979 (44 FR 75662), FDA proposed to adopt by regulation the position that no prior sanction or approval granted under the Federal Food, Drug, and Cosmetic Act (the act), within the meaning of section 201(s)(4) of the act (21 U.S.C. 321(s)(4)), exists for the use of nitrates and nitrites in poultry products. Comments were to be filed by February 19, 1980.

FDA has received requests from the Special Poultry Research Committee (SPRC) and several other industry groups and firms to extend the comment period by 180 days. They state that preparation of their comments was delayed by the December holiday season and that they require additional time to obtain and analyze information from various sources, including the U.S. Department of Agriculture.

FDA concludes that a 180-day extension of the comment period is unwarranted. The position FDA is proposing to adopt by regulation in this proceeding is not new. Indeed, it was announced in the Federal Register of September 2, 1977 (42 FR 44376) in FDA's Statement of Policy and Request for Data on Nitrates and Nitrites in Poultry Products. One month after that announcement, SPRC filed a lawsuit in U.S. District Court seeking, among other things, a declaratory judgment that a prior sanction does exist for the use of sodium nitrite in poultry products. The District Court dismissed the suit on ripeness grounds, and SPRC appealed. On July 20, 1979, SPRC agreed to dismissal of it's appeal on the basis of FDA's announced intention to initiate the present rulemaking proceeding.

Thus, the poultry industry and, in particular, SPRC have been aware of FDA's position on the prior sanction issue for well over 2 years and have know of FDA's intention to initiate this rulemaking since July 20, 1979. SPRC has demonstrated from the start a keen interest in establishing the existence of a prior sanction and, in FDA's judgment, has had ample time and adequate means to discover any evidence that a prior sanction exists.

For these reasons, FDA concludes that the full 180-day extension is not justified. However, in view of the holiday timing of the December 21, 1979 notice, the agency is willing to extend the comment period by 30 days.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 701(a), 72 Stat. 1784, 52 Stat. 1055 (21 U.S.C. 321(s) and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the proposed rule to declare that no prior sanction exists for the use of nitrates and nitrites in poultry is extended to March 20, 1980.

Interested persons may, on or before March 30, 1980, submit written

comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. 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-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5485 Filed 2-19-80; 12:30 pm]

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## 21 CFR Part 170

[Docket No. 79P-0077]

## Nitrites in Bacon; Proposed Exception From the Color Additive Definition and Request for Information on Other Meat Products That May Qualify for the Exception to the Color Additive Definition; Partial Extension of Comment Period

**AGENCY:** Food and Drug Administration.

**ACTION:** Partial extension of comment period.

**SUMMARY:** The Food and Drug Administration [FDA] is extending the comment period on its request for information on meat products other than bacon that may qualify for the statutory exception to the definition of "color additive." The extension allows an additional 90 days for the submission of information on nitrites used in meat products other than bacon.

**DATES:** Comments by May 19, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Gerard L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of December 21, 1979 (44 FR 75659), FDA issued a notice of proposed rulemaking based upon the agency's earlier response to a citizen petition requesting that the agency declare nitrites used in the production of bacon to be "color additives" within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(t)(1)). The agency proposed to declare that nitrites used in red meat products (including bacon) are capable of "imparting" color to the meat but that nitrites used in bacon qualify for the exception to the "color additive" definition, which applies to substances "used (or intended to be used) solely for a purpose or purposes other than coloring." The agency also stated its intention to except from the "color additive" definition nitrites used in meat products other than bacon if it could be demonstrated that these uses qualify for the exception in the same manner as nitrites used in bacon. The agency particularly requested the submission of information on the latter point.

Requests for extension of the comment period have been submitted by the National Food Processors Association, the American Meat Institute (AMI), and several other industry groups and firms. Most requested that FDA's consideration of (and thus the comment period on) the question of whether any uses of nitrites qualify for the exception to the "color additive" definition be deferred until after a final decision is made on whether nitrites "impart" color to meats. They argue that the exception to the "color additive" definition is not relevant until after a final decision is made on whether nitrites impart color. AMI requested, in the alternative, that an additional 180 days be allowed for submission of information on whether the exception applies to meats other than bacon. AMI contends that the color additive issue as it relates to these other meats is new and that the additional time is needed to solicit, collect, and analyze information from meat processors and other sources. AMI's alternative request was supported by several industry groups and firms.

The agency denies the requests that consideration of the exception issue be deferred until after final decisions are made on whether nitrites "impart" color. The agency's purpose in this rulemaking is to resolve the color additive status of nitrites in a complete and coherent manner. Separation of the two issues would defeat that purpose. It also would result in substantial, unjustified delay in the rulemaking process.

The agency is granting, in part, the alternative request for additional time to submit information on whether meat products other than bacon qualify for the exception to the "color additive" definition. FDA does not consider the requested 180 days to be justified because most or all of the information the agency requested already exists and needs only to be collected and submitted. An additional 90 days should give AMI and others ample time to complete collection and analysis of the data.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and (t)(1), 402(a), 701(a), 706, 52 Stat. 1046 as amended, 1055, 72 Stat. 1784 as amended, 74 Stat. 397–407 as amended (21 U.S.C. 321(s) and (t)(1), 342(a), 371(a), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on FDA's request for information on meat products other than bacon that may qualify for the exception to the "color additive" definition is extended to May 19, 1980.

Interested persons may, on or before May 19, 1980, submit written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. 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-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 15, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5486 Filed 2-19-80; 12:30 pm]

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## 21 CFR Parts 182 and 184

[Docket No. 78N-0272]

## Phosphates; Proposed Affirmation of and Deletion From GRAS Status as Direct and Human Food Ingredients; Extension of Comment Period

**AGENCY:** Food and Drug Administration.

**ACTION:** Extension of comment period

**SUMMARY:** The agency extends the comment period on its proposal to affirm the generally recognized as safe (GRAS) status of calcium phosphate (mono-, di-, and tribasic), calcium pyrophosphate, phosphoric acid, potassium phosphate (mono-, di-, and tri-basic), potassium tripolyphosphate, sodium acid pyrophosphate, sodium hexametaphosphate, sodium phosphate (mono-, di-, and tri-basic), tetrapotassium pyrophosphate, tetrasodium pyrophosphate, and sodium tripolyphosphate as direct and indirect human food ingredients and to delete calcium hexametaphosphate and potassium polymetaphosphate from the GRAS list as direct human food ingredients.

**DATE:** Written comments by May 19, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

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

**SUPPLEMENTARY INFORMATION:** In the Federal register of December 18, 1979 (44 FR 74845), the agency proposed to affirm the GRAS status of calcium phosphate (mono-, di-, and tribasic), calcium pyrophosphate, phosphoric acid, potassium phosphate (mono-, di-, and tribasic), potassium tripolyphosphate, sodium acid pyrophosphate, sodium hexametaphosphate, sodium phosphate (mono-, di-, and tribasic), tetrapotassium pyrophosphate, tetrasodium pyrophosphate, and sodium tripolyphosphate as direct and indirect human food ingredients. In addition, the agency proposed that calcium hexametaphosphate and potassium polymetaphosphate be deleted from the GRAS list as direct human food ingredients. Interested persons were invited to submit comments on the proposal by February 19, 1980.

The agency has received several requests (on file with the Hearing Clerk, Food and Drug Administration) for an additional 90 days, to May 19, 1980, to allow sufficient time to prepare comments on the proposed rule.

The agency considers the opportunity to comment on GRAS affirmation proposals to be an important part of the GRAS review process. It has decided that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested parties.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegatd to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period for the GRAS affirmation proposal for phosphates is extended for an additional 90 days.

Accordingly, interested persons may, on or before May 19, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the hearing clerk docket number found in brackets in the heading of this document) regarding the proposal. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5517 Filed 2-20-80; 9:30 am]

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## 21 CFR Parts 182, 184

**[Docket No. 79-0209]**

## Sodium Hydroxide and Potassium Hydroxide; Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Adminsitration (FDA) proposes to affirm sodium hydroxide and potassium hydroxide as generally recognized as safe (GRAS) as direct food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review being conducted by the agency. The proposal would list the ingredients as direct food substance affirmed as GRAS.

**DATE:** Comments by April 22, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

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

**SUPPLEMENTARY INFORMATION:** FDA is conducting a comprehensive review of direct and indirect human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations (see the Federal Register of July 26, 1973 (38 FR 20040)) initiating this review. Under the review, the safety of sodium hydroxide and potassium hydroxide has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Sodium and potassium hydroxides are deliquescent, caustic solids that are marketed as pellets, flakes, and powders. Sodium hydroxide is obtained commercially from the reaction of calcium hydroxide and sodium carbonate, from the electrolysis of sodium chloride, and also from the reaction of sodium metal and water vapor at low temperature. Potassium hydroxide is obtained from the electrolysis of potassium chloride solution in the presence of a porous diaphragm.

Sodium hydroxide is listed in § 182.70 (21 CFR 182.70) as a GRAS substance migrating to food from cotton and cotton fabrics used in dry food packaging, pursuant to a regulation published in the Federal Register of June 10, 1961 (26 FR 5225); in § 182.90 (21 CFR 182.90) as a GRAS substance migrating to food from paper and paperboard products, pursuant to a regulation published n the Federal Register of June 17, 1961 (26 FR 5421); and in § 182.1763 (21 CFR 182.1763) as a multiple purpose GRAS food substance, pursuant to a regulation published in the Federal Register of January 31, 1961 (26 FR 938). Sodium hydroxide is also listed in § 155.170 (21 CFR 155.170) for use in the processing of canned peas; in § 155.191 (21 CFR 155.191) for use in tomato paste; in § 155.192 (21 CFR 155.192) for use in tomato puree; in § 155.194 (21 CFR 155.194) for use in catsup; in § 163.110 for use in the processing of cacao prouducts; in § 172.892 (21 CFR 172.892) for use in modified food starch; § 173.310 (21 CFR 173.310) for use as a boiler water additive; in § 176.210 (21 CFR 176.210) as a defoaming agent for use in the manufacture of paper and paperboard products; and in § 177.1600 (21 CFR 177.1600) for use as a basic component of single and repeated food use contact surfaces. In addition, sodium hydroxide has a prior sanction by the Meat Inspection Division of the United States Department of Agriculture (USDA) for use as a denuding agent for beef tripe and a prior sanction for use in refining rendered fats.

Potassium hydroxide is listed in § 182.1631 (21 CFR 182.1631) as a multiple purpose (GRAS) food substance, pursuant to a regulation published in the Federal Register of January 31, 1961 (26 FR 938). It is listed in § 163.110 for use in the processing of cacao products; in § 175.210 (21 CFR 175.210) for use as a component of acrylate ester copolymer coating; in § 176.210 for use as a defoaming agent used in the manufacture of paper and paperboard; and in § 177.1600 for use as a basic component of single and repeated food use contact surfaces.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which sodium and potassium hydroxide are used and the levels of usage. Information obtained from consumer consumption surveys was combined with the manufacturing information to

estimate consumer exposure to sodium and potassium hydroxide. The use levels of sodium and potassium hydroxide adopted in this proposal are maximum use levels in food reported to the National Academy of Sciences/National Research Council during its survey of food manufacturers in accordance with the food category classifications established in § 170.3(n) (21 CFR 170.3(n)). The total amount of sodium hydroxide used in food in 1970 was estimated to be 26,000,000 pounds, about 1.6 times that used in 1960. The total amount of potassium hydroxide used in food in 1970 was estimated to be 1,700,000 pounds, about 2.2 times that used in 1960.

Sodium and potassium hydroxides have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 277 abstracts on sodium and potassium hydroxides was reviewed and 84 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The corrosive effects of ingestion of large amounts of alkali are well known. However, at the levels added, it is obvious that both sodium and potassium hydroxide will be neutralized by food acids when added during processing. The Joint Expert Committee on Food Additives considers sodium and potassium hydroxides as acceptable when used in food processing in accordance with good manufacturing practice, provided the increased dietary load of sodium or potassium ions is assessed and considered acceptable. The Food and Nutrition Board of the National Research Council has reviewed data on the usual daily adult intakes of sodium and potassium from all dietary sources and found the best estimates to be 2.3 to 6.9 g for sodium and 2 to 5.9 g for potassium. Homeostatic mechanisms allow wide variations. The Select Committee believes that the amounts of sodium and potassium hydroxides usually used in preparing foods do not pose metabolic or excretory problems for normal individuals with respect to sodium and potassium. The amounts of sodium and potassium that could be contributed to the diet by the sodium and potassium hydroxides added to foods, are clearly small in relation to the usual total intakes of sodium and potassium. However, the amount of sodium hydroxide added to processed foods, expressed on a per capita basis, is 160 mg. For individuals adhering to diets restricted in sodium, that is, about 250 mg per day, the amounts of this element consumed as a result of sodium hydroxide addition to processed foods, might constitute a significant percentage of their total sodium intake.

The oral lethal dose of sodium hydroxide in rabbits is reported to be 500 mg per kg and the oral $LD_{50}$ of potassium hydroxide in rats 1,230 mg per kg.

Fazekas found that the oral administration of single doses of 0.5 to 2.5 g sodium hydroxide (equivalent to 147 mg to 943 mg per kg body weight) to rabbits was followed by restlessness, stretching out, jumping or rolling about, increased respiration, incontinence, gradual decrease in activity resulting in a motionless state, weakness, slower and weaker respiratory and cardiac activity culminating in death in 7 hours to 14 days in most animals. Three animals receiving respectively, 147, 210, and 429 mg per kg of body weight, survived beyond 14 days. Fazekas also noted increases in blood glucose and inorganic phosphorus; and decreases in serum calcium, chloride, and sodium after dosing. Tissue sections, fixed immediately after death, revealed fat emboli in 94 percent of the rabbits treated, appearing as early as seven hours after treatment and as late as nine to twelve days post-treatment. The emboli were most prevalent (91 percent of the animals) and most severe in the lungs; 50 to 70 percent of the animals had emboli in the choroid plexus; 20 percent in the kidneys; and 5 to 10 percent in the liver, spleen, and heart. The author suggests that fat emboli, due to lipemia, may have been the cause of death.

At necropsy, Steyn observed corrosion of gastric mucosa and perforation of stomach wall in rabbits receiving massive oral doses (5 to 12 g per kg body weight) of sodium hydroxide administered as 10 to 20 percent solutions in cow's milk.

Heller administered 0.5 or 1.0 percent sodium hydroxide solution to rats as their drinking water. Age and weight of animals and duration of the experiment were not indicated, but it is estimated that daily intakes of sodium hydroxide could be of the order of 700 to 1,500 mg per kg of body weight. At the lower intake level, growth was found to be practically normal, whereas little growth was observed at the higher intake level. None of the the females conceived at either dosage level.

In experiments conducted to study the effects of delignification of forages on their digestibility calves were fed wheat straw sprayed with 3.3, 6.7, and 10 percent solutions of sodium hydroxide. The unwashed treated straws were then mixed with peanut meal, molasses and mineral supplement. Animals consuming the straw treated with 10 percent alkali had an estimated daily intake equivalent to about 7 g NaOH per kg body weight. The animals remained in good health throughout the 12 week experiment and gained weight. No adverse effects were observed after feeding any of the alkali treated straws.

Willimott and Gosden estimated from observation of a series of accidental and intentional poisoning cases that the fatal dose of sodium hydroxide is less than 10 g, although 5 g (about 80 mg per kg) was found to cause severe esophageal stricture. Arena has reported that esophageal strictures often develop in non-fatal cases of ingestion of sodium and potassium hydroxides, and the importance of early dilation to prevent esophageal strictures in the management of acute sodium hydroxide intoxication has been emphasized by Kernodle *et al.*

In work conducted by Castell and Levine 28 human subjects with normal pressure at the lower esophageal sphincter and six with abnormally low esophageal pressures received 0.1 N NaOH (about 20 to 40 mg per minute over a period of 20 minutes) via stomach tube. The total dose was approximately 640 mg or about 10 mg per kg body weight. Sodium hydroxide administration resulted in a marked increase in lower esophageal sphincter pressure in all subjects. No adverse effects were reported. As a result of this study the authors suggest that alkaline antacids act both by neutralizing gastric acid and by increasing the lower esophageal sphincter pressure barrier.

In 1925, Narat reported that the repeated (frequent but irregular) application of 3 to 6 percent solutions of potassium hydroxide or hydrochloric acid to the skin of two strains of mice over periods up to 46 weeks, elicited tumors which were indistinguishable from those caused by crude coal tar. These responses to tar, KOH, or HCl, were not observed in two other mouse strains tested. When Bogan and Loomis painted mice with 10 percent NaOH,

only one of the seven mice developed one benign tumor. Hydrochloric acid produced no tumors. Dyer *et al.* intubated mice daily with a 0.5 N NaOH solution (dose equivalent to 200 mg NaOH per kg body weight per day), alone and in combination with 1,2,5,6-dibenzanthracene for 10 months. No cancers or precancerous lesions were produced in the gastric mucosa under either experimental condition. No adverse effects were reported by Russell *et al.* when female Wistar rats received about 1 mg NaOH per kg body weight by stomach tube three times weekly for 93 days. Complete necropsies were performed, including microscopic examination of all organs. Kimura and Makino found that the intraperitoneal administration of potassium hydroxide (1.8 g per kg body weight) had little effect on MTK-sarcoma III ascites rat tumor cells previously placed in the abdominal cavity. However, KOH—and most of the other 22 inorganic compounds tested—caused mitotic abnormalities in varying degrees. Arrants *et al.*, and Barbosa *et al.* have suggested that carcinomas may develop in later years at the site of esophageal strictures caused by accidental ingestion of lye in childhood.

In studies by Demerec *et al.* on the mutagenic action of various chemicals on *E. coli* (strain Sd-4), it was concluded that potassium and sodium hydroxides were not mutagenic.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on sodium and potassium hydroxide. In the Select Committee's opinion:

The Select Committee has found no data suggesting that the use of sodium or potassium hydroxides, as currently practiced in food processing, is hazardous to consumers. The corrosive effect of ingestion of large amounts of strong alkalis such as sodium and potassium hydroxides has been amply demonstrated. However, these alkalis are not present as such in foods as consumed. The small amounts added for pH adjustment during food processing react rapidly with food acids to form neutral salts. Moreover, any free alkali that might be present in food, either from direct addition or from migration from packaging materials, is rapidly converted to neutral salts in the stomach.

The amounts of sodium and potassium hydroxide used in food processing contribute only 2 to 5 percent of the total sodium and potassium intake from all dietary sources. Accordingly, these alkalis, as now used in food processing, do not add significantly to the usual dietary load of sodium and potassium.

The Select Committee concludes that there is no evidence in the available information on potassium hydroxide or sodium hydroxide that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. There is no evidence in the available information on sodium hydroxide that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used as an ingredient of food packaging materials in the manner now practiced or that might reasonably be expected in the future. Based on its own evaluation of all available information on sodium and potassium hydroxide, the agency concurs with these conclusions. The agency has also evaluated the safety of possible residuals of sodium hydroxide when used for denuding tripe and refining rendered fats as approved by USDA prior sanctions. These conditions of use have been found to be safe and continued uses are permitted under this proposal. The agency therefore concludes that no change in the current GRAS status of sodium and potassium hydroxide is justified.

In the past, when a substance has been listed in Part 182 as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. In light of § 184.1(a), FDA has reconsidered its traditional practice of establishing separate listings in Part 186 for substances it affirms as GRAS for direct use in Part 184 and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless it is necessary based on safety considerations to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of sodium hydroxide. The indirect uses of sodium hydroxide are authorized under §§ 184.1(a) and 184.1763.

The agency also has determined that an indirect substance whose GRAS status for indirect use is based on its affirmation as GRAS in Part 184 need not comply, as a general rule, with the purity specifications made applicable to the direct use of the substance in the Part 184 regulation, as long as it is of a purity suitable for its intended indirect use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. As noted in the preceding paragraph, however, if specific purity specifications for the indirect use of a GRAS substance are necessary based on safety considerations, a regulation establishing such specifications will be promulgated in Part 186. In the case of sodium hydroxide, no specific purity specifications are necessary for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA will publish a proposal in the near future to amend its procedural regulations in Parts 184 and 186 to reflect clearly the current policies.

Copies of the scientific literature review on sodium and potassium hydroxide and the report of the Select Committee are available for review at the Office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

| Title | Order No. | Price code | Price[1] |
|---|---|---|---|
| Sodium hydroxide (Scientific literature review) | PB-234-899/AS | A04 | $5.25 |
| Sodium hydroxide (Select Committee report) | PB-265-507/AS | A02 | 4.00 |
| Potassium hydroxide (Scientific literature review) | PB-234-899/AS | A04 | 5.25 |
| Potassium hydroxide (Select Committee report) | PB-265-507/AS | A02 | 4.00 |

[1] Price subject to change.

This proposal does not contemplate revisions in the aforementioned regulations providing for the food standard and regulated uses of sodium and/or potassium hydroxide, nor does this proposal affect the current use of sodium and potassium hydroxide in pet food or animal feed.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 182 and 184 be amended as follows:

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

**§§ 182.70 and 182.90 [Amended]**

a. In § 182.79 *Substances migrating from cotton and cotton fabrics used in dry food packaging* and § 182.90 *Substances migrating to food from paper and paperboard products* by deleting "Sodium hydroxide" from the list of substances.

**§§ 182.1631 and 182.1763 [Deleted]**

b. By deleting § 182.1631 *Potassium hydroxide* and § 182.1763 *Sodium hydroxide.*

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

2. Part 184 is amended by adding new §§ 184.1631 and 184.1763 to read as follows:

**§ 184.1631 Potassium hydroxide.**

(a) Potassium hydroxide (KOH, CAS Reg. No. 1310–53–3) is referred to as caustic potash, potash lye, and potassa. The empirical formula is KOH. It is a white, highly deliquescent caustic solid, which is marketed in several forms, pellets, flakes, sticks, lumps, and powders. Potassium hydroxide is obtained commercially from the electrolysis of potassium chloride solution in the presence of a porous diaphragm.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level of 0.0085 percent for baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; 0.0009 percent in nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; 0.5 percent for cheeses as defined in § 170.3(n)(5) of this chapter; 0.055 percent in coffee and tea, including regular, decaffeinated, and instant types as defined in § 170.3(n)(7) of this chapter; and 0.004 percent for infant formula.

**§ 184.1763 Sodium hydroxide.**

(a) Sodium hydroxide (NaOH, CAS Reg. No. 1310–73–2) is referred to as sodium hydrate, soda lye, caustic soda, white caustic, and lye. The empirical forumla is NaOH. Sodium hydroxide is prepared commercially by the electrolysis of sodium chloride solution and also by reacting calcium hydroxide with sodium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972) as amended by the 2d Supplement (1975),[1] which are incorporated by reference.

(c) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in foods at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level of 0.35 percent for baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; 0.0002 percent for nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; 0.05 percent for confections and frostings as defined in § 170.3(n)(10) of this chapter; 0.15 percent for frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; 0.6 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 0.5 percent for reconstituted vegetable protein as defined in § 170.3(n)(33) of this chapter; 0.5 percent for processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; 0.04 percent for infant formula; and 0.02 percent or less for all other food categories.

The agency hereby gives notice that it is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded prior sanction uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. This notice also constitutes a proposal to establish a prior sanction regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before April 22, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to 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 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 14, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

Note.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973, and June 20, 1977, and are on file at the Federal Register Library.

[FR Doc. 80-5318 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC 20037, or may be examined in the Office of the Federal Register Library.

**21 CFR Parts 182, 184, 186**

**[Docket No. 79N-0095]**

## Sodium Dithionite and Zinc Dithionite; Proposed Affirmation of GRAS Status

*Correction*

In FR Doc. 80-2379, appearing on page 6117, in the issue of Friday, January 25, 1980 make the following changes:

1. On page 6118, first column, first complete paragraph, the fourteenth line should have read: "removed from the paper. FDA therefore".

2. On page 6118, second column, third complete paragraph, the sixth line should have read: "distribution, metabolism, and excretion of these".

3. On page 6118, second column, third complete paragraph, the first word in the seventh line should read: "substances".

4. On page 6118, second column, fourth complete paragraph, the seventh line should have read: "approximating 50 mg per kg body weight per".

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**21 CFR Part 310**

**[Docket No. 79N-0177]**

## Sweet Spirits of Nitre for Over-the-Counter Human Use

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes that sweet spirits of nitre be classified in Category II as being not generally recognized as safe and effective or as being misbranded for over-the-counter (OTC) use. This document, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA). The agency, having reviewed the Panel's report, has determined that any drug product containing sweet spirits of nitre is misbranded and is a new drug for which an approved new drug application is required for marketing and that action to remove sweet spirits of nitre drug products from the market should be implemented expeditiously and not await the full procedural review that has been established for OTC drug products.

**DATES:** Comments by March 24, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

**SUPPLEMENTARY INFORMATION:** In accordance with Part 330 (21 CFR Part 330), FDA received on June 23, 1978, a report of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner of Food and Drugs issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded (i.e., Category I); (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding (i.e., Category II); (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify such conditions under either (1) or (2) above (i.e., Category III); and (4) the conclusions and recommendations of the Panel. Because the Panel's recommendations on sweet spirits of nitre contain no Category I or Category III conditions, FDA is issuing a notice containing the Panel's recommendations proposing Category II classification for sweet spirits of nitre.

The Panel's report has been prepared independently of FDA, and represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. The agency, however, has reviewed the Panel's report because the Panel's review of sweet spirits of nitre resulted from a report to FDA of a case of an infant death related to this product. The Panel concluded, and FDA concurs, that sweet spirits of nitre is not generally recognized as safe and effective for OTC internal use. Moreover, because of the potential for poisoning in infants and the lack of any beneficial use of the ingredients as a drug, the agency has determined that marketing of any drug product containing sweet spirits of nitre should cease. Accordingly, the agency proposes that any sweet spirits of nitre drug product offered for any use be classified as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

Under the provisions of this proposal, any drug product containing sweet spirits of nitre for any use in interstate commerce after the effective date of the final regulation is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) and is a new drug within the meaning of section 201(p) of the Act for which an approved new drug application under section 505 of the Act (21 U.S.C. 355) and Part 314 of the regulations (21 CFR Part 314) is required for marketing. In the absence of an approved new drug application such products in interstate commerce after the effective date of the final regulation will be subject to regulatory action.

Based on the Panel's conclusions and FDA's review of the data submitted to the Panel, the agency has determined that use of any drug product containing this ingredient for any purpose is contrary to the public interest and that action to remove all products containing sweet spirits of nitre from the market should be implemented expeditiously. Accordingly, the agency advises that it will not follow the full OTC rulemaking procedure set forth in § 330.10 (21 CFR 330.10). FDA will not publish a tentative final order, but will publish a final order after the receipt and consideration of comments on this proposal unless those comments raise substantial questions that cannot be immediately resolved. It is the agency's intention that the final order will become effective upon publication in the Federal Register. Interested persons have until March 24, 1980 to submit comments on this proposal.

Upon the effective date of the regulation, because of the risk associated with use of sweet spirits of nitre, the agency will request firms to recall to the retail level all drug products containing sweet spirits of nitre. In the interim manufacturers are requested to voluntarily discontinue manufacture of products containing this drug.

Although the Miscellaneous Internal Panel was concerned only with the internal use of sweet spirits of nitre, it did note the topical use of this ingredient, and it referred OTC drug products containing sweet spirits of nitre for external use to the OTC Miscellaneous Internal Panel for review. In view of the action taken in this document, FDA has concluded that any review by the OTC Miscellaneous Internal Panel of OTC drug products containing sweet spirits of nitre for external use unnecessary.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review Panels was announced in the Federal Register of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the

Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the Federal Register of November 16, 1973 (38 FR 31696). In the Federal Register of August 27, 1975 (40 FR 38179), a further notice supplemented the initial notice with a detailed list of ingredients which did not include sweet spirits of nitre.

The Commissioner appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of the ingredients in those products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, Ed.D
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O.
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)
Diana F. Rodriguez-Calvert, Pharm.D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm.D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph.D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

To expand its medical and scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Carol R. Angle, M.D. (pediatrics)
Jay M. Arena, M.D. (pediatrics)
William A. MacColl, M.D. (pediatrics)
Lynn R. Brady, Ph.D. (pharmacognosy)
Aruther E. Schwarting, Ph.D. (pharmacognosy)
Ralph b. D'Agostino, Ph.D. (statistics)

The Advisory Review Panel on OTC Miscellaneous Internal Panel Drug Products was charged with the review of many categories of drugs, but due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommenndations for sweet spirits of nitre for internal use in this document. The review of all other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be periodically published in the Federal Register during the Panel's deliberations.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): February 23 and 24, March 23 and 24, April 27 and 28, June 22 and 23, September 21 and 22, November 16 and 17, 1975; February 8 and 9, March 7 and 8, April 11 and 12, May 9 and 10, *July 11 and 12, October 10 and 11,* 1976; February 20 and 21, April 3 and 4, May 15 and 16, July 9, 10 and 11, October 15, 16, and 17 December 2, 3, and 4, 1977; January 28, 29, and 30, *March 10, 11, and 12, May 5, 6, and 7, June 23, 24, and 25, August 4, 5, and 6,* September 29, 30, and October 1, November 17, 18, and 19, 1978; January 19 and 20, and *March 2 and 3,* 1979.

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

No submissions were made for sweet spirits of nitre. However, sweet spirits of nitre came to the attention of the Panel as the result of a physician (Robert R. Chilcote, M.D.) reporting to FDA the case of an infant death. FDA performed an extensive followup and concluded that the incident described by Dr. Chilcote was unique or extremely rare (Ref. 1). nevertheless, the Advisory Review Panel on OTC Miscellaneous Internal Drug Products was informed of the incident and the results of the FDA followup. At the Panel's request, Dr. Chilcote was given an opportunity to appear before the Panel to describe the incident and to express his views on sweet spirits of nitre (see *Safety* below). Dr. Chilcote appeared before the Panel at its October 10, 1976 meeting. No other person requested an opportunity to appear before the Panel on this subject.

The Panel has thoroughly reviewed the literature and considered all pertinent data and information through June 23, 1978 in arriving at its conclusions and recommendations on sweet spirits of nitre for OTC internal use.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel considered sweet spirits of nitre for OTC internal use with respect to the following three categories:

Category I. Conditions under which sweet spirits of nitre is generally recognized as safe and effective and is not misbranded for OTC internal use.

Category II. Conditions under which sweet spirits of nitre is not generally recognized as safe and effective or is misbranded for OTC internal use.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel concludes that sweet spirits of nitre is not safe or effective (Category II) for any OTC internal uses.

**Reference**

(1) OTC Volume 170163. (This volume is on display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.)

*Definition of Terms*

For the purpose of this document, the Panel agreed on the following definitions:

1. *Antipyretic.* An agent that relieves or reduces fever.
2. *Antispasmodic.* An agent that relieves smooth muscle spasms.
3. *Diaphoretic.* An agent that promotes perspiration.
4. *Diuretic.* An agent that promotes the production and excretion of urine.
5. *Eructation.* A belch.
6. *Flatulent colic.* Acute abdominal pain characteristically intermittent and presumably due to spasm, obstruction, or distention of a portion of the gastrointestinal tract.

*Sweet Spirits of Nitre*

The Panel concludes that sweet spirits of nitre is not generally recognized as safe and effective for use as a diaphoretic, diuretic, intestinal antispasmodic, or stimulant, for treatment of flatulent colic, or for any other OTC internal use.

Sweet spirits of nitre contains between 3.5 and 4.5 percent of ethyl nitrite in alcohol and is also known as spirit of nitre, spirit of nitrous ether, and ethyl nitrite spirit. It has been used in the past mainly as a diaphoretic to reduce fevers in children, as a diuretic, and as an intestinal antispasmodic to relieve colic in infants. The dose generally suggested for children younger than 10 years of age is less than 1 milliliter (mL).

Sweet spirits of nitre has also been used topically for cold sores and fever blisters. The Panel has deferred consideration of this OTC usage to the Advisory Review Panel on OTC Miscellaneous External Drug Products.

*Safety.* Severe methemoglobinemia may ensue if sweet spirits of nitre is ingested; two deaths due to ingestion have been reported to the Panel. Dreisbach (Ref. 1) cites a fatality from the ingestion of approximately 4 grams (g) of ethyl nitrite in a 3-year-old child, an amount approximately equivalent to 267 milligrams/kilogram (mg/kg) or 6.7 milliliters/kilogram (mL/kg) of a 4-percent ethyl nitrite spirit. Chilcote (Ref. 2) reports fatal methemoglobinemia occurring in a 4-month-old infant following the administration of an estimated dose of 5 mL of a 4-percent ethyl nitrite spirit (200 mg ethyl nitrite), which was given to control "fussiness."

The actual risk of severe poisoning in infants is unknown since it is thought that many cases of methemoglobinemia are not suspected or diagnosed as being related to ingestion of sweet spirits of nitre. From 1969 to 1973, the National Clearinghouse for Poison Control Centers received information on 16 nonfatal ingestions of sweet spirits of nitre by children (Refs. 3 through 7); this is believed to be a marked underestimation of those cases treated nationally. The risks of poisoning for infants due to some undeveloped enzyme systems and to the increased level of fetal hemoglobin (Ref. 2) are major factors in the Panel's assessment that sweet spirits of nitre is not safe for OTC use.

*Effectiveness.* A quantitative pharmacologic assay of the absorption and metabolic effects of oral sweet spirits of nitre is difficult due to its characteristic volatility and instability (Refs. 8 and 9). Sweet spirits of nitre deteriorates rapidly on storage, even under refrigeration. In an acid medium, such as gastric juice, the ethyl nitrite rapidly forms gaseous nitrous dioxide, which causes gastric irritation and copious eructations with the residual gas absorbed as nitrous acid (Refs. 8, 9, and 10).

There is some evidence that sweet spirits of nitre is a diaphoretic and possibly an antipyretic, secondary to the diaphoretic action. In the anesthetized dog and cat (Ref. 10), sweet spirits of nitre caused a decrease in body temperature of 1° to 4° C. As far back as 1893, however, Leech (Ref. 9) noted that the clinical effect on temperature "is inconsiderable unless toxic doses are given even though it does cause perspiration * * * particularly under circumstances of external warmth * * *. After drachm [1¼ teaspoonsful] doses of a 2½ percent solution of ethyl nitrite in alcohol I have not infrequently seen the face bedewed with moisture in from ten to twenty minutes * * * but the diaphoretic value of ten to twenty minims [⅙ to ⅓ teaspoonful] of spirit of nitre as usually given medicinally is very problematic."

There is no evidence to support the effectiveness of ethyl nitrite as a diuretic. In dogs and cats (Ref. 10) and in humans (Ref. 9) ethyl nitrite causes an actual decrease in urine volume at first, followed by diuresis but with no net increase in volume.

Although the nitrites and nitrates seem to decrease the pain of intestinal spasm (Ref. 11), esophageal spasm (Ref. 12), and even ureteral and biliary colic (Ref. 13), there is insufficient current investigation of these effects to arrive at any determination of the effectiveness in relation to the benefit-to-risk ratio (Ref. 13). It must be noted that there is no evidence that any of these indications relate specifically to sweet spirits of nitre.

*Evaluation.* Ethyl nitrite as a 3.5 to 4.5 percent solution in alcohol (sweet spirits of nitre) has been used for several centuries as a diaphoretic, diuretic, and intestinal antispasmodic (Ref. 8). The Panel is aware of no scientific evidence supporting its effectiveness, and there is a definite concern as to its safety. Therefore, the Panel places sweet spirits of nitre in Category II for any OTC internal human medicinal use.

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(3) Poison Control Statistics, Food and Drug Administration, p. 167, 1969.

(4) Poison Control Statistics, Food and Drug Administration, p. 164, 1970.

(5) Poison Control Statistics, Food and Drug Administration, p. 167, 1971.

(6) Poison Control Statistics, Food and Drug Administration, p. 165, 1972.

(7) Poison Control Statistics, Food and Drug Administration, p. 160, 1973.

(8) Atkinson, G. A., "The Pharmacology of the Nitrites and Nitroglycerine," *Journal of Anatomy and Physiology,* 22:225–239 and 351–371, 1888.

(9) Leech, D. J., "Pharmacological Action and Therapeutic Uses of the Nitrites and Allied Compounds—Lecture II Continued," *Lancet,* 2:76–79, 1893.

(10) Thompson, M. R., M. J. Andress, and C.T. Ichniowski, "The Pharmacologic Activity of Chemically Assayed Spirit of Ethyl Nitrite, USP, Including pH Value," *Journal of the American Pharmaceutical Association,* 22:487–495, 1933.

(11) Beams, A. J., "The Effect of Nitrites on Pain and on the Motility of the Gastrointestinal Tract," *Archives of Internal Medicine,* 49:270–275, 1932.

(12) Orlando, R. Z., and E. M. Bozymski, "Clinical Manometric Effects of Nitroglycerin in Esophageal Spasm," *New England Journal of Medicine,* 289:23–25, 1973.

(13) Nickerson, M., "Vasodilator Drugs," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S., and A. Gilman, The MacMillan Co., New York, pp. 731–733, 1975.

Note.—The Food and Drug Administration has determined that this document is exempt from the requirement of preparing an Environmental Impact Statement as specified under 21 CFR 25.1(f)(4).

Therfore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 310 by adding new § 310.525, to read as follows:

**§ 310.525 Sweet spirits of nitre drug products.**

(a) Historically, sweet spirits of nitre has been present as an ingredient in over-the-counter (OTC) drug products for various uses. Based upon the lack of adequate data to establish effectiveness for any use and the adverse benefit-to-risk ratio, sweet spirits of nitre drug products cannot be considered generally recognized as safe and effective. The benefit from using sweet spirits of nitre for any use is insignificant when compared to the risk.

(b) Any drug product containing sweet spirits of nitre is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the act and part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any preparation containing sweet spirits of nitre for any use is safe and effective for the purpose intended.

(d) Any such drug product in interstate commerce after the effective

date of the final regulation that is not in compliance with this section is subject to regulatory action.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before March 24, 1980. Comments should be addressed to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments may be seen in the above office between 9 A.M. and 4 P.M., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment suporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 12, 1980.

William F. Randolph,

*Acting Associate Commissioner, Regulatory Affairs.*

[FR Doc. 80-5325 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

## 21 CFR Part 320

[Docket No. 79N-0477]

## Carbonic Anhydrase Inhibitors; Bioequivalence Requirements

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) proposes to establish bioequivalence requirements for certain oral drug products categorized as carbonic anhydrase inhibitors. This action is taken because available data suggest that the various marketed brands of the carbonic anhydrase inhibitors may not have comparable therapeutic effects. The proposed regulations would ensure the bioequivalence of different brands of carbonic anhydrase inhibitor drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

**DATES:** Comments by April 22, 1980. It is proposed that the final regulation based on this proposal be effective 30 days after its date of publication in the Federal Register.

**ADDRESSES:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Henry J. Malinowski, Bureau of Drugs (HFD-525), Food and Drug Administration, Department of Health, Education, and Welfare. 5600 Fishers Lane, Rockville, MD 20857, 301-443-1640.

**SUPPLEMENTARY INFORMATION:** Regulations in Subpart C of Part 320 (21 CFR Part 320) set forth procedures for the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, to propose and to establish a bioequivalence requirement for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. The authority to issue bioequivalence regulations was delegated to the Director and Deputy Director of the Bureau of Drugs by § 5.79 (21 CFR 5.79).

Data available to FDA suggest that, based on the criteria set out in § 320.52 (21 CFR 320.52), there is well-documented evidence of bioequivalence differences in oral formulations of carbonic anhydrase inhibitors among currently marketed brands of the same drug product produced by various manufacturers. Therefore, the Director of the Bureau of Drugs on his own initiative tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for the following oral carbonic anhydrase inhibitors: Acetazolamide, dichlorphenamide, ethoxazolamide, and methazolamide. The evidence on which the Director bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

### Background

Acetazolamide, dichlorphenamide, ethoxzolamide, and methazolamide are sulfonamides with specific carbonic anhydrase inhibitor activity. Acetazolamide is the prototype of carbonic anhydrase inhibitors, having limited usefulness as a diuretic, Acetazolamide is primarily used in treating glaucoma (Ref. 2). It is also used in edema due to congestive heart failure, in petit mal epilepsy, and in toxemia and edema of pregnancy (Ref. 3).

Although these carbonic anhydrase inhibitors were originally developed as diuretics, their major usefulness is in treating primary glaucoma, the acute phase of secondary glaucoma, and preoperatively in acute angle-closure glaucoma to lower intraocular pressure before surgery. They act by inhibiting carbonic anhydrase activity in the ciliary body of the eye, thereby markedly reducing the secretion of the aqueous humor, and by decreasing the intraocular pressure. (Ref. 9).

Carbonic anhydrase inhibitors have also been used in some cases of petit mal and grand mal epilepsy refractory to anticonvulsants (Refs. 4 and 5).

Carbonic anhydrase inhibitors are all highly bound to the plasma proteins (Ref. 1).

The following tables summarize the daily dosage requirement and carbonic anhydrase inhibitory potency as well as water and alcohol solubility, and negative logarithm of dissociation constant (pKa), of the carbonic anhydrase inhibitors (Refs. 4, 5, 8, and 9).

Table 1

| Drug | Dose in milligrams per day | Inhibitor potency |
|---|---|---|
| Acetazolamide | 250-500 | 1 |
| Dichlorphenamide | 200 | 30 |
| Ethoxzolamide | 125-1,000 | 2 |
| Methazolamide | 100-300 | [1]NA |

[1]N.A.—Not available.

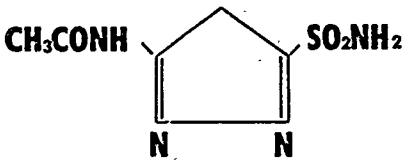
Table 2

| Drug | Water solubility (mg/ml)[1] | Alcohol solubility | pKa |
|---|---|---|---|
| Acetazolamide | 0.5 | Slightly soluble. | 7.4/9 |
| Methazolamide | 1.5 | Slightly soluble. | 7.2 |
| Dichlorphenamide | 0.04 | Soluble | 8.3 |
| Ethoxzolamide | 0.04 | Slightly soluble. | 8.1 |

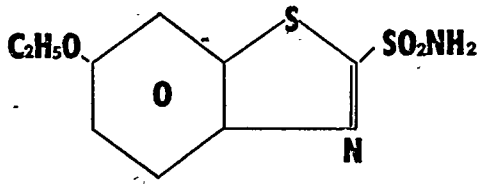
[1]Milligrams per day.

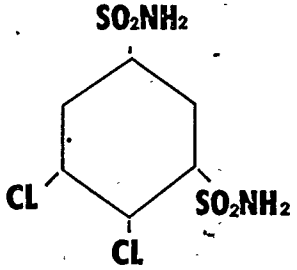
The carbonic anhydrase inhibitors all contain an unsubstituted nonbacteriostatic sulfonamide group. All are presented together because they are members of a drug class that has close structural similarity, with similar physicochemical and pharmacological properties.

**ACETAZOLAMIDE**

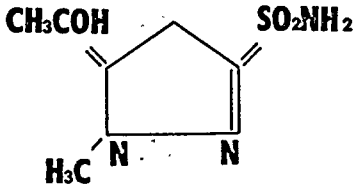



**ETHOXZOLAMIDE**




**DICHLORPHENAMIDE**




**METHAZOLAMIDE**

The most important structural activity relationship between these sulfonamide derivatives is that carbonic anhydrase inhibitatory activity is abolished by *N*-sulfamyl substitutions (Ref. 2). The major pharmacological action is the inhibition of the enzyme carbonic anhydrase; this inhibition has been demonstrated to be noncompetitive (Ref. 2).

These carbonic anhydrase inhibitors decrease the concentration of hydrogen ions available for exchange with sodium and potassium. They also decrease the amount of hydrogen ions available to combine with bicarbonate to form carbonic acid. Although there is no significant increase in chloride ion excretion, these products all markedly increase the loss of sodium and potassium and cause hypokalemia. Consequently, the urine (normally acidic) becomes alkaline and hydrogen ions are retained, resulting in acidosis. When acidosis occurs, the patient becomes refractory to these agents, and the acid base imbalance must be corrected before treatment can be effectively resumed (Ref. 4).

**Evidence To Establish a Bioequivalence Requirement**

The Director has considered the following criteria as set forth in § 320.52 *Criteria and evidence to establish a bioequivalence requirement* in determining that a bioequivalence requirement should be established:

1. *Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.* Bioavailability studies have been submitted to FDA in support of two abbreviated new drug applications (ANDA's) for acetazolamide tablets (Refs. 6 and 7). The first bioavailability study revealed that one brand of tablet was absorbed 6.5 times faster than the referenced brand (Ref. 6). While the elimination rate and extent of absorption were identical, one brand showed over twice the variation in these parameters among subjects. The time to reach maximum blood concentration differed by 3 hours.

Another bioavailability study determined the peak concentration of the active drug ingredient in the plasma ($C_{max}$), time to attain the peak plasma level ($T_{max}$), rate of absorption (Ka), rate of elimination (Kel), and urinary excretion of unchanged drug (Ref. 7). The crossover study used 12 healthy male subjects who were given two 250-mg tablets of the reference and the test drug sequentially. The study demonstrated significant differences in absorption rate and urinary excretion between test and reference products.

**Table 3.—*Acetazolamide Bioavailability Study***

| Parameters | Test product (A) | Reference product (B) |
|---|---|---|
| $C_{max}$ (mcg/ml) | 23 | 15.9 |
| $T_{max}$ (hr) | 2 | 3.7 |
| Ka (hr-1) | 1.38 | 0.72 |
| Kel (hr-1) | 0.14 | 0.09 |
| Amount excreted (percent dose) | 58 | 78 |

Following the review of the results from the second study, FDA notified the manufacturer of the reference product that two studies had shown their product to be bioinequivalent to two test preparations. To further identify the problem, and in cooperation with the firm, FDA conducted a comparative bioavailability study of five lots of reference acetazolamide tablets manufactured by the firm (Ref. 11). The results shown in Table 4 below indicate significant lot-to-lot variation due to higher peak plasma concentrations provided by two lots, although all lots were equivalent in terms of the extent of absorption.

**Table 4.—*Bioavailability of Different Lots of Acetazolamide Tablets Following a 250-mg Oral Dose***

| Lot | Cmax (mcg/ml) | Tmax (hr) | AUC 0-24 hr (mcg X hr/ml) |
|---|---|---|---|
| BA | 6.9 | 4.0 | 87.2 |
| BB | 8.6 | 2.5 | 103.1 |
| BC | 11.4 | 2.4 | 92.0 |
| BD | 11.3 | 2.1 | 89.1 |
| BE | 8.6 | 2.5 | 89.0 |

A similar study conducted under FDA contract (Ref. 12) compared two lots of the reference product (Lots B1 and B2) with another marketed product and a solution of an equivalent amount of acetazolamide, which was used as a measure of maximum bioavailability following oral administration. The results (Table 5 below) confirm the lot-to-lot variability observed in the study described above.

**Table 5.—*Acetazolamide Bioavailability Parameters***

| Product | Cmax (mcg/ml) | Tmax (hr) | AUC 0-24 hr (mcg X hr/ml) |
|---|---|---|---|
| Solution | 21.5 | 0.0 | 102.4 |
| Lot B1 | 13.0 | 2.4 | 100.7 |
| Lot B2 | 17.6 | 2.9 | 115.5 |
| A | 20.2 | 1.0 | 114.5 |

In response, the manufacturer reformulated the reference product and conducted a subsequent bioavailability study. The study was designed to

compare the bioavailability of the new equivalent amount of acetazolamide. The three-way crossover study used 15 subjects who were given a 250-mg tablet, old and new formulation, and solution sequentially (Ref. 13). The study demonstrated that peak levels of acetazolamide were realized more rapidly with the new formulation, although the extent of absorption was not significantly different among the three preparations tested (See Table 6 below).

Table 6.—*Bioavailability of Two Formulations of Acetazolamide*

| Parameter | Old Formulation (BF) | New Formulation (BN) | Solution |
|---|---|---|---|
| Cmax (mcg/ml) | 9.3 | 9.9 | 13.1 |
| Tmax (hr) | 2.4 | 1.6 | 0.8 |
| AUC (mcg X hr/ml) 0 to 24 hrs | 64.4 | 72.2 | 60.8 |

2. Physicochemical evidence that: (a) *The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to the 100 milliliters for adults and prorated for infants and children).* Acetazolamide is a weakly acidic drug (pKa 7.4 and 9.1) with a water solubility of 500 micrograms per milliliter (mcg/ml) (Refs. 8 and 10).

Dichlorphenamide, a weakly acidic drug (pKa 8.3), is very slightly soluble in water (Ref. 8).

Ethoxzolamide (pKa 8.1) is practically insoluble in water (Ref. 8).

Methazolamide (pKa 7.2) is a weakly acidic drug and is slightly soluble in water (Ref. 8). The volume of liquid required to dissolve the recommended dose of each far exceeds the volume of fluids present in the stomach.

(b) *The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes, when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute (rpm) in 900 milliliters of distilled or deionized water at 37° C or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application.* Dissolution studies conducted by FDA (Ref. 10) on four lots of acetazolamide 250-mg tablets from two different manufacturers showed that all of the drug products except one dissolved less than 50 percent in 30 minutes. The following dissolution rates were obtained using the Hanson paddle method and 0.1*N* HCl at 50 rpm. The table below shows the percentage of labeled amount dissolved at each time point.

Table 7.—*Acetazolamide Dissolution Profile Product*

| Time (minutes) | A | B1 | B2 | B3 |
|---|---|---|---|---|
| 20 | 60.6 | 10.3 | 14.7 | 12.2 |
| 40 | 80.9 | 15.7 | 23.1 | 20.2 |
| 60 | 91.1 | 20.7 | 29.6 | 26.0 |

In another study conducted under FDA contract (Ref. 11), dissolution data were obtained on five lots of acetazolamide tablets obtained from the same firm that manufactured product B shown above. The results (Table 8) show on gross differences among lots, although tablets BC and BD dissolved faster than the other three.

Table 8.—*Dissolution of Different Lots of Acetazolamide Tablets Using the USP Apparatus* [1]

| Lot | Percent dissolution time (minutes) | | |
|---|---|---|---|
| | T20 | T40 | T50 |
| BA | 24 | 55 | |
| BB | 25 | 58 | |
| BC | 23 | 42 | 54 |
| BD | 20 | 44 | |
| BE | 23 | 60 | |

[1] 900 ml gastric fluid, 37° C, basket, 50 rpm.

Tablets BC and BD also produced the highest peak plasma levels when the comparative bioavailability of the five lots was studied in vivo (Ref. 11).

The manufacturer conducted dissolution studies on the same five lots plus an additional lot, which was currently marketed, and a new formulation (Ref. 13). As shown in Table 9 below, the firm demonstrated that by increasing the dissolution rate of its product through reformulation it could, indeed, account for an improvement in the product's performance in vivo (Ref. 14).

Table 9.—*Percent of Labeled Amount Dissolved of Different Lots of Acetazolamide Tablets; a Comparison of Old and New Formulations* [1]

| Formulation and lot | Time (minutes) | |
|---|---|---|
| | 30 | 60 |
| Old: | | |
| BA | 31.3 | 47.2 |
| BB | 30.8 | 44.7 |
| BC | 57.0 | 78.2 |
| BD | 59.4 | 78.8 |
| BE | 34.7 | 50.1 |
| BF | 40.9 | 57.9 |
| New: BN | 78.6 | 91.2 |

[1] Conditions: 900 ml simulated gastric fluid, 37° C, USP Basket, 100 rpm.

**The Bioequivalence Requirement**

On the basis of these data, the Director tentatively concludes that the evidence meets one or more of the criteria in § 320.52 and proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following carbonic anhydrase inhibitors: Acetazolamide, dichlorphenamide, ethozazolamide and methazolamide.

The proposed bioequivalence requirement would apply to all manufacturers of these drug products. Each manufacturer, except a manufacturer of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies which have been found acceptable by FDA, would be required to (1) conduct an in vitro dissolution test comparing its drug product to a specified reference material, and (2) conduct an in vivo bioavailability study comparing its drug product to a specified reference material.

The Director advises that, whenever possible, the reference material is a drug product subject to an approved full NDA which contains in vivo data demonstrating the bioavailability of the drug product and in vitro dissolution data indicating that the drug product meets the in vitro bioequivalence requirement. In exceptional cases, for example in instances where no approved full NDA holder has conducted acceptable bioavailability study, other factors may be considered as deemed appropriate by the agency. The selection of a drug product as the reference material does not imply superiority of the drug product in any way, but is intended only to provide for a common standard for the determination of bioequivalency.

Under this proposed requirement, the test drug product and reference material would meet the in vitro portion of the bioequivalence requirement if each has a dissolution rate of not less than 50 percent in 30 minutes and not less than 80 percent in 60 minutes. The test is to be conducted using 900 ml of 0.1 *N* NCl at 37° C, and U.S.P. apparatus 1 and 100 rpm. If the samples from one lot of the reference material do not meet the applicable dissolution specification for the product, additional lots up to a total of three must be tested. If none of the three lots of reference material tested meet the applicable dissolution specification, the manufacturer would be required to notify FDA of the failure before conducting any in vivo testing.

For acetazolamide, the Director is proposing to require the testing of 12

tablets of both the test drug product and the reference material. This would conform to the number of dosage units required to be tested in the official U.S.P. monograph for acetazolamide. The Director advises that if the official monograph for this drug product is revised in the future, the number of dosage units to be tested will then be determined by reference to the U.S.P. dissolution acceptance table. For the other drug products in this class, the number of dosage units to be tested is to be determined by reference to the U.S.P. dissolution acceptance table.

The in vivo data must show that the test drug product meets the following conditions:

1. The test drug product and the reference material differ by no more than 20 percent in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels, ($C_{max}$) rate of absorption (measured by time to attain peak plasma level ($T_{max}$) of the absorption constant (Ka)), and the area under the plasma concentration-time curves (AUC).

2. In at least 75 percent of the subjects the test drug product is at least 75 percent as bioavailable as the reference material, using each subject as his or her own control, that is, administering both the reference product and the test product to each subject using a crossover procedure.

In addition, the analytical and statistical techniques used must be sensitive enough to detect differences in rate and extent of absorption that are not attibutable to subject variability.

The Director proposes that a manufacturer of a drug product selected by FDA as the reference material or a manufacturer of any drug product subject to proposed § 320.117 who has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of that drug product which FDA has found acceptable under the provisions of proposed § 320.117(d) would be required to conduct an in vitro dissolution test on one batch of its drug product. The procedure to be used and the specifications to be met must conform to the in vitro requirements for the drug.

A manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of proposed § 320.117 would be required to conduct an in vivo bioavailability study comparing the reference material with an oral solution or oral suspension containing an equivalent amount of the carbonic anhydrase inhibitor in the reference material.

A manufacturer of a drug product subject to this proposed section who has previously conducted in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation (DESI) notice, may request FDA to evaluate these studies to determine whether they are adequate and conclusive to ensure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To correlate in vivo data with in vitro data, the Director proposes that the same batch of both the test product and the reference material that were used in the in vitro tests be used in the in vivo test, unless a manufacturer has conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material had to be used in the in vitro test because the reference material did not meet the applicable dissolution specifications, the batch which met the applicable dissolution specification must be used in the in vivo test.

General guidelines for in vivo testing are set forth in § 320.25 (21 CFR 320.25). Draft guidelines for in vivo testing and for in vitro dissolution testing of carbonic anhydrase inhibitors are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposal is named in the guideline for in vivo bioavailability studies for carbonic anhydrase inhibitors.

The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days after the effective date of the final regulation and that the results of the required in vivo test be submitted to FDA on or before 180 days after the effective date of the final regulation. The proposed effective date of the final regulation is 30 days after the date of its publication in the Federal Register. The Director believes this will be sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA.

The Director advises, however, that the agency may recommend that a manufacturer conduct a pilot study in certain instances, e.g., when an analytical assay methodology has not been used previously in in vivo bioavailability/bioequivalence study, or where optimal sampling times have not been previously determined. A recommendation that a pilot study be conducted will be contained in the Guidelines for the specific drug product. An extension of up to 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evaluate, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that any drug product subject to this proposal is regarded as a new drug as defined in section 201(p) (21 U.S.C. 321(p)) of the Food, Drug, and Cosmetic Act, requiring either an approved NDA or an ANDA as a condition to market the product lawfully. Marketing of such a drug product must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

The Director advises that a drug product manufacturer who is unable to meet the in vivo or in vitro specifications required by proposed § 320.117 would be required to reformulate the drug product.

After the effective date of the final regulation establishing a bioequivalence requirement, each manufacturer, under § 320.56 (21 CFR 320.56), will be required to conduct the in vitro dissolution test on a sample of each batch of the oral carbonic anhydrase inhibitors to ensure batch-to-batch uniformity. The Director further proposes to require that the dissolution test be part of a manufacturer's stability testing program. If the dissolution falls below the specification after the product has been marketed, the batch would have to be withdrawn.

## References

Copies of all references cited below are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, and may be seen there from 9 a.m. to 4 p.m., Monday through Friday.

1. Shah, V. et al., "Carbonic Anhydrase Bioavailability Monograph."

2. Gilbert H. Mudge, *Diuretics and Other Agents Employed in the Mobilization of Edema Fluid, in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman and Gilman, the MacMillan Co., New York, pp. 811, 825-828, 1975.

3. *Physicians Desk Reference,* 33d Ed., Medical Economics Co., Oradell, NJ, p. 958-959, 1979.

4. *"Remington's Pharmaceutical Sciences,"* 15th Ed., Edited by Hoover, J. E., The Mack Publishing Co., Easton, PA, 1975.

5. "AMA Drug Evaluation—1973," 2d Ed., Publishing Sciences Corp., Inc., Acton, MA, 1973.

6. Dighe, S. to J. P. Skelly, Memo: ANDA Summary (Acetazolamide Tablets): July 13, 1976.

7. Vadovic, S. to H. Malinowski, Memo: ANDA Summary (Acetazolamide Reference number), October 2, 1978.

8. "The Merck Index", 8th Ed., Edited by Stecher, P. G., Merck & Co., Inc., Raway, NJ, 1968.

9. Maren, T. H. "Carbonic Anhydrase: Chemistry, Physiology, and Inhibition" *in Physiological Reviews,* the American Physiological Society, (47):595, 1967.

10. Pelsor, F. R., to H. J. Malinowski, Memo: Acetazolamide 250 mg tablets—Summary of Dissolution Studies, Nov. 23, 1979.

11. Yakaton, G. J., et al., "Bioavailability of Acetazolamide Tablets," *Journal of Pharmaceutical Science,* 67: 252–256, 1978.

12. Mhatre, R. M. to B. E. Cabana, Memo: Final Report on Acetazolamide Bioavailability Study (University of Tennessee, FDA Contract 223–77–3011), July 13, 1978.

13. Pelsor, F. R. to H. J. Malinowski, Memo: NDA Summary—Acetazolamide Tablets, November 23, 1979.

The Director has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, 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. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042, 1050–1053 as amended, 1055, 76 Stat. 795 as amended (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended in Subpart D by adding § 320.117, to read as follows:

**§ 320.117 Certain oral carbonic anhydrase inhibitors.**

(a) *Applicability.* The requirements of this section apply to all single active ingredient oral solid dosage form drug products containing the following carbonic anhydrase inhibitors: acetazolamide, dichlorphenamide, ethoxzolamide, and methazolamide.

(b) *Initial in vitro portion of the bioequivalence requirement*—(1) *General.* Each manufacturer of a drug product subject to this section, except for manufacturers of reference materials and manufacturers of products previously tested in vivo, which are subject to paragraph (b)(4) and (5) of this section, shall conduct an in vitro dissolution test by the dissolution procedure set forth in the official U.S.P., comparing samples from one lot of the drug product with samples from a lot of the reference material specified by the Food and Drug Administration. If the samples from the lot of the reference material do not meet the applicable dissolution specification for the product, test additional lots of reference material, up to a total of three lots, until a reference lot which meets the applicable dissolution specification is tested. If none of the three lots of reference material tested meet the applicable dissolution specification, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before conducting any in vivo testing.

(2) *Specific requirement for acetazolamide.* (i) The test is to be conducted on 12 tablets using 900 milliliters of 0.1*N* HCl at 37° C, U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute.

(ii) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each of the 12 tablets tested has a dissolution of not less than 50 percent in 30 minutes, and not less than 80 percent in 60 minutes.

(3) *Specific requirements for dichlorphenamide ethoxazolamide and methazolamide.* (i) The test is to be conducted using 900 milliliters of 0.1*N* HCl at 37° C, U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute.

(ii) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 50 percent in 30 minutes, and not less than 80 percent in 60 minutes. The number of dosage units of the test drug product and the reference material to be tested is determined by reference to the U.S.P. dissolution acceptance table.

(4) *Specific requirements for reference material.* Each manufacturer of a specified reference material shall conduct an in vitro dissolution test on one batch of the reference material using the U.S.P. dissolution procedure. In addition, the in vitro test must meet the applicable requirements of paragraph (b)(2) or (3) of this section.

(5) *Specific requirements for products previously tested in vivo to demonstrate bioavailability.* Each manufacturer of a drug product subject to this section who has previously conducted in vivo bioavailability/bioequivalence studies in humans which have been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, shall conduct an in vitro dissolution test on one batch of its drug product using the U.S.P. dissolution procedure. In addition, the applicable requirements for paragraph (b)(2) or (3) of this section must be met.

(6) *Submission of test results.* Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *In vitro requirement for each batch.* An in vitro dissolution test must be performed on each batch of drug product subject to this section. The test procedure, specifications to be met, and number of samples to be tested must meet the applicable requirements of paragraph (b) (1) and (2) or (3) of this section. It is not necessary, however, to compare samples of the reference material with the batch of drug product being tested.

(d) *In vivo portion of the bioequivalence requirement.* (1) Each manufacturer of a drug product subject to this section, except a manufacturer of the reference material or a manufacturer who has conducted in vivo bioavailability/bioequivalence studies in humans before the effective date of this section which have been found acceptable under paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product with the reference material.

(2) The test drug product meets the in vivo portion of the bioequivalence requirement in humans if the following conditions are met:

(i) The test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), rate of absorption (measured by the time to attain peak plasma levels (Tmax), or the absorption constant (Ka)), and area under the plasma concentration-time curves (AUC).

(ii) In at least 75 percent of the subjects, the test drug product is more than 75 percent as bioavailable as the reference material, using each subject as his or her own control, that is, administering both the reference product and the test product to each subject using a cross-over procedure.

(iii) The analytical and statistical techniques used are sensitive enough to detect differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug

Administration as the reference material for in vivo studies, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section before the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its product, that is, the reference material, with a solution or suspension of an equivalent amount of in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of up to 180 days upon request if the manufacturer wishes to submit a protocol for review or conduct a pilot study before starting the tests.

(5) Any manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies before the effective date of this section may request an evaluation of these studies to determine whether the studies are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Each request is required to contain the new drug application number, the established (generic) name of the product, the dosage form and strength of the drug product, and the date(s) the study or studies were submitted.

(6) Each manufacturer requesting this evaluation, who holds an approved or pending new drug application for the drug product, shall submit the request for evaluation to the Division of Cardio-Renal Drug Products (HFD-110), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer requesting this evaluation, who holds an approved or pending abbreviated new drug application for the drug product, shall submit the request for evaluation to the Division of Generic Drug Monographs (HFD-530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(e) *Inclusion of bioequivalence data in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section and currently marketed under a full or abbreviated new drug application shall submit the required in vitro and in vivo data in the form of a supplement to the application. Each manufacturer of a drug product subject to this section that is not marketed on the effective date of the final regulation shall include the required in vitro and in vivo data in the full or abbreviated new drug application submitted to the Food and Drug Administration.

(f) *Failure to meet bioequivalence requirements.* Any manufacturer unable to meet either the in vitro or the in vivo specifications required by this section will be required to reformulate the drug product.

(g) *Reference material and guidelines for testing.* (1) The reference material to use in the in vivo and the in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Study for Carbonic Anhydrase Inhibitors." The same batch of the test drug product and the reference material used in the in vitro test are to be used in the in vivo test, unless a manufacturer conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material has to be used in the in vitro test because some batches of the reference material do not meet the applicable dissolution specifications, the batch which meets the applicable dissolution must be used in the in vivo test.

(2) Guidelines for conducting the in vivo and the in vitro tests of carbonic anhydrase inhibitors are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods or modifications to the bioequivalence requirement for in vitro or in vivo testing as set forth in this section may be used if evidence is submitted demonstrating that the modifications will ensure the drug's bioequivalence to an extent equal to or greater than the methods set forth in this section. The data should be submitted to, and approved before use by, the Director, Division of Biopharmaceutics (HFD-520), Food and Drug Administration. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons may, on or before April 22, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to 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 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 8, 1980.

Jerome A. Halperin,

*Acting Director, Bureau of Drugs.*

[FR Doc. 80-5207 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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## 21 CFR Parts 600, 610, and 640

**[Docket No. 79N-0405]**

## Platelet Concentrate (Human); Additional Standards

*Correction*

In FR Doc. 80-1272 appearing at page 2852 in the issue for Tuesday, January 15, 1980, the fourth line of the last paragraph in column one, page 2853, should read, "1042 as amended, 52 Stat. 1050, 52 Stat."

BILLING CODE 1505-01-M

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## 21 CFR Part 610

**[Docket No. 79N-0263]**

## Biological Products; Labeling Standards; Position and Prominence of Proper Name

*Correction*

In FR Doc. 80-2038 appearing on page 6120 in the issue of Friday, January 25, 1980, the file line at the end of the third column should read: "[FR Doc. 80-2038 Filed 1-24-80; 8:45 am]".

1. On page 6120, second column, the third line of the second complete paragraph should have read: "Act of 1946 (15 U.S.C. 1127) is separate".

2. On page 6120, second column, fifth complete paragraph, the fifth line should have read: "affect the quality of the environment, has concluded that an environmental impact statement is".

**ENVIRONMENTAL PROTECTION AGENCY**
**40 CFR Part 52**
**[FRL 1417-8]**

## Ambient Air Quality Monitoring Network Design for Two Cleveland Electric Illuminating Co. Powerplants; Comments Solicited

**SUMMARY:** This notice of availability gives the technical design of the ambient air quality networks for the Cleveland Electric Illuminating (CEI) Company's Avon Lake and Eastlake power plants in Ohio. The network design is based upon the site specific information available for these plants and from special consultants with experts in the field of "lake induced dispersion effects." The Agency solicits comments on the comments on the network design and the factors considered in the design. In addition to the availability of the monitoring network design, the Agency is reopening public comment on certain new analysis and additional information submitted or considered after the June 12, 1979 proposal of the State Implementation Plan revisions for the CEI plants.

**DATE:** Comments must be submitted by April 7, 1980. The record on this notice (Docket No. 5A-79-1) will be open for inspection and submittal of rebuttal or additional material during this period.

**ADDRESS:** Written comments should be submitted to: Mr. Gary Gulezian, Acting Chief Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604: The Docket for this notice is available for inspection during normal business hours at the above address and at U.S. EPA, Office of General Counsel Central Docket Section, Room 2903B, 401 M Street, SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Susanne Karacki, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, 312-886-6030.

**SUPPLEMENTAL INFORMATION:** On June 12, 1979, the Environmental Protection Agency proposed revisions to the sulfur dioxide regulations for the Cleveland Electric Illuminating Company's Avon Lake and Eastlake power plants (44 FR 33711). As noted in the proposal, the fundamental requirement for approval of these revisions is that CEI install and operate an extensive monitoring system around both existing plants. Since the proposal of these revisions, USEPA has been evaluating data obtained from CEI and has performed additional analysis for the development of the monitoring networks, including the required monitor locations and measurement instrumentation. The purpose of this notice is to present the study objectives and goals, the factors used in designing the networks, the study period and the reporting obligations of CEI.

EPA is also reopening the record of this rulemaking to allow public comment on information received and the additional analysis performed by the Agency since the close of the comment period for the June 12, 1979 proposal. The new materials available for comment are the 1979 fuel use data for the Avon Lake and Eastlake Power Plants, a transcript of a meeting between USEPA, Region V and the Youghioghency and Ohio Coal Company (a supplier of coal to the Eastlake plant), a memorandum of a meeting between Region V and representatives of CEI, and the Technical Support Document which provides the basis for the development of the monitoring requirements. The record will be open and comments accepted for a period of 45 days from the publication of this notice. (April 7, 1980).

The Agency would also like to clarify and expand the rationale given in support of the June 12, 1979 proposal. At present, no reference modeling methodology exists that is adequate for the purposes of developing definitive emission limits for Avon Lake and Eastlake generating stations. Analysis of the results of the use of both the RAM urban and RAM rural reference models indicate that neither model is suitable for establishing emission limits for either power plant. That is, based on the available site-specific comparisons performed by CEI with a very limited (both temporally and spatially) set of monitoring data, the RAM urban model has been shown to overestimate $SO_2$ concentrations at the locations of existing monitors and the RAM rural model has been shown to underestimate $SO_2$ concentrations at these same locations. Both power plants are situated in such a manner that their plumes are likely to be influenced by lake induced dispersion effects. Neither the existing monitoring networks around the Avon Lake and Eastlake power plants, the available meteorological data from the Cleveland Airport, nor the RAM urban or rural models are adequate to assess these lake induced effects. Therefore, site specific meteorological and monitoring networks are required to develop a model which can assess lake induced dispersion effects.

It should be noted that EPA used the MPTER model (the rural multi-source reference model) as one tool to design the CEI monitoring networks. The model was used only to determine where maximum impacts would likely occur under non-lake induced fumigation conditions. These modeling results raise some questions about the adequacy of the proposed status quo emission limitation to protect the NAAQS. These results, however, are limited in establishing emission limitations for these plants because the model is not designed to assess the lake induced fumigation effects. Both lake induced dispersion and non-lake induced dispersion conditions must be modeled to determine the emission limitations for these plants. The study plan announced in this notice will provide the site specific data needed to develop an adequate model. Since this data will be available in the near future, the Agency believes it is appropriate in the interim to retain the "status quo" emission levels for both CEI generating stations. However, because the Agency currently lacks an adequate data base and reference modeling method, it cannot insure that the current emission levels will attain and maintain the NAAQS.

Based on public comment reviews thus far the Agency would like to correct and clarify the following specific statements in the June 12, 1979 Federal Register. First on page 33711, in the middle of the second paragraph, the sentence reads "the rural RAM model does not account for lake breeze and fumigation effects on emissions; both effects usually result in greater ground-level concentrations, particularly at locations near the emission source." This sentence should be reworded to read as follows: "The rural RAM model does not account for lake induced fumigation effects on emissions; these conditions can produce elevated ground level concentrations generally expected within 15 kilometers from the emission source. It should also be noted that the duration of these conditions would most severely affect 3-hour "Peak" concentrations." Finally, in the first paragraph on page 33712, the last sentence should be deleted. The effects on ground level lake induced concentrations due to the new good engineering practice stacks at the CEI plants are presently unknown.

A statement of the objectives and goals of the proposed monitoring study, a brief description of the monitoring study design and the data collection reporting requirements follow.

### A. Study Objectives and Goals

The objectives of the monitoring program are to: (1) Assess the attainment status in the vicinity of the CEI plants, (2) assess the expected location of maximum ground level

concentrations due to emissions from the CEI plants, (3) evaluate the influence of Lake Erie on these concentrations and (4) collect the data necessary to develop control strategies adequate to assure the protection of the National Ambient Air Quality Standards (NAAQS). The data analysis may also aid in the refinement and/or development of a site-specific model for these lake shore plants.

**B. Monitoring Study Design**

The monitoring networks are a composite of three types of measurements: air quality, meteorology, and emissions.

*1. Ambient Air Quality Measurements*

The selection of the air quality monitoring sites is based upon: (1) The examination of wind stability frequency data (wind speed and direction) measured at the Perry Nuclear power plant tower for the period May 1972 to August 1978 (the tower is located approximately 30 km northeast of the Eastlake plant and approximately 80 km northeast of Avon Lake), (2) data from the Cleveland airport as well as (3) wind stability persistence data from the CEI meteorological towers at Avon Lake and Eastlake, (4) the calculation of distances from each plant where maximum impact would be expected due to lake induced fumigation, and (5) the calculation of distances from each plant (with the EPA MPTER model) where maximum impact would be expected over flat terrain (non lake induced fumigation conditions). For both plants wind persistence analysis indicated that northerly and westerly quadrant winds were of greatest persistence during periods of suspected lake induced fumigation and non-lake induced "worst case" meteorological conditions. Based upon study objectives and the above evaluation, a total of 10 air quality monitoring sites, 5 along each of the two prefered radials at each plant were suggested for the best coverage. Alternative radials were suggested as acceptable if site locations are prohibited by land acquisition and instrument exposure problems. The selection and operation of monitors must meet all USEPA reference and quality assurance requirements.

*2. Meteorological Measurements*

It was determined that the meteorological network should include measurement of critical parameters at fixed and mobile sites. The parameters to be measured at the fixed sites include: (1) Wind direction and speed at the 10, 60, and 100 meter levels, (2) temperature at the 2, 10, 60 and 100 meter levels, (3) horizontal and vertical wind direction fluctuations at the 60 and 100 meter levels, (4) solar radiation and net heat flux, (5) lake surface temperature and (6) the height of the Thermal Induced Boundary Layer (TIBL) as a function of distance using two monostatic and one bistatic acoustic sounders. Mobile site instrumentation is necessary to locate and track the maximum impacts of the CEI plumes as a function of time and distance.

*3. Source Measurements*

Sulfur dioxide emissions and stack operating parameters are required to be monitored continuously from each CEI stack. Requirements for such monitoring are contained in 40 CFR Part 60, continuous monitoring performance specifications.

A full and detailed description of the network designs including a description of the required instrumentation is contained in the Technical Support Document entitled "Recommended measurements and monitoring sites for meteorological and air quality monitoring networks proposed for the Avon Lake and Eastlake power plants." This document along with maps of the proposed sites are available for inspection at the addresses previously indicated in this notice.

*C. Reporting Requirements*

The duration of the study shall be for a period of at least one year at each plant. All units to be served by the new 152.4 meter stack at Avon Lake are now operational. All units at Eastlake planned to be served by the new 164.6 meter stack will be fully operational by January 1981. Since a critical part of the study is to obtain data during episodes of lake induced fumigation, measurements are essential during spring and summer seasons. Therefore the following data collection schedule is required: all monitors shall be in-field calibrated and operational by May 1980, and collecting data through August 1981.

The data collected shall be summarized and reported as hourly averages of stack operating parameters for each stack, sulfur dioxide concentrations, sulfur dioxide emissions and meteorological parameters. This data shall be applied for each hour of each month on a separate table for each parameter (one site parameter per table).

The highest and second highest 1-hour, 3-hour and 24-hour running and block average $SO_2$ concentrations shall also summarized for each month for each $SO_2$ monitoring site. The continuous emission monitoring data summaries shall contain hourly: $SO_2$ emission rates, flue gas exit velocities, flue gas temperature, and the operating levels of the units combined to each stack. Three copies of the summarized data shall be submitted within 30 days subsequent to the end of each quarter to the Chief of the Regulatory Analysis Section, Air Programs Branch, USEPA, Region V.

Dated: February 15, 1980.

John McGuire,

*Regional Administrator.*

[FR Doc. 80-5541 Filed 2-21-80; 8:45 am]

BILLING CODE 6560-01-M

## DEPARTMENT OF LABOR

### Office of Federal Contract Compliance Programs

### 41 CFR Parts 60-1, 60-2, 60-20, 60-30, 60-50, 60-60, 60-250, and 60-741

### Government Contractors; Affirmative Action Requirements Amendment of Proposed Rule and Extension of Public Comment Period

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

**ACTION:** Proposed rule.

**SUMMARY:** On December 28, 1979, a proposed rule was published for comment in the Federal Register (44 FR 77006) which, among other things, would codify existing OFCCP policy regarding Federal deposit or share insurance as a basis for coverage under Executive Order 11246, as amended, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and Section 503 of the Rehabilitation Act of 1973, as amended. The Department of Labor today provides a clarifying amendment to the proposed rule and extends the public comment period.

**DATES:** In order to provide adequate opportunity for public input, comments on the proposed rule published on December 28, 1979 (44 FR 77006), and on the amendment published today will be received until March 24, 1980.

**ADDRESSES:** Comments should be sent to Edward E. Mitchell, Director, Division of Program Policy, Room C-3324, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Edward E. Mitchell, Director, Division of Program Policy, Room C-3324, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-9426.

**SUPPLEMENTARY INFORMATION:** On December 28, 1979, a proposed rule was published for comment in the Federal Register which, *inter alia*, would codify

existing OFCCP policy regarding Federal deposit or share insurance as a basis for coverage under the contract compliance program. Several commentators have reacted to the proposal by asserting that coverage of Federal deposit or share insurance is a new OFCCP policy and/or that cancellation of or debarment of financial institutions from Federal deposit or share insurance could have disastrous effects on individual depositors and the stability of the banking industry.

Although contract coverage based on Federal deposit or share insurance is not new, the department of Labor wishes to clarify the effect of that coverage in situations where noncompliance is alleged.

The proposed rule published today clarifies that the Department of Labor will not debar financial institutions (e.g., banks, savings and loan associations, and credit unions) from future Federal deposit or share insurance or cancel, terminate or suspend existing Federal deposit or share insurance. In the event that a financial institution which has Federal deposit or share insurance is alleged to be in violation of its contractual commitments under the Executive Order, section 402 or section 503, the Department of Labor will pursue one of the following enforcement options with respect to the deposit or share insurance relationship:

(1) Refer the matter to the Department of Justice for injunctive relief. Under this alternative, the deposit or share insurance relationship will not be affected by a finding of violation.

(2) Refer the matter to the appropriate Federal financial regulatory agency (i.e., Federal Home Loan Bank Board (for Federally insured savings and loan associations), Federal Deposit Insurance Corporation (for Federally insured banks), and National Credit Union Administration (for Federally insured credit unions)) for action under that agency's procedures. Such referral may take place either before or after an administrative hearing within the department of Labor. Under this alternative, the deposit or share insurance relationship will not be affected except as specifically permitted by the procedures of the appropriate financial regulatory agency.

However, the procedures stated above would apply only with respect to the deposit or share insurance relationship. Other contractual arrangements, such as those resulting from direct deposits made by the Federal Government, and the authority to issue and redeem United States saving bonds and savings notes, may be subject to termination and debarment actions.

Accordingly, it is proposed to add a new paragraph (g) to proposed § 60–1.29 of Part 60–1, Title 41, Code of Federal Reguations, as set forth below.

Dated: February 14, 1980.

Ray Marshall,
*Secretary of Labor.*
John N. Gentry,
*Under Secretary of Labor.*
Donald Elisburg,
*Assistant Secretary, Employment Standards.*
Weldon J. Rougeau,
*Director, Office of Federal Contract Compliance Programs.*

## PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

### § 60–1.29 Enforcement proceedings.

* * * * *

(g) As a matter of enforcement policy, the Department of Labor will not debar financial institutions (e.g., banks, savings and loan associations and credit unions) from future Federal deposit or share insurance, or cancel, terminate or suspend, existing Federal deposit or share insurance. In the event that a financial institution which has Federal deposit or share insurance is alleged to be in violation of its contractual commitments under the Executive Order, section 402 or section 503, the Department of Labor will pursue one of the following enforcement options with respect to the deposit or share insurance relationship:

(1) Refer the matter to the Department of Justice for injunctive relief; or,

(2) Refer the matter to the appropriate Federal financial institutions regulatory agency for action under that agency's procedures. Such referral may take place either before or after an administrative hearing within the Department of Labor. Whenever the Department of Labor refers a violation by a financial institution which subscribes to Federal deposit or share insurance, the appropriate regulatory agency, after consultation with the Department of Labor, may take such action, in its sole discretion, as that agency deems appropriate. These agencies are: (i) Federal Home Loan Bank Board (Federally insured savings and loan associations); (ii) Federal Deposit Insurance Corporation (Federally insured banks); and (iii) National Credit Union Administration (Federally insured credit unions).

(E.O. 11246 (30 FR 12319) as amended by E.O. 11375 and 12086; sec. 503, Pub. L. 93–1112, 87 Stat. 393 (20 U.S.C. 793), as amended by sec. 111, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706) and Executive Order 11758; sec. 503(a), Pub. L. 92–540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by Sec. 402, Pub. L. 93–508, 88 Stat. 1593 (38 U.S.C. 2012).)

[FR Doc. 80-5670 Filed 2-21-80; 8:45 am]
BILLING CODE 4510-27-M

# Notices

Federal Register
Vol. 45, No. 37
Friday, February 22, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 1980 Extra Long Staple Cotton Program; Proposed Determinations Regarding an Increase in the National Marketing Quota and National Acreage Allotment

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of Investigation.

**SUMMARY:** On October 15, 1979, the Department announced a national marketing quota of 137,000 bales and a national acreage allotment of 112,027 acres for the 1980-crop of extra long staple cotton (hereafter referred to as ELS cotton). The Secretary of Agriculture is conducting an investigation pursuant to section 371 (b) of the Agriculture Adjustment Act of 1938, as amended (hereafter referred to as the "Act"), to determine whether, because of a material increase in export demand for ELS cotton, the national marketing quota and national acreage allotment for the 1980-crop should be increased. Comments received as to whether the national marketing quota and national acreage allotment for the 1980-crop of ELS cotton should be increased and, if so, by how much, will be considered in the course of this investigation.

**DATES:** Comments must be received on or before March 3, 1980.

**ADDRESS:** Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Charles V. Cunningham (ASCS) (202)–447–7873.

**SUPPLEMENTARY INFORMATION:** On October 15, 1979, the Department announced that the national marketing quota for the 1980 crop of ELS cotton would be 137,000 bales and that the national acreage allotment would be 112,027 acres (44 FR 60255, October 19, 1979). In the producer referendum concluded on December 7, 1979, ELS cotton producers approved these quota and allotment levels by a vote of 832 in favor and 114 opposed (45 FR 2310, January 11, 1980). Section 371(b) of the Act states that if the Secretary has reason to believe that, because of a material increase in export demand, the national marketing quota or acreage allotment should be increased, he shall cause an investigation to be made. The Secretary has determined that such an investigation should be made to establish whether an increase is needed and, if so, the amount of the increase.

This determination was based on the recent strength of the export demand for ELS cotton. A trend toward higher export sales is evident, beginning with the 1977 crop. For the 1979 and 1980 crops, exports are likely to be more than three times the level of the years prior to 1977. It is the policy of the Department to ensure that the marketing quota and acreage allotment should not limit supplies and place a constraint upon exports of ELS cotton. There is reason to believe that, based on a potential short supply situation, without an increase in the 1980-crop marketing quota and acreage allotment, a constraint would develop which would limit 1980 exports.

The carryover of ELS cotton on August 1, 1980, is now projected at 41,000 bales—a level below that generally considered desirable. (Given the higher volume of exports in recent years, the desirable carryover stock is 50,000 to 60,000 bales).

If the yield per acre is about average for 1980, and the national allotment is not increased from the 112,027 acres announced on October 15, the carryover stock on August 1, 1981, is projected at 39,000 bales. Some constraint on both domestic mill consumption and export potential is possible if supplies tighten to the extent implied by this stock level.

If the yield per acre is below average in 1980, supplies are likely to be short, and export sales cannot be sustained at current levels without an increase in the acreage allotment.

Section 371(b) provides that, if the Secretary determines that an increase in the national marketing quota and acreage allotment is needed to meet the increase in export demand, he shall immediately proclaim such finding together with the amount of such increase determined necessary. If the national quota and allotment are increased, each farm quota and allotment will be increased in the same ration.

In the conduct of this investigation, consideration will be given to any data, views, and recommendations that may be received relative to the above items.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.). This proposal is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum 1955, without a full 60-day comment period. I have determined that an emergency situation exists which warrants less than a full 60-day comment period on these proposals because ELS cotton producers need to know their farm allotments for the 1980 crop as soon as possible so they may complete their preparation for planting. The full 60-day period would delay the announcement of the final determination such that producers would not receive the information timely.

Accordingly, the comment period is shortened, and public comments must be received by March 3, 1980 in order to be assured of consideration.

### Notice of Investigation

Pursuant to section 371(b) of the Agricultural Adjustment Act of 1938, the Secretary is conducting an investigation to determine whether, because of a material increase in export demand, an increase is necessary in the national marketing quota (137,000 bales) or the national acreage allotment (112,027 acres) for the 1980 crop of ELS cotton (44 FR 60255). If on the basis of such investigation it is found that such an increase is needed, the quota and allotment for the 1980 crop of ELS cotton will be increased accordingly. In the conduct of this investigation, consideration will be given to any data, views, or recommendations that may be received with regard to the subject of this investigation as mentioned above. Comments will be made available for public inspection at the office of the Director, Production Adjustment Division, during regular business hours (8:15 a.m. to 4:45 p.m.).

This notice has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under these criteria. A Draft Impact Analysis Statement has been prepared and is available from Charles V. Cunningham (ASCS), 202–447–7873.

Signed at Washington, D.C. on February 15, 1980.

Ray Fitzgerald,

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 80-5387 Filed 2-15-80; 4:49 pm]

BILLING CODE 3410-05-M

## Federal Crop Insurance Corporation

### Compilation of Data; Invitation for Public Comment—Various Crops

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Termination of prenotice.

**SUMMARY:** This notice terminates the Federal Crop Insurance Corporation's request for public comment on the compilation of data for study relative to insuring various crops.

**EFFECTIVE DATE:** February 22, 1980.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

**TERMINATION:** On Monday, September 17, 1979, the Federal Crop Insurance Corporation (FCIC) published a notice in the Federal Register (44 FR 53764) to advise the general public that it was contemplating formulation of procedures for insuring various crops not now covered by any of its insurance programs. The request was made in response to many requests for insurance received from growers, grower associations, and processors. FCIC felt that such individuals would be able to provide important data for its research. Many responses were received, and in each case the respondents indicated their support for and need of crop insurance programs on such commodities as popcorn, all varieties of vegetables, safflowers, mustard, and faba beans. In several cases, the individual grower associations and producers were contacted to provide for production data toward the research. The response to FCIC's request is gratifying and the Corporation extends its thanks to those who responded. This notice terminates the request for specific data on such commodities as popcorn, almonds, vegetables, and blueberries as contained in the September 17, 1979, notice (44 FR 53764); however, the Corporation will be happy to receive any other comments or data on any crop that may be provided by growers or grower associations. Such comments as may be received will be presented for the consideration of the Board of Directors of the Corporation. Such comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

Done in Washington, D.C., on February 15, 1980.

Peter F. Cole,

*Secretary, Federal Crop Insurance Corporation.*

[FR Doc. 80-5525 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-08-M

## Forest Service

### Kisatchie National Forest, Pineville, La.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Kisatchie National Forest Land Management Plan. The Kisatchie National Forest is located in Claiborne, Webster, Winn, Natchitoches, Grant, Vernon and Rapides Parishes in the State of Louisiana.

Public Law 94–588 (National Forest Management Act of 1976) directs the Secretary of Agriculture to develop land management plans for units of the National Forest System in accordance with regulations promulgated under the act.

The land management plan will provide for multiple use and sustained yield of goods and services from the Kisatchie National Forest, will guide all natural resource management activities, and will establish management standards and guidelines for the Forest. A reasonable range of alternatives will be developed and considered. One of these alternatives will be a "no-action" alternative which represents continuation of present management direction. Other alternatives will reflect a range of resource outputs and expenditure levels.

Public participation will be an integral part of the planning process. The method, times, dates and locations of public participation activities will be announced by notices in area newspapers, news releases to news media and newsletters or brochures mailed to other agencies, organizations and to individuals known to have an interest in management of the Kisatchie National Forest.

The draft environmental impact statement is scheduled for completion by August 1982, with a 3-month review period, and the final environmental impact statement is scheduled for filing in June 1983.

Lawrence M. Whitfield, Regional Forester is the responsible official for approval of the environmental impact statement. Written comments and suggestions concerning this Notice of Intent or the proposal should be sent to David L. Hessel, Forest Supervisor, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, La. 71360. To be of assistance they should be received by April 30, 1980.

For further information about the planning project, or the availability of the environmental impact statement, or other documents relevant to the planning process, contact: Gerald Barnett, Forest Plan—Team Leader, Kisatchie National Forest. (Phone: 318–473–7109.)

Dated: February 13, 1980.

James E. Webb,

*Deputy Regional Forester for Administration, Region 8.*

[FR Doc. 80-5487 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-11-M

### Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00 a.m., March 20, 1980, in the Conference Room of the Supervisor's Office at 441 North Main Street, Alturas, California.

The purpose of this meeting is to discuss the expenditure of FY 81 range betterment funds. We also plan to review the allotment management plans prepared in FY 80.

The meeting will be open to the public. Persons who wish to attend or who would like further information should notify William E. Britton, Modoc Supervisor's Office, telephone 916–233–3521. Written statements may be filed with the board before or after the meeting.

G. Lynn Sprague,

*Forest Supervisor.*

February 12, 1980.

[FR Doc. 80-5488 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-11-M

### Willamette National Forest; Control of Undesirable Species for the Purpose of Plantation Release and Site Preparation; Finding of No Significant Impact

An Environmental Assessment that discusses proposed control of undesirable vegetation for the purpose of site preparation and plantation release on not more than 3,455 acres on the Willamette National Forest, Lane and Douglas Counties, in Oregon is available for public review in the Forest Service Office in Eugene, Oregon.

The preferred alternative includes the aerial application of 4,600 pounds of Krenite to 582 acres, 3,400 pounds of Glyphosate to 808 acres, 86 pounds of Atrazine to 27 acres, and 600 pounds of Atrazine and Roundup to 100 acres.

Ground applications will consist of applying 378 pounds of 2,4-D to 126 acres, 246 pounds of Glyphosate to 82 acres, 1,000 pounds of Tordon 101 to 403 acreas, 214 pounds of Tordon 10-K to 141 acres, and 350 pounds of Krenite to 88 acres.

I have determined through the environmental analysis that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in the Environmental Assessment: (a) all chemicals are approved by EPA for the proposed use; (b) application will comply with applicable EPA labels, State and Federal law and Forest Service policies; (c) the use of 2,4-D, Atrazine, Krenite, Tordon 101 (mixture of Picloram and 2,4-D) and Tordon 10K for site preparation and plantation release was discussed extensively in the Final Environmental Statement, Vegetation Management with Herbicides—USDA—FS–R6–FES (Adm) 75–13 (Revised); (d) Glyphosate (non-phenoxy herbicides) is discussed in the Environmental Assessment and available literature indicates it is safe and effective when used according to label directions and precautions; (e) no irreversible or irretrievable commitments of resources; (f) physical and biological effects limited to the area of the projects; (g) no known threatened or endangered plants or animals are within the effected area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes mitigation measures designed to protect the water quality. State and Federal standards will be met.

Project implementation will take place no sooner than 30 days after this finding is published in the Federal Register.

Dated: February 8, 1980.

Gerald M. Patchen,

*Acting Forest Supervisor.*

[FR Doc. 80-5488 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-11-M

## Rural Electrification Administration

### Soyland Power Coop., Inc., Decatur, Ill.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $55,767,000 to Soyland Power Cooperative, Inc., (Soyland) of Decatur, Illinois. This loan guarantee will provide supplemental funds needed to complete Soyland's 10.5 percent share of Clinton Nuclear Unit No. 1.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Royal B. Newman, Manager, Soyland Power Cooperative, Inc., P. O. Box A, 1606, Decatur, Illinois 62525.

In order to be considered, proposals must be submitted March 24, 1980 to Mr. Newman.

The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Soyland Power Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U. S. Department of Agriculture, Washington, D. C. 20250.

Dated as Washington, D. C., this 13 day of February, 1980.

Robert W. Feragen,

*Administrator, Rural Electrification Administration.*

[FR Doc. 80-5304 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-15-M

## Soil Conservation Service

### Big Nance Creek Watershed, Alabama

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:** Mr. William B. Lingle, State Conservationist, Soil Conservation Service, 136 South Gay Street, Auburn, Alabama 36830, telephone number (205) 821–8070.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for flood prevention works in the Big Nance Creek Watershed, Lawrence County, Alabama.

The environmental evaluation of this federally-assisted action indicates that the proposed measures will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The Big Nance Creek Watershed project was approved for operations by Congress on October 1963. Subsequent to this approval, and in response to the National Environmental Policy Act and specific agency guidelines and regulations, the project was reevaluated and modified to comply with current environmental policies. A multi-agency team of biologists evaluated the modified project and determined that adverse impacts could be avoided by eliminating all channel work and modifying the design of the floodwater retarding structures.

The basic data developed during the environmental evaluation and environmental assessment are on file and may be reviewed by interested parties by contacting Mr. William B. Lingle, State Conservationist, Soil Conservation Service, 136 South Gay Street, Auburn, Alabama 36830, telephone number (205) 821–8070. An

environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: February 8, 1980.

Joseph W. Haas,

*Assistant Administrator for Water Resources, Soil Conservation Service.*

[FR Doc. 80-5490 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-16-M

## Tallahalla Creek Watershed, Mississippi

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chester F. Bellard, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone number 601–969–4335.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Tallahalla Watershed, Hinds County, Mississippi.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this section.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of five floodwater retarding structures and 19.6 miles of channel improvement.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone number 601–969–4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: February 8, 1980.

Joseph W. Haas,

*Assistant Administrator for Water Resources, Soil Conservation Service.*

[FR Doc. 80-5491 Filed 2-21-80; 8:45 am]

BILLING CODE 3410-16-M

# CIVIL AERONAUTICS BOARD

**[Docket No. 3718; Order 80–2–85]**

## Application of Continental Air Lines, Inc., To Delete Seattle–Anchorage Nonstop Authority

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order 80–2–85, *Application of Continental Air Lines, Inc. to delete Seattle-Anchorage Nonstop Authority,* Docket 37182

**SUMMARY:** The Board is proposing to delete the nonstop air route authority held by Continental Air Lines between Anchorage, Alaska, and Seattle, Washington.

The complete text of this order is available as noted below.

**DATES:** All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by March 20, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

**ADDRESSES:** Objections to the issuance of a final order should be filed in Docket 37182 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Continental Air Lines; Continental Air Lines' Master Executive Council (ALPA); the mayors and airport managers of Anchorage and Seattle; Alaska Transportation Commission; and Washington State Aeronautics Commission.

**FOR FURTHER INFORMATION CONTACT:** Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., NW., Washington, D.C. 20428, (202) 673–5198.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 80–2–85 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–2–85 to that address.

By the Civil Aeronautics Board, February 15, 1980.

Phyllis T. Kaylor,

*Secretary.*

[FR Doc. 80-5555 Filed 2-21-80; 8:45 am]

BILLING CODE 6320-01-M

**[Dockets Nos. 33363, 33890, and 36891]**

## Former Large Irregular Air Service Investigation, Phase III, Applications of Great American Airways, Inc.; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 21, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., February 15, 1980.

Frank M. Whiting,

*Administrative Law Judge.*

[FR Doc. 80-5553 Filed 2-21-80; 8:45 am]

BILLING CODE 6320-01-M

**[Dockets Nos. 33363, 36890, and 36891]**

## Former Large Irregular Air Service Investigation, Phase III, and Applications of Great American Airways, Inc.; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Great American Airways, Inc., Dockets 36890 and 36891, has been reassigned to Administrative Law Judge Frank M. Whiting.

Dated at Washington, D.C., February 15, 1980.

Joseph J. Saunders,

*Chief Administrative Law Judge.*

[FR Doc. 80-5554 Filed 2-21-80; 8:45 am]

BILLING CODE 6320-01-M

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### Census Advisory Committee (CAC) on the Asian and Pacific Americans Population for the 1980 Census, CAC on the Black Population for the 1980 Census, CAC on the Spanish Origin Population for the 1980 Census; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the CAC on the Asian and Pacific Americans Population for the 1980 Census, CAC on the Black Population for the 1980 Census, CAC on the Spanish Origin Population for the 1980 Census will convene on March 13, 1980, at 9:30 a.m. The Committee will meet in the Department of Commerce Auditorium, Main Commerce Building at 14th Street and Constitution Avenue, NW., Washington, D.C.

The CAC on the Asian and Pacific Americans Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in 1976 to advise the Director, Bureau of the Census, during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, developing definitions and terminology for improved identification and classification of the Asian and Pacific Americans population, suggesting areas of research, recommending subject content and tabulations of particular use to the Asian and Pacific Americans population, and expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community.

The Census Advisory Committee on the Black Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in October 1974 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, recommending subject content and tabulations of special use to the black population, and expanding the dissemination of census results among present and potential users of census data in the black population.

The CAC on the Spanish Origin Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in February 1975 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, developing definitions for classification of the Spanish origin population, recommending subject content and tabulations of especial use to the Spanish origin population, and expanding the dissemination of census results among present and potential users of census data in the Spanish origin population.

The agenda for the meeting, which is scheduled to adjourn at 5:00 p.m., is: (1) Introductory remarks by the Director, Bureau of the Census, (2) 1980 Census Promotional Program, (3) issues relating to the adjustment of the census undercount, (4) review of 1980 census activities, and (5) committee discussion.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing at least 3 days prior to the meeting.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Clifton S. Jordan, Deputy Chief, Decennial Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Maryland. Mailing address: Washington, D.C. 20233, Telephone (301) 763–5169.

*Dated: February 19, 1980.*

**Vincent P. Barabba,**

*Director, Bureau of the Census.*

[FR Doc. 80-5568 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-07-M

## International Trade Administration

**[Transmittal No. 270; Order No. 41-1; D.O.O. Reference 10-3, 40-1]**

### International Trade Administration; Organization and Function Order

Effective date: January 30, 1980.

#### Part I. Purpose, Scope, and Principal Organization

*Section 1. Purpose*

.01 This order prescribes the internal organization and assignment of functions within the International Trade Administration (ITA). Department Organization Order 40–1 prescribes the principal organization structure of ITA.

.02 This order also delegates authorities from the Under Secretary for International Trade to the Deputy Under Secretary for International Trade and to the Assistant Secretaries for Trade Development, Trade Administration and International Economic Policy. Department Organization Order 10–3 prescribes the scope of authority of the Under Secretary.

*Section 2. Organization and Line of Authority*

.01 The internal organization structure and line of authority of ITA shall be as depicted in the attached organization chart (Exhibit 1).[1]

.02 The Under Secretary for International Trade.

a. The Under Secretary for International Trade (the "Under Secretary") is the head of ITA and determines policy, directs the programs, and is responsible for all activities of ITA. The Under Secretary shall coordinate all issues and programs concerning trade administration, international economic policy and trade development; and, in the absence of the Secretary of Commerce, represent the Department on the Trade Policy Committee, as ex-officio member of the Board of the Export-Import Bank of the United States and, as assigned, serve on all other Secretarial-level boards, committees or panels of which the primary focus is international trade.

b. The Under Secretary will be assisted by the following officials in carrying out his responsibilities: The Deputy Under Secretary for International Trade, The Assistant Secretary for International Economic Policy, The Assistant Secretary for Trade Administration, The Assistant Secretary for Trade Development, The Director General of the Foreign Commercial Service.

#### Part II. Deputy Under Secretary for International Trade

*Section 1. Delegation of Authority*

.01 Pursuant to the authority delegated to the Under Secretary for International Trade by the Secretary of Commerce, and subject to such policies and directives as the Under Secretary may prescribe, the Deputy Under Secretary for International Trade is hereby delegated the authority of the Under Secretary under:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.* 15 U.S.C. 171 *et seq.*) to foster, promote and develop the foreign and domestic commerce of the United States, and related provisions;

b. Effective April 1, 1980, the trade promotion and commercial functions transferred to the Secretary from the Department of State or the Secretary of State by section 5(b)(1) of Reorganization Plan No. 3 of 1979, and Executive Order 12188 of January 2, 1980; and

c. The authorities of the Secretary of State under the Foreign Service Act of

[1] Filed as part of the original document.

1946 (22 U.S.C. 801 *et seq.*) and under such other laws the exercise of which are authorized to the Secretary and under Section 5(b)(2) of Reorganization Plan No. 3 of 1979 and by section 1–104 of Executive Order 12188 of January 2, 1980.

.02 Subject to such policies, directives, and delegations of authority as may be issued by the Secretary of Commerce, and the Under Secretary, and in accordance with applicable Department Organization Orders and Department Administrative Orders, the Deputy Under Secretary for International Trade is hereby delegated the authorities of the Under Secretary for International Trade as necessary to provide for all administrative management and public affairs activities and direct such activities for all organizational elements in the International Trade Administration.

.03 Except as otherwise provided, the Deputy Under Secretary may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

*Section 2. Organization and Functions*

The *Deputy Under Secretary for International Trade* ("the Deputy Under Secretary") shall serve as the principal deputy to the Under Secretary, perform such duties as the Under Secretary shall assign and perform the functions of the Under Secretary in the latter's absence. The Deputy Under Secretary shall provide advice and assistance to the Under Secretary and congressional liaison for ITA in coordination with the Assistant Secretary for Congressional Affairs. The Deputy Under Secretary shall be responsible for day-to-day management of ITA. The office of the Deputy Under Secretary includes:

.01 The *Foreign Commercial Service* which is headed by a *Director General* who reports to the Deputy Under Secretary and is responsible for administrative management of the Foreign Commercial Service, including development and implementation of policies determining the recruitment, appointment, assignment, evaluation and career development of officers in the Foreign Commercial Service. The Director General administers the overseas network in ITA for resolving any Foreign Commercial Service post resource conflicts ITA program activities may impose. The Director General also serves as the ITA representative to other U.S. agencies for administrative and management issues affecting the Foreign Commercial Service. Foreign Commercial Service responsibilities include the following:

a. Support of overseas trade promotion activities, including Export Development Offices, trade fairs, business development offices, trade missions and related activities and counseling and support to individual U.S. firms seeking export sales or assistance for procurement contracts;

b. Development of marketing and commercial intelligence for dissemination to the U.S. business community through the Worldwide Information and Trade System (WITS) related activities overseas; commercial reporting including industry reports and market research for all ITA units; and management of commercial libraries;

c. Support for ITA import and export administration activities; monitoring of U.S. rights and opportunities created by multilateral trade agreements and implementation of related export services and programs; facilitation of U.S. investment and assistance for U.S. service industries marketing initiatives;

d. Representation to host country governments on behalf of U.S. business to resolve individual business problems and to further U.S. business interests; direct representations and conduct or assist in negotiations on general trade and investment issues including those relating to implementation of the MTN; assistance to U.S. business representatives to resolve trade complaints; and provide overseas support for Joint Commission and other trade facilitation groups.

.02 The *Director of Administration* who shall be the principal advisor to the Under Secretary and the Deputy Under Secretary on management policy for the International Trade Administration. The Director of Administration shall direct the ITA Equal Employment Opportunity Program and shall direct the following Offices:

a. The *Office of Personnel* shall develop and administer ITA personnel management programs including recruitment, placement, employee development, classification, labor-management relations, equal employment opportunity, and employee relations and provide liaison with the Departmental Office of Personnel;

b. The *Office of Mangement and Systems* shall provide management, organization and systems analysis, including management studies and surveys and organizational planning studies; coordinate ADP systems development, perform the committee management, directives management, records management, forms management, files management, correspondence management and reports management functions for ITA; coordinate GAO and Departmental audits; coordinate activity under the Freedom of Information Act and the Privacy Act of 1974; maintain boycott reports for public inspection; and provide liaison with the Departmental Office of Organization and management Systems and the Office of Procurement and ADP Management;

c. The *Office of Administrative Support* shall provide administrative and support services for ITA including physical and document security and related matters, travel, safety, correspondence control, and space management; and provide procurement liaison consistent with any administrative agreements between the Under Secretary for International Trade and the Assistant Secretary for Administration;

d. The *Office of Budget* shall formulate, present, execute and assess program effectiveness of the ITA budget; effect financial and budgetary controls; prepare budget reports; and provide liaison with the Departmental Office of Budget and Program Evaluation;

e. The *Office of Public Affairs* shall advise on all public affairs and information service matters; provide ITA centralized information services, conduct and be responsible for all publications programs, consonant with the provisions of Department Organization Order 20–9, "Office of Publications;" provide speech writing and scheduling services; coordinate all audiovisual, exhibit, and advertising activities; maintain liaison with the Departmental Office of Publications, the Departmental Office of Public Affairs and the news and trade media consonant with the provisions of Department Organization Order 15–3, "Office of Public Affairs;" and publish *Business America* magazine.

**Part III. Assistant Secretary for International Economic Policy**

*Section 1. Delegation of Authority.*

.01 Pursuant to the authority delegated to the Under Secretary by the Secretary of Commerce, and subject to such policies and directives as the Under Secretary may prescribe, the Assistant Secretary for International Economic Policy is hereby delegated the authority of the Under Secretary of Trade under:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.;* 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, and related provisions;

b. Executive Order 11651 of March 3, 1972, as amended, by Executive Order

11951 of January 6, 1977, regarding Textile Trade Agreements;

c. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and Section 135 of the Trade Act of 1974 as amended by Section 1103 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and Section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

d. Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States;

e. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

f. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements;

g. Executive Order 11961 of January 19, 1977, as amended by E.O. 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a)(1), (2), (3), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35-1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary; and

h. Section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1515(b) and Section 5(a)(1)(A) of Reorganization Plan No. 3 of 1979, with respect to advisory rulings and final determinations concerning the origin of products.

.02 Except as otherwise provided the Assistant Secretary may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

*Section 2. Organization and Functions.*

The *Assistant Secretary for International Economic Policy* ("the Assistant Secretary") shall advise on the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance, investment and services and those of a bilateral, multilateral or regional nature (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade).

The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for International Economic Policy* who shall serve as the principal deputy to the Assistant Secretary and shall assume the duties of the Assistant Secretary during the latter's absence.

.02 *The Deputy Assistant Secretary for Finance, Investment and Services* who shall advise on inward and outward investment, and international operations of U.S. service industries, international finance and monetary policies and multinational corporation, tax and other issues incident to foreign business operation and shall direct the following offices:

a. The *Office of International finance, Investment and Services* shall develop and implement policies relating to international investment, finance and monetary affairs, U.S. and foreign taxation of international business operations, the economic impact of international technology transfer, international business practice, international trade aspects of antitrust, standardization, patent and copyright protection, and related matters arising from the international and commercial investment operations of U.S. firms; analyze and act on problems affecting the international competitive problems and position of U.S. service industries; provide surveys of U.S service industries' international operations, disclosing extent of operations and trade and balance of payments impact; and report on the status and economic impact of U.S. investment abroad in accordance with the International Investment Survey Act of 1976.

b. *The Office of Foreign Investment in the United States* shall develop and analyze information on foreign investment in the United States; conduct research and prepare reports on the trends, characteristics and economic significance of foreign investment; formulate recommendations and procedures to develop and improve data sources; inform the congress, the business community, foreign governments, and the public of foreign investment development, including magnitude, trends, characteristics, policy and legal factors, and economic effects through communications, publications, and presentations in meetings, seminars, and conferences; and initiate and participate in the development of positions, policies and programs, and legislative proposals bearing on monitoring, reporting, review, restraints, and facilitation of foreign investment in the United States.

.03 The *Deputy Assistant Secretary for Trade Agreements* shall direct the development of the Department's position on international trade and commodity policy. The immediate Office of the Deputy Assistant Secretary shall coordinate private sector participation in the trade policy development process; provide information and advice to the private sector concerning rights and opportunities created by U.S. trade agreements; coordinate Section 301 cases, for pursuing U.S. rights against unfair trade practices; administer the private sector advisory process, including the industry consultations program and the Subcommittee on GATT and Multilateral Trade Agreements of the President's Export Council.

The Deputy Assistant Secretary shall direct the following offices:

a. The *Office of Trade Policy* shall develop and implement the Department's position on international trade policy, including trade legislation and International Trade Commission findings, trade negotiations, trade agreement rights and obligations, Multilateral Trade Negotiation implementation activities and the participation of the Department in trade related activities of such multilateral organizations as the General Agreement on Tariffs and Trade, the Organization for Economic Cooperation and Development, and the United Nations Conference on Trade and Developement.

b. The *Office of Commodity Policy* shall develop and implement the Department's position regarding international commodity problems and issues affecting all non-fuel resources, including adequacy of long-term supplies of raw materials and other primary products on which the United States is dependent for imports and U.S. access to foreign sources of such commodities; participate in the implementation of U.S. policies in these areas through international commodity agreements, international commodity councils administering international agreements and meetings of other international organizations dealing with resource and commodity issues; analyze and develop Department positions on broad cross-commodity issues and make recommendations on commodity policy implications of U.S. actions and programs.

.04 The *Deputy Assistant Secretary for Policy Planning and analysis* shall advise on export policy, the development of long-term trade policy strategies and plans, policies relating to international sectoral problems and

international adjustment issues and shall direct the following offices:

a. The *Office of Planning and Research* shall conduct quantitative research and analyses of trade and international economic issues; forecast and analyze U.S. international trade; identify longer-term trade problems; develop alternative trade policy strategies and plans based on research and analysis of U.S. and global economic developments and on simulations using econometric and other models; provide Departmental officials with economic background and policy recommendations; provide a program of international trade statistics; represent the Department on interagency committees concerned with international economic research, analysis, or forecasting; serve as liaison with Government and private research groups; and plan, develop, and implement a system of international economic statistics for advanced warning of international economic developments.

b. The *Office of International sectoral Policy* shall analyze and develop the Department's position on international sectoral issues, including the development of policy approaches to the international problems and opportunities of individual industry sectors as well as the development of policies related to international and positive adjustment issues; represent the Department in the OECD Steel Committee and other interagency and international meetings concerned with international sectoral or adjustment matters; coordinate policy formulation and analysis with other areas of the Department and other agencies responsible for domestic policy development effecting the international position of individual industries; and provide liaison with the Bureau of Industrial Economics for the planning of industry economic analyses required by ITA.

c. The *Office of International Economic Relations* shall develop, coordinate and implement the Department's position on general economic policy issues arising between the United States and individual countries and regional groupings (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade); coordinate for the Assistant Secretary those policy issues which involve more than one Deputy Assistant Secretary; provide support for bilateral economic consultative mechanisms in which the Department participates; coordinate Department policy on country/region oriented issues; be responsible for preparation of briefing materials and coordination for Secretarial and Departmental officers' meetings with foreign visitors and travel abroad; operate trade facilitation efforts to resolve specific commercial complaints; coordinate the Department's role with regard to certain economic policy issues of a geographic nature arising in multilateral fora such as UNCTAD and OECD and in regional organizations; and be the central point under the Assistant Secretary for addressing specific wide ranging economic policy issues with a geographic focus.

.05 The *Deputy Assistant Secretary for Textiles and Apparel* shall direct the development of the Department's position on international textile agreements and relations and the domestic textile and apparel industries; chair the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee; and direct the following office:

a. The *Office of Textiles and Apparel* shall participate in and provide analytical support for international textile negotiations; provide studies and analyses of domestic and foreign fiber, textile, and apparel industries; monitor textile and apparel imports; develop and coordinate domestic trade and export expansion programs; develop initiatives to improve domestic textile and apparel industries' productivity and marketing; provide legislative comment and serve as liaison with industry, trade groups, and foreign government officials; provide appropriate administrative support to the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee.

## Part IV. Assistant Secretary for Trade Administration

### *Section 1. Delegation of Authority*

.01 Pursuant to the authority delegated to the Under Secretary by the Secretary of Commerce, and subject to such policies and directives as the Under Secretary may prescribe, the Assistant Secretary for Trade Administration is hereby delegated the authority of the Under Secretary under:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, and related provisions;

b. Section 303 and Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303; 1671 *et seq.*) in accordance with section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to antidumping and countervailing duties, except that the authority to take final actions as "administering authority" may not be redelegated beyond the Assistant Secretary;

c. Sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) and section 5(a)(1)(D) of Reorganization Plan No. 3 of 1979, insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

d. Sections 318, 592 (a) and (b), and 617 of the Tariff Act of 1930 (19 U.S.C. 1318, 1592 (a) and (b), and 1617) and sections 5(a)(1)(E), 5(a)(1)(F), and 5(a)(1)(G), respectively, of Reorganization Plan No. 3 of 1979, insofar as they relate to the investigation and enforcement of antidumping and countervailing duties;

e. Section 2632(e) of Title 28 of the United States Code and section 5(a)(1)(H) of Reorganization Plan No. 3 of 1979, insofar as they relate to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a);

f. Section 402 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), relating to the importation of foreign excess property;

g. The Educational, Scientific and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202);

h. Headnote 6(d) of Schedule 7, part 2, Subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), added by Public Law 89-805, pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements;

i. The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), as it relates to the Secretary's authority to designate an alternate to chair the Committee of Alternates of the Foreign-Trade Zones Board and to appoint an Executive Secretary of the Board (see 15 CFR Part 400);

j. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) conferred on the Secretary under: (1) Executive Order 10480 of August 14, 1953, as amended, including authority to restrict surface transportation and discharge of commodities or to prohibit movement of American carriers to designated destinations, except the authority to create new agencies within

the Department of Commerce; and (2) Executive Order 11912 of April 13, 1976;

k. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development of national emergency preparedness plans and programs covering production and distribution of materials, production facilities, construction materials, and regulation and control of exports and imports;

l. The National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*) and Executive Order 11490 of October 28, 1969, as amended, relating to mobilization preparedness;

m. The National Defense Stockpile Program as authorized by the Strategic and Critical Materials Act (Pub. L. 96–41, to be codified at 50 U.S.C. 98–98h), with respect to the quality and quantity of materials acquired for the national stockpile and disposal of materials determined to be in excess of national defense requirements;

n. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the National Defense Executive Reserve;

o. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

p. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the Secretary under Executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water;

q. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) and section 5(a)(1)(B) of Reorganization Plan No. 3 of 1979, relating to the conduct of national security investigations on imports;

r. The Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determination required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

s. Executive Order 11958 of January 18, 1977, as it relates to the carrying out, on behalf of the Department of State, of functions under Section 38(e) of the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), as agreed to by the Departments of Commerce and State;

t. Executive Order 11322 of January 5, 1967, and Executive Order 11419 of July 29, 1968, relating to the Rhodesian sanctions with respect to transactions occurring prior to December 16, 1979 (Executive Order 12183 of December 16, 1979, revoked the provisions of Executive Orders 11322 and 11419 with respect to transactions occurring after December 16, 1979);

u. The Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12058 of May 11, 1978, pertaining to nuclear exports and related matters;

v. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) conferred on the Secretary under Executive Order 11912 of April 13, 1976, relating to: (1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program.

.02 Except as otherwise provided, the Assistant Secretary may redelegate the above authorities subject to such conditions in the exercise of such authorities as he or she may prescribe.

*Section 2. Organization and Functions*

The *Assistant Secretary for Trade Administration* shall direct the activities of the Deputy Assistant Secretaries for Import Administration and Export Administration; exercise the functions of the "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Title VII of the Tariff Act of 1930, as amended; serve as alternate to the Secretary and Under Secretary on the Trade Policy Committee on matters pertaining to import and export administration issues; chair the Committee of Alternates of the Foreign-Trade Zones Board; and chair the Advisory Committee on Export Policy.

.01 The *Deputy Assistant Secretary for Import Administration* shall coordinate the formulation and implementation of U.S. antidumping and countervailing duty policies and programs; and administer Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property. The DAS shall direct the following offices:

a. The *Office of Investigations* shall evaluate petitions received and conduct investigations under the antidumping and countervailing duty (AD/CVD) laws; perform analyses which will form the basis of recommendations regarding the disposition of individual AD/CVD cases; serve as primary contact point with the U.S. International Trade Commission on matters pertaining to administration of AD/CVD cases, such as determination of the product definition and provision of calculations and analyses which form the basis of determinations reached; and arrange public hearings involving interested parties when requested in the course of investigations.

b. The *Office of Compliance* shall collect and analyze data used to determine the amount of antidumping and countervailing duties to be collected yearly on existing antidumping and countervailing duty orders; monitor negotiated agreements resulting in the suspension of antidumping and countervailing duty investigations; administer the trigger price mechanism for selected steel mill products; serve as primary contact point with the U.S. Customs Service on matters pertaining to administration of antidumping and countervailing duty laws, such as collection of antidumping and countervailing duties; collection of data required on imports of steel covered by the trigger price mechanism, and development of data required for AD/CVD cases; and arrange public hearings when requested regarding the proposed results of annual reviews.

c. The *Office of Policy* shall serve as principal staff to the DAS in the formulation and implementation of policies governing the Department's administration of antidumping and countervailing duty statutes, ensuring that actions taken are consistent with overall U.S. trade policy; in consultation with the Department's Office of the General Counsel, ensure the uniform application of statutory and regulatory provisions of AD/CVD laws on a case-by-case basis; participate with the Office of the U.S. Trade Representative in negotiations regarding possible suspension of antidumping or countervailing duty investigations; and act of the DAS and, as appropriate, the Assistant Secretary for Trade Administration, in representing the views of the Department in domestic, interagency, and international forums.

.02 The *Deputy Assistant Secretary for Export Administration* shall carry out the Department's responsibilities for regulaing exports of U.S. goods and technology, opposing foreign boycotts

against countries friendly to the United States, and ensuring industrial mobilization for the national defense. The DAS shall direct the following offices:

a. The *Office of Export Administration* shall administer and, in consultation with the Department's Office of the General Counsel, enforce the regulations and programs required to carry out Departmental responsibilities for regulating exports of U.S. commodities and technical data under the Export Administration Act of 1979; seek, in collaboration with other Federal agencies, the adoption by foreign countries of such controls over their exports as will advance the policies of the United States with respect to national security, foreign policy, and the protection of the domestic economy; coordinate all short supply activities; and provide secretariat and administrative support services to Technical Advisory Committees established under the Export Administration Act and to the Subcommittee on Export Administration of the President's Export Council.

b. The *Office of Antiboycott Compliance* shall administer and, in consultation with the Department's Office of the General Counsel, enforce the regulations and programs required to carry out Departmental responsibilities under the Export Administration Act of 1979 regarding foreign boycotts against countries friendly to the United States; develop and coordinate policies and measures for opposing such boycotts; and operate the automated boycott reporting system to provide statistical summaries and enforcement data.

c. The *Office of Industrial Mobilization* shall perform national defense and industrial mobilization functions, including those authorized by the Defense Production Act of 1950, as amended; assist in achieving through administration of priorities and allocations and other means an adequate supply of strategic, critical, and other products and materials for defense and defense-supporting activities and essential civilian needs, including the timely completion of current military, atomic energy, and space programs for production, construction, and research and development and the maximizing of domestic energy supplies; participate in the development of national plans to assure maximum readiness of the industrial resources of the United States, including the means for administering them, to meet future demands of any national emergency; plan and coordinate ITA's emergency readiness functions; and conduct investigations in those instances where imports threaten to impair the national security.

Part V. The Assistant Secretary for Trade Development

*Section 1. Delegation of Authority*

.01 Pursuant to the authority delegated to the Under Secretary by the Secretary of Commerce, and subject to such policies and directives as the Under Secretary may prescribe, the Assistant Secretary for Trade Development is hereby delegated the authority of the Under Secretary under:

a. The Act of February 14, 1903 as amended (15 U.S.C. 1512 *et seq*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, and related provisions;

b. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

c. The delegation of authority, dated June 25, 1962, from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, with respect to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*);

d. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

e. The China Trade Act of 1922, as amended (15 U.S.C. 141 *et seq.*); and

f. Executive Order 10978 of December 5, 1961, regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients.

.02 Except as otherwise provided, the Assistant Secretary may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

*Section 2. Organization and Functions*

The *Assistant Secretary for Trade Development* shall be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment posture of the U.S. The Assistant Secretary serves as the National Export Expansion Coordinator. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for Export Development* who shall develop, plan and direct the export development activities in free-world countries and areas to be carried out by the U.S. and Foreign Commercial Services; plan, develop, and implement the Worldwide Information and Trade System (WITS); provide for staff support to the President's Export Council and in this capacity, communicate the President's Export Council recommendations through the Secretary of Commerce to the President. The DAS shall direct the following offices:

a. The *Office of Export Marketing Assistance* shall develop programs designed to foster and export consciousness in the United States; identify and attract to exporting U.S. companies that do not export and assist U.S. companies to export to their full potential; inform U.S. companies of export methods, benefits and opportunities; develop and carry out programs to attract small and minority businesses to exporting; assess industry's needs for promotional assistance and marketing information through contacts with trade associations, experienced exporters, government entities and individual U.S. companies; maintain information about the United States and foreign trading communities; serve the needs of U.S. exporters by identifying and assisting them to select and establish relationships with specific foreign sales representatives, distributors, licensees, and direct purchase customers; assist U.S. companies to compete for major infrastructure and industrial systems contracts; attract foreign buyers to U.S. trade shows and assist foreign buyers to meet with appropriate U.S. producers; and facilitate foreign direct capital investments and licensing by foreign firms in the U.S.

b. The *Office of Export Promotion* shall implement trade promotion programs in free world countries; be responsible for recruitment of participants in all overseas trade events; provide logistical, design, and operations support for all overseas trade promotion events; conduct market promotion activities at U.S. trade fairs and Export Development Offices; and develop and carry out special trade promotion techniques such as trade and seminar missions and other selective marketing techniques.

c. The *Office of Country Marketing* shall, for free world countries, develop and monitor the U.S. Government's marketing strategies with its major trading partners; develop and maintain commercial information on countries

and regional economic groupings of the free world; counsel and assist the U.S. business community with commercial and marketing information on these countries and regions; develop program recommendations for overseas trade promotion activities; and coordinate all ITA activity on the Near East.

d. The *Office of Export Planning and Evaluation* shall, for all programs administered by the DAS for Export Development, develop and manage a planning system which shall include development of short and long-term goals, objectives and strategies, new programs, and allocation of resources; conduct evaluations of program impact and effectiveness; identify and provide guidance for program planning on industries, products and foreign markets; acquire and produce research on the marketability of U.S. products abroad for use by the U.S. business community and in domestic and overseas export development activities; and coordinate financial planning for export development.

.02 The *Deputy Assistant Secretary for East-West Trade* who shall provide counseling, market information and promotional assistance to U.S. business firms and advice on economic and commercial conditions relevant to Centrally Planned Economy (CPE) countries and shall direct the following offices:

a. The *Office of East-West Trade Development* shall, with regard to the CPE countries, be responsible for developing and implementing program recommendations concerning trade and other commercial relations; preparing market assessments; gathering information bearing on commercial relations and providing advisory services and information for U.S. firms or industrial groups; developing and disseminating studies of market potential for U.S. trade; developing and executing programs for U.S. trade promotion events and trade missions; and coordinating activities relating to foreign commercial services and commercial representation.

b. The *Office of East-West Country Affairs* shall maintain familiarity with, and develop and disseminate information and advice on, the economic and political conditions and policies and the U.S. trade and commercial relations with the CPE countries; maintain contacts on East-West trade matters with foreign government officials in the U.S.; develop and provide country information and advice to other elements reporting to the DAS, ITA, the Department, the U.S. chairman of joint trade commissions and members of interagency committees; and provide executive secretariat services to U.S. joint commercial commissions.

c. The *Office of East-West Policy and Planning* shall formulate, analyze and make recommendations on legislative and policy issues arising in East-West trade activities; coordinate East-West trade policy review with international trade, finance and other organizations; monitor and maintain liaison with East-West trade-related national and international organizations; propose and monitor contracts for analyses of East-West trade matters and develop and provide statistical data services pertaining to East-West trade.

.03 The *Deputy Assistant Secretary for the U.S. Commercial Service* shall direct the *U.S. Commercial Service* and shall assist and advise the Assistant Secretary for Trade Development on development, implementation and evaluation of programs assigned to the U.S. Commercial Services for implementation. The functions of the DAS shall be carried out through the organizational elements prescribed below:

a. *The Office of the DAS* shall determine the objectives of the U.S. Commercial Service, formulate related policies, procedures and programs for contact with the U.S. business community at the local level; conduct program planning and analysis activities for the U.S: Commercial Service; publish the *Commerce Business Daily*; conduct the Federal procurement, Business Development Conference, Federal/state relations, and Associate Office programs; and coordinate and provide promotional support and technical guidance to the District Offices for field implementation of ITA programs and related programs of other Department and Government elements.

b. The *District Offices* shall implement ITA and other Departmental programs in the field as directed by the DAS; serve the business community as a principal source of marketing information, data and services based on the related resources of the Department of Commerce; serve as a conduit for business feedback to the Department and coordinate within the districts, departmental initiatives in response to critical issues affecting the economic structure; and, when so directed serve as Sales Agents for the Government Printing Office. District Directors in the ten Uniform Federal Regional Council Cities of Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco and Seattle shall act as designated Regional Emergency Coordinators in accordance with instructions and guidance issued by the Departmental Office of Emergency Readiness through the Deputy Assistant Secretary for U.S. Commercial Service, and shall represent the Secretary and serve as the principal advisory and contact point for the Department for emergency readiness matters in their respective areas.

Part VI. Effect on Other Orders

All rules, regulations, orders, determinations, authorizations, contracts, grants, agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending or entered into by or for the predecessor Industry and Trade Administration or the Assistant Secretary for Industry and Trade or the Assistant Secretary's delegates, or with respect to functions transferred to the Secretary by Reorganization Plan No. 3 of 1979, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

Donald A. Furtado,

*Acting Under Secretary for International Trade.*

[FR Doc. 80-5492 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-25-M

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## National Oceanic and Atmospheric Administration

### Gulf of Mexico Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to: (1) review status reports on the development of fishery management plans (FMP's); (2) consider foreign fishing applications, if any; and (3) conduct other fishery management business.

**DATES:** The meeting will convene on Wednesday, March 5, 1980, at 8 a.m. and will adjourn at 5 p.m.; reconvene on Thursday, March 6, 1980, at 8 a.m. and will adjourn at approximately 12 noon. The meeting is open to the public.

**ADDRESS:** The meeting will take place in the Tower Room of the Holiday Inn, 6516 International Drive, Orlando, Florida.

**FOR FURTHER INFORMATION CONTACT:** Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone (813) 228-2815.

Dated: February 19, 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-5571 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-22-M

## Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss implementation of the Emergency Striped Bass Study as authorized by the amended Anadromous Fish Conservation Act, (Pub. L. 96-118).

**DATE:** The meeting will convene at 10 a.m. March 3, 1980, and adjourn at approximately 5 p.m. The meeting is open to the public, however space is limited to 25 persons.

**ADDRESS:** The Best Western Philadelphia Airport Inn, at the Philadelphia, Pennsylvania Airport.

**FOR FURTHER INFORMATION CONTACT:** Regional Director, Northeast Regional Office, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930, Telephone: (617) 281-3600.

Dated: February 19, 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-5570 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-22-M

## Proposed Foreign Fishing Permit Modifications

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

**ACTION:** Proposed modification of foreign fishing permits for "joint ventures".

**SUMMARY:** Permits issued to the Government of the Republic of Korea (ROK) and to the Government of the Union of Soviet Socialist Republics (U.S.S.R.) for vessels of these nations to receive U.S. harvested Bering Sea and Aleutian Islands groundfish and herring, are proposed to be modified under 50 CFR 611.3(i)(2). The National Oceanic and Atmospheric Administration (NOAA) is seeking comments on the conservation basis for the proposed modification.

**DATES:** Comments must be received by March 20, 1980.

**ADDRESS:** Send all comments to: Mr. Terry L. Leitzell, Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. (Please mark "BSA joint venture permit modifications" on envelope.)

**FOR FURTHER INFORMATION CONTACT:** Mr. Alfred J. Bilik, Fishery Management Officer, F/CM7, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7432.

**SUPPLEMENTARY INFORMATION:** Under section 204(b) of the Fishery Conservation and Managment Act of 1976, as amended by Pub. L. 95-354 (the FCMA), the Secretary of Commerce "* * * may approve (foreign) applications to receive U.S. harvested fish unless the Secretary determines, on the basis of views, recommendations, and comments * * * and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned."

Section 303(b)(2) of the FCMA provides that any fishery management plan may designate zones where, and periods when, fishing shall be restricted. Foreign fishing permits for joint ventures were issued on January 8, 1980, for one ROK vessel and 10 U.S.S.R. vessels. Another ROK vessel was permitted on January 17, 1980. The permits authorize the vessels to engage in activities in support of U.S. harvesting vessels in the fishery conservation zone (FCZ) in the Bering Sea and Aleutian Islands (BSA) groundfish and herring fishery. (The permits also authorize similar activities in the Gulf of Alaska groundfish fishery.) The amounts of U.S. harvested fish that the foreign vessels may receive from U.S. vessels, and other conditions and restrictions, are specified with the permits.

The permits were issued after the North Pacific Fishery Managment Council recommended approval of the corresponding applications at a public meeting on December 12-14, 1979. At that time the Council noted that it intended at its January meeting to discuss restrictions which might be attached to such permits. The Council wanted to avoid delaying U.S. fishermen who planned to begin fishing for the Soviet vessels about January 1. If additional restrictions were endorsed by the Council at its January meeting, the restrictions could be added to the permits at a later date.

The Council met again on January 10 and 11 to continue consideration of additional conditions for the Soviet and ROK permits. Two permit conditions were recommended at the Council meeting and submitted to the Secretary on January 17:

(1) Foreign processing vessels should not be allowed to receive fish from U.S. vessels within 12 miles of Akun and Akutan Islands in the eastern Aleutian Islands.

Although this restriction would be placed on the foreign vessels, it effectively would reduce U.S. fishing in the vicinity of certain domestic processors' facilities because U.S. joint venture fishermen would prefer to remain in close proximity to their processing vessels. Thus, only six to eight U.S. trawlers would operate in the area (landing groundfish for U.S. shore-based processors) rather than up to 24 trawlers which could work the fishing grounds if foreign processors also operated in the area. This limitation would result in reduction of fishing effort on localized stocks, principally for Pacific cod. The Council believes the restriction will not hamper the U.S. joint venture fishery because the foreign processing vessels are highly mobile and there is a great expanse of good fishing area still available in the Bering Sea.

NOAA has received two written comments on the proposed area restriction on the foreign processing vessels. A representative of some domestic processors has urged NOAA to effect the area restrictions immediately, arguing that procedures specified under 50 CFR section 611.3 of the foreign fishing regulations are not applicable. Under these procedures, proposed modifications of foreign fishing permits are published for a 30-day public review and comment period. A representative of U.S. joint venture fishermen urges rejection of the Council's recommendation on the grounds that it is a discriminatory measure with no rational basis and it violates the National Standards specified in the FCMA.

Following consideration of these comments, NOAA has concluded that the procedures specified in § 611.3(i)(2) of the foreign fishing regulations apply to this permit modification because foreign fishing includes operations in support of vessels of another nation. The Council's recommendation contains measures which effectively allocate an economic benefit between two groups of U.S. fishermen. NOAA believes that a permit condition or restriction which effects such an allocation may be imposed, provided that:

(a) The measures are reasonably calculated to promote conservation and management;

(b) The measures do not seriously adversely affect the U.S. fishermen involved; and

(c) Reasonable alternatives are available for the U.S. fishermen who may be adversely affected.

Before imposing the area restriction proposed by the NPFMC, NOAA is seeking additional comments on the restriction, judged against the three criteria listed above.

(2) The Council also recommended that the foreign processing vessels should be allowed to receive no more than 5,000 metric tons (mt) of herring prior to April 1. The remainder of the JVP (amount of the U.S. harvest estimated as surplus to the usage of domestic processors, and available for delivery to foreign processing vessels), i.e. 1,000 mt, will be needed for incidental catch during the summer and fall months for the groundfish fishery.

The Council believes that an allowance of 5,000 mt from January to April 1 will be sufficient for U.S. fishermen to conduct a directed herring fishery for the Soviet processing vessels.

(Note.—Soviet vessels may not themselves catch any fish in the BSA fishery because no allocation for catching fish in the BSA fishery has been made to the Soviet Union. However, some Soviet vessels are authorized to receive U.S. harvested fish from U.S. vessels in the BSA fishery.)

The Soviet application requested a total of 4,900 mt of herring and so the Council believes this restriction would not limit U.S. fishermen.

The Bering Sea and Aleutian Islands Trawl and Herring Gillnet fishery preliminary fishery management plan estimated a total domestic annual harvest (DAH) of 33,200 mt of herring. The DAH specifies 27,000 mt for U.S. landings for domestic processors (DAP), 6,000 mt for U.S. joint venture fishermen (JVP), and 200 mt for a domestic subsistence harvest (NPF). Moreover, the plan reserves 2,000 mt of herring for uncertainties in the U.S. harvest. The amount reserved may be apportioned to the DAH if needed; otherwise it may be made available for foreign fishing.

NOAA understands the Council's concern that a U.S. harvest of herring in excess of 5,000 mt during the period January to April 1 could adversely affect the conduct of a U.S. pollock and Pacific cod fishery later in the year if the allowance for incidental catch of herring in that fishery is diminished below 1,000 mt. However, NOAA believes that a sufficient amount has been reserved for such a contingency. Moreover, the plan provides for periodic reassessments and reapportionments between DAP, JVP, and NPF based on the performance of U.S. harvesters. Thus, NOAA has concluded that the restriction proposed by the Council to limit the U.S. harvest of herring to 5,000 mt from January to April 1 is not necessary at this time.

The proposed conditions and restrictions being considered for the subject Soviet and Korean permits are included in the following list of conditions and restrictions.

Since this proposed amendment constitutes a potentially adverse modification of the permits under 50 CFR 611.3(i)(2), public comments on the proposed amendments are being solicited from the foreign nations and other interested persons.

Signed in Washington, D.C. this 15th day of February 1980.

Winfred H. Meibohm,

*Executive Director, National Marine Fisheries Service.*

## Other Activities Authorized and Additional Conditions and Restrictions Applicable to Permits for Joint Venture Vessels Participating in the Bering Sea and Aleutian Islands Fishery

**SUPPORT ACTIVITIES AUTHORIZED:**

Fishery support operations in the FCZ, as discussed in section 611.10 of the Foreign Fishing Regulations, by these vessels in support of vessels of the United States harvesting fish in the FCZ are authorized in the Bering Sea and Aleutian Islands groundfish fishery subject to the following additional conditions and restrictions (which may be modified under § 611.3):

(a) Restrictions on Receipt of Fish. (1) If the Assistant Administrator finds that the amount of any species of fish harvested by vessels of the United States in any fishing area identified in Parts 4A and 4B, Appendix I of § 611.20 of the foreign Fishing Regulations and received in the FCZ by foreign fishing vessels from vessels of the U.S. has reached the current amount specified, as it may be revised under § 611.93(b)(3) and § 611.95(b)(3), as "joint venture processing" (JVP) for the species and fishing areas in Parts 4A and 4B, Appendix I, no further fish harvested by vessels of the United States in that fishing area may be received in the FCZ from vessels of the United States. The fishery closure procedures of § 611.15(c) of the Foreign Fishing Regulations apply.

(2) Retention of sablefish is limited to incidental amounts resulting from this U.S. trawl fishery. No sablefish may be received from a U.S. longline fishery. The amount of sablefish harvested by vessels of the United States in any fishing area which may be retained by the above vessels shall not exceed 1.5 percent of all fish received. This percentage limitation on retention shall apply to the initial 1,000 mt of fish received in the FCZ from vessels of the U.S. and each 5,000 mt increment thereafter. (For example, if the amount of sablefish harvested by vessels of the U.S. and delivered to and retained by the above foreign vessels in the FCZ reaches 15 mt before receipt by the foreign vessels of the initial 1,000 mt of all fish, no further sablefish may be retained until the initial 1,000 mt of all fish is received. A 75 mt limitation on retention of sablefish applies to each succeeding 5,000 mt of all fish received.)

(3) Any prohibited species (shrimp, scallops, salmon, steelhead trout, Pacific halibut, and Continental Shelf fishery resources) or part thereof which is received shall be treated in accordance with § 611.13 of the Foreign Fishing Regulations as if it was caught by vessels of the foreign nation.

(b) Area Restrictions. (1) *Except as noted in (2) below,* processing of U.S. harvested fish and other operations in support of vessels of the U.S. may be conducted in the FCZ of the Bering Sea and Aleutian Islands in accordance with § 611.93(d)(1)(i) and § 611.95(d)(1)(i) of the Foreign Fishing Regulations. Processing of foreign harvested fish and other operations in support of foreign vessels may be conducted only in accordance with § 611.10(b) of the Foreign Fishing Regulations and in the areas and during the times specified in §611.90(c)(2) of the Foreign Fishing Regulations.

(2) *Processing of U.S. harvested fish and other operations in support of vessels of the U.S. may not be conducted in the FCZ of the Bering Sea and Aleutian Islands within twelve nautical miles from the baseline used to measure that part of the territorial sea adjacent to Akun and Akutan Islands of the eastern Aleutian Islands.*

(3) The closed areas specified in § 611.93(d)(1) do not apply to operations in support of vessels of the U.S.

(c) Reporting Requirements. Each vessel shall report its projected times and positions for commencing and ceasing operations in support of vessels of the U.S. not less than 7 days prior to such projected times. These reports shall be submitted in the manner prescribed in § 611.4(b).

(d) Fishery Closures. Operations in support of vessels of the U.S. are not subject to the fishery closure provisions of § 611.15(a) (3) and (4).

[FR Doc. 80-5678 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-22-M

## Intent To Prepare an Environmental Impact Statement on Proposed Approval of Pennsylvania Coastal Zone Management Program

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) intends to prepare a draft environmental impact statement (DEIS) on the proposed approval of the Pennsylvania Coastal Zone Management Program under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92–583, as amended), and distribute it in May 1980.

Federal approval of the Pennsylvania Coastal Zone Management Program would allow program administrative grants to be awarded to the Commonwealth and require that Federal actions be consistent with the program. Federal alternatives to program approval will include delay or denial of approval if any requirements of the Coastal Zone Management Act have not been met. Alternatives available to the State would be to modify parts of the program or to withdraw the application for Federal approval.

The Pennsylvania Program is the culmination of 4 years of program development and consists of policies on a range of coastal issues. The policies will be enforced by the laws and regulations of the Commonwealth and will be carried out by State agencies and commissions as prescribed by executive order, memoranda of understanding, and secretarial directives.

The effects of the program will be to:

(1) Encourage development and other coastal uses in parts of the management area;

(2) Condition, restrict, or prohibit some uses in other parts of the management area, possibly resulting in some short-term economic impacts on coastal users;

(3) Improve the decisionmaking process for use of coastal resources resulting in sound public investment and protection of fragile resources;

(4) Increase public awareness of coastal resources; and

(5) Provide technical and financial assistance to State agencies and local governments to manage coastal resources.

In order to determine the scope and significance of issues to be addressed in the DEIS, OCZM is soliciting comments on the program. Persons or organizations wishing to submit comments on any issues related to the content of the management program should do so by March 21, 1980. Any comments recevied after that time will be considered in the response to comments on the DEIS. Please submit all comments to: John Paul Tolson, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 634–4124.

Dated: February 11, 1980.

Michael Glazer,

*Assistant Administrator.*

[FR Doc. 80-5493 Filed 2-21-80; 8:45 am]

BILLING CODE 3510-08-M

## National Technical Information Service

### Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

*Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.*

**Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, DC 20310**

Patent application 6–005,255: Method and Apparatus for Calibrating Gyroscopically-Stabilized, Magnetically Slaved Heading Reference System; filed Jan. 22, 1979.

Patent application 6–008,675: Optical Indexing System; filed Feb. 2, 1979.

Patent application 6–009,003: Telemetric System; filed Feb. 5, 1979.

Patent application 6–020,881: Preparation of Hexanitrostilbene with Copper Ammino Compounds; filed Mar. 15, 1979.

Patent application 6–020,889: Preparation of Hexanitrostilbene; filed Mar. 15, 1979.

Patent application 6–020,890: Differential Pressure Gauge; filed Mar. 15, 1979.

Patent application 6–024,140: In-Bore Telemetry Information Measuring System; filed Mar. 26, 1979.

Patent application 6–026,371: Pressure Relief Manometer; filed Apr. 2, 1979.

Patent application 6–027,350: Gas-Liquid Absorption Apparatus and Method; filed Apr. 5, 1979.

Patent application 6–029,809: Pyrophoric Flame Composition; filed Apr. 13, 1979.

Patent application 6–037,210: Process and Composition of Low Toxicity for Preparing Aluminium Surfaces for Adhesive Bonding; filed May 9, 1979.

Patent application 6–042,825: Antipropagation Explosive Packaging Means; filed May 29, 1979.

Patent application 6–043,767: Solid Propellant Grain for Improved Ballistic Performance of Guns; filed May 30, 1979.

Patent application 6–043,876: Active Optical Filter; filed May 30, 1979.

Patent application 6–044,125: Rapid Water Activity Determining Device and Method; filed May 31, 1979.

Patent application 6–044,898: Apparatus for Measuring Anti-Wear Properties of Pressurized Liquids; filed June 4, 1979.

Patent application 6–046,733: Laminated, Highly Sorbent, Active Carbon Fabric; filed June 7, 1979.

Patent application 6–046,961: Method of Growing Single Crystals; filed June 9, 1979.

Patent application 6–050,288: Projectile; filed June 20, 1979.

Patent application 6–051,780: Multilayer Laminate of Improved Resistance to Fatigue Cracking and Method for Producing Same; filed June 25, 1979.

Patent application 6–055,716: Apparatus and Method for Determining Electrical Conductivity of Water Vapor; filed July 9, 1979.

Patent application 930,083: Centrifugal Ball Cam Locking Device; filed Aug. 1, 1978.

Patent application 933,240: A Direct Method of Measuring the Intensity of Light and Other Radiation Sources Without Knowledge of the Source Distance; filed Aug. 14, 1978.

Patent application 937,244: Phase Measurement Device; filed Aug. 28, 1978.

Patent application 959,542: Electronic Velocimeter; filed Nov. 13, 1978.

Patent application 965,955: Non-Spill Gas-Liquid Contact Unit; filed Dec. 4, 1978.

Patent application 970,404: Non-Polluting Process for Desensitizing Explosives; filed Dec. 18, 1978.

**U.S. Department of Agriculture, Program Agreements and Patent Branch, Administrator, Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782**

Patent application 6–053,476: Cyclone Dust Analyzer for Determining Microdust Content in Fibers; filed June 29, 1979.

Patent application 6–055,116: Novel Aroid Products; filed July 5, 1979.

Patent application 6–057,858: Shrinkproofing Wool with Copper Salts of Carboxylic Acids; filed July 16, 1979.

**U.S. Department of Health, Education and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205**

Patent application 6-058,177: Carbocyclic Analogs of Cytosine Nucleosides; filed July 17, 1979.

Patent application 6-082,056: 7 Alpha-Methylnorethindrone Enanthate and Its Use in Long Term Suppression of Fertility in Female Mammals; filed October 5, 1979.

**U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.**

Patent 3,273,376: Static and Dynamic Calibration Vessel for Pressure Gages; filed Oct. 30, 1964; patented Sept. 20, 1966.

Patent 4,152,987: Impermeable Polymer Bomb Liner for Use with TNT Containing Explosives; filed Feb. 18, 1977; patented May 8, 1979.

Patent 4,153,917: Image Stabilizer System for Stop-Action Playback; filed Jan. 23, 1978; patented May 8, 1979.

Patent 4,154,385: Single Filament Fiber Optic Cable Parting Tool; filed Dec. 12, 1977; patented May 15, 1979.

Patent 4,157,861: Optical Beam Steering System; filed Aug. 3, 1979; patented June 12, 1970.

Patent 4,160,033: Method for the Control of Mosquitos by the Use of Film-Forming Materials; filed Jan. 31, 1977; patented July 3, 1979.

Patent 4,160,579: Tapered Velocity Electro-Optical Waveguide Switch; filed May 3, 1978; patented July 10, 1979.

Patent 4,162,397: Fiber Optic Acoustic Sensor; filed June 28, 1978; patented July 24, 1979.

Patent 4,163,872: Secret Pulse Signaling System; filed June 28, 1945; patented Aug. 7, 1979.

Patent 4,164,023: Permutation Memories; filed Sept. 22, 1977; patented Aug. 7, 1979.

Patent 4,164,363: Single Mode Fiber-to-Channel Waveguide Through-Line Coupler; filed Jan. 19, 1978; patented Aug. 14, 1979.

[FR Doc. 80-5494 Filed 2-21-80; 8:45 am]
BILLING CODE 3510-04-M

## Government-Owned Inventions; Availability for Licensing

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Douglas J. Campion,

*Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.*

**Chief, Intellectual Prop. Division, OTJAG, Department of the Army, 1900 Half Street, S.W., Washington, DC 20324**

Patent application 6-005,255: Method and Apparatus for Calibrating Gyroscopically-Stabilized, Magnetically Slaved Heading Reference System; filed Jan. 22, 1979.

Patent application 6-023,109: Sampling Valve; filed Mar. 23, 1979.

Patent application 6-044,125: Rapid Water Activity Determining Device and Method; filed May 31, 1979.

Patent application 6-046,733: Laminated, Highly Sorbent, Active Carbon Fabric; filed June 7, 1979.

Patent application 6-051,934: Method of Making a Ruggedized High Current Density Cathode; filed June 25, 1979.

Patent application 6-069,034: Novel Aqueous Foam Formulation and Method; filed Aug. 23, 1979.

Patent application 870,694: Method and Apparatus for Testing Crystal Elements; filed Jan. 19, 1978.

Patent application 952,873: Copolymers of Alpha-N-Alkylstyrenes and Styrene; filed Oct. 19, 1978.

**U.S. Department of Agriculture, Program Agreements and Patent Branch, Administration Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782**

Patent Application 6-055,116: Novel Aroid Products; filed July 5, 1979.

**U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217**

Patent 4,156,242: Light-Weight Low-Cost Antenna Element; filed June 9, 1975; patented May 22, 1979.

Patent 4,156,556: Fiber Optic Coupler with Concave Spherical Reflecting Elements; filed Oct. 31, 1977; patented May 29, 1979.

Patent 4,158,084: Heat Sources for Thermal Batteries: Exothermic Intermetallic Reactions; filed Feb. 18, 1977; patented June 12, 1979.

Patent 4,165,914: Access Coupler and Duplex Coupler for Single Multimode Fiber Transmission Line; filed Jan. 10, 1978; patented Aug. 28, 1979.

**National Aeronautics and Space Administration, Assist. Gen. Couns. for Pat. Matters, NASA Code GP-2, Washington, DC 20546**

Patent Application 6-046,739: A System for Sterilizing Objects; filed June 8, 1979.

Patent Application 6-053,566: Environmental Fog/Rain Visual Display System for Aircraft Simulators; filed June 29, 1979.

Patent Application 6-078,521: Precise RF Timing Signal Distribution to Remote Stations; filed Aug. 24, 1979.

Patent Application 6-078,611: Autonomus Navigation System; filed Sept. 24, 1979

Patent Application 6-078,612: Microwave Limb Sounder; filed Sept. 24, 1979.

Patent 3,119,086: wedge Immersed Thermistor Bolometers; filed Aug. 29, 1961; patented Jan. 21, 1964; not available NTIS.

Patent 3,123,418: Chassis Unit Insert Tightening-Extract Device; filed Oct. 3, 1962; patented Mar. 3, 1964; not available NTIS.

Patent 3,123,692: Fused Switch; filed Apr. 6, 1960; patented Mar. 3, 1964; not available NTIS.

Patent 3,134,389: Flow Diverter Value and Flow Diversion Method; filed Aug. 4, 1961; patented May 26, 1964; not available NTIS.

Patent 3,190,124: Bakeable Mcleod Gauge; filed Nov. 7, 1961; patented June 22, 1965; not available NTIS.

Patent 3,378,657: Calibrating Pressure Switch; filed May 4, 1966; patented Apr. 16, 1968; not available NTIS.

Patent 4,166,959: Multi-Channel Rotating Optical Interface for Data Transmission; filed Aug. 25, 1977; patented Sept. 4, 1979; not available NTIS.

[FR Doc. 80-5495 Filed 2-21-80; 8:45 am]
BILLING CODE 3510-04-M

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### Procurement List 1980; Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

**EFFECTIVE DATE:** February 22, 1980.

**ADDRESS:** Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

**FOR FURTHER INFORMATION CONTACT:** C. W. Fletcher (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On December 14, 1979, November 23, 1979, and September 21, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 F.R. 72619, 44 F.R. 67206, and 44 F.R. 54749) of proposed additions to Procurement List 1980, November 27, 1979 (44 F.R. 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by

the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

*Class 7510*

Binder Award Certificate 7510–00–115–3250 (Increase from 60% to 100% of Government requirements).

*Class 8115*

Box, Shipping, 8115–00–101–7638, 8115–00–101–7647, 8115–00–787–2142, 8115–00–787–2146, 8115–00–787–2147, 8115–00–787–2148, 8115–01–019–4084, 8115–01–019–4085, 8115–01–057–1243, 8115–01–057–1244, 8115–01–057–1245.

*Class 2540*

Seat Assembly, Complete, Postal Service Item No. 054A.

C. W. Fletcher,

*Executive Director.*

[FR Doc. 80-5523 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-33-M

## Procurement List 1980; Proposed Addition

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Proposed addition to procurement list.

**SUMMARY:** The Committee has received a proposal to add to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 26, 1980.

**ADDRESS:** Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

**FOR FURTHER INFORMATION CONTACT:** C. W. Fletcher, (703) 557–1145.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodity to Procurement List 1980, November 27, 1979 (44 F.R. 67925):

*Class 5350*

Mat. Abrasive, 5350–00–967–5089, 5350–00–967–5092, 5350–00–967–5093.

C. W. Fletcher,

*Executive Director.*

[FR Doc. 80-5522 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-33-M

## DEPARTMENT OF DEFENSE

### Department of the Army

## Draft Environmental Impact Statement of Louisiana State Penitentiary Levee, Mississippi River, Angola, La; Notice of Intent

**AGENCY:** US Army Corps of Engineers, DOD, New Orleans District.

**ACTION:** Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

**SUMMARY:** 1. *Proposed Action.* The proposed action consists of reducing flood damages in the Louisiana State Penitentiary area in West Feliciana Parish, Louisiana, either by structural or nonstructural means while safe-guarding and/or enhancing the environment.

2. *Alternatives.* The alternatives would consist of upgrading the existing flood protection levee system in the penitentiary area to Federal standards and no action. Upgrading would consist of raising the levees, or sections thereof, from 64 feet NGVD (National Geodetic Vertical Datum) to 70.5 feet.

3. *Scoping Process.*

a. The study was initiated with a public meeting held in Baton Rouge, Louisiana, on 22 April 1976, to obtain the views of local interests relative to the problems and needs and to allow Governmental agencies to indicate their interest in the study. At this meeting, participants requested Federal participation in the construction of a new levee system to protect the penitentiary. A detailed plan of study was prepared in May 1977 and coordinated with interested Federal and state agencies.

b. Significant issues to be addressed in this DEIS include the impact of the project on the human environment, water quality, and cultural and historical resources.

c. Planning is being coordinated with the US Fish and Wildlife Service in accordance with applicable laws.

d. Periodic reviews will be held with various Federal, state, and local agencies; they will be kept apprised of the progress.

4. *Scoping Meetings.* A public meeting will be scheduled for Spring of 1980 to discuss alternative plans. Adequate notice will be issued regarding this meeting.

5. *Availability.* The DEIS will be made available for public review in October 1980.

**ADDRESS:** Questions concerning the proposed action and DEIS can be directed to Mr. Dave Reece, US Army Corps of Engineers, Environmental Quality Section (LMNPD–RE), P.O. Box 60267, New Orleans, Louisiana, 70160, telephone (504) 838–2522.

Dated: February 11, 1980.

Thomas A. Sands,

*Colonel, CE, District Engineer.*

[FR Doc. 80-5523 Filed 2-21-80; 8:45 am]

BILLING CODE 3710-84-M

### Corps of Engineers, Department of the Army

## Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project, State Road Coulee at La Crosse, Wis.

**AGENCY:** U.S. Army Corps of Engineers, St. Paul District.

**ACTION:** Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

**SUMMARY:** The St. Paul District, Corps of Engineers, proposes to implement a flood damage reduction plan for the State Road Coulee floodplain in La Crosse, Wisconsin. This plan would increase the capacity of the State Road Coulee channel (also known as Pammel Creek) by deepening and enlarging the downstream portion. The proposed action includes construction of a drop structure, a stilling basin, five new street bridges, modifications to a railroad bridge, sewer and water lines, and a pilot channel for State Road Coulee.

In addition to the proposed action, the following reasonable alternatives have been identified:

1. No action.
2. Flood warning and emergency protection.
3. Permanent floodplain evacuation.
4. Flood proofing.
5. Flood insurance.
6. Floodplain regulation.
7. A combination of floodplain evacuation, flood proofing, and floodplain regulation.
8. Upstream land treatment.
9. Upstream reservoir storage.
10. Levee and floodway.
11. Channel modification with different features than the proposed action.
12. Reservoir storage and channel modification.
13. Channel modification and diversion.

The scoping process for the DEIS will be initiated by letter to all concerned Federal, State, and local agencies; affected Indian tribes; and those private organizations and parties who have expressed an interest in the project.

Anyone else who has an interest in participating in the scoping process and the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers, as soon as possible.

Significant issues identified to date include:

1. Land use and development in the State Road Coulee watershed and floodplain and the effects on flood damages in the floodplain.

2. Increased channel capacity could encourage development in former floodplain areas and in the upper portions of the watershed.

3. The concrete-lined, fenced-in channel could be a safety hazard to neighborhood children, and it could have a negative aesthetic and intrusive impact on residences in the project area.

4. The lower terminus of the channel below Highways 14 and 61 would cause a loss of about 2 acres of riparian and floodplain habitat.

5. Temporary sedimentation increases during construction, increased hydraulic efficiency of the modified channel, and potential drainage of adjacent floodplain habitat along the earth pilot channel at the lower terminus could affect the Mississippi River aquatic ecosystem below the terminus and the associated river floodplain areas identified as northern pike spawning habitat and as general feeding and resting habitat for other wildlife species.

6. The channel alignment below Highways 14 and 61 may affect a known cultural resources site in the area which is listed on the National Register of Historic Places. The nature and extent of this site must be determined and the channel alignment should be routed so that it has a minimal impact on the site.

7. The channel alignment below Highways 14 and 61 may also cut through a neighborhood playground and impact upon the recreational resources of the neighborhood.

8. Continuous disturbance for maintenance of the channel could reduce nearby habitat values. The timing of and methods for maintenance could be an important consideration.

9. Transport and disposal of excavated material could have negative social and environmental impacts.

Our review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), Engineer Regulation (ER) 200–2–2 (33 CFR Part 230), and all other applicable Corps of Engineers regulations and guidance.

We hope to accomplish the scoping task by letter. Because of the geographical distances between interested parties, we feel that this approach is the most practical and efficient method. If interest is still sufficient to indicate the need to hold a scoping meeting at the culmination of the scoping process, we will do so, after announcing the meeting to all parties who have expressed an interest in the project.

We estimate that the DEIS will be made available to the public during the fourth quarter of Fiscal Year 1980 (July-September 1980).

Questions concerning the proposed action and DEIS can be directed to: Colonel William W. Badger, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: February 13, 1980.

William W. Badger,

*Colonel, Corps of Engineers District Engineer.*

[FR Doc. 80-5498 Filed 2-21-80; 8:45 am]

BILLING CODE 3710-CY-M

## Office of the Secretary

### Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, April 1, 1980; Tuesday, April 8, 1980; Tuesday, April 15, 1980; Tuesday, April 22, 1980; and Tuesday, April 29, 1980 at 10:00 a.m. in Room 3D–325, The Pentagon, Washinton, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

H. E. Lofdahl,

*Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.*

February 19, 1980.

[FR Doc. 80-5556 Filed 2-21-80; 8:45 am]

BILLING CODE 3810-70-M

## DELAWARE RIVER BASIN COMMISSION

### North Branch Water Treatment Plant and Related Components, Bucks and Montgomery Counties, Pa.; Notice of Intent

The Delaware River Basin Commission has prepared an environmental assessment on the proposal by the Neshaminy Water Resources Authority for the North Branch Water Treatment Plant and associated components, including the Point Pleasant Pumping Station on the Delaware River and force main to the Bradshaw Reservoir. The environmental assessment also includes the proposal from the Philadelphia Electric Company for the Bradshaw Reservoir and force main to the East Branch of the Perkiomen Creek.

This environmental assessment is based upon review and analysis by Commission staff of:

1. Thirty-three pertinent reference documents, including:

a. *Draft Environmental Report on Neshaminy Water Supply System,* February 1979, by Neshaminy Water Resources Association.

b. *Transcript of Public Hearing re: Draft Environmental Report on Neshaminy Water Supply System,* May 30, 1979.

c. *Responses to Significant Concerns At and After Public Hearing of Environmental Report on May 30, 1979,* by Neshaminy Water Resources Association.

d. Philadelphia Electric Company. *Environmental Report, Bradshaw Reservoir, Transmission Main, East Branch Perkiomen, and Perkiomen Creeks.* July 1979.

e. *Final Environmental Impact Statement on the Point Pleasant Diversion Plan, Bucks and Montgomery Counties, Pennsylvania, February 1973,* by the Delaware River Basin Commission.

f. United States Atomic Energy Commission, Director of Licensing. *Final Environmental Statement related to the proposed Limerick Generating Station, Units 1 and 2.* Philadelphia Electric Company. November 1973.

g. United States Department of Agriculture, Soil Conservation Service. *Final Environmental Statement, Neshaminy Creek Watershed.* Bucks and Montgomery Counties, Pennsylvania. April 1976.

2. Comments from state and federal agencies.

3. Public comments.

The assessment has shown that beneficial impacts could be expected for public water supply in Bucks and Montgomery Counties, and that detrimental impacts to the Delaware basin system would not occur. The assessment concludes that:

1. The preliminary decision not to prepare an Environmental Impact Statement (EIS) is appropriate because the North Branch Water Treatment Plant would not have significant adverse impacts on the human environment.

2. A supplementary EIS is not necessary to update the final EIS on the Point Pleasant Diversion Plan, issued by DRBC in February 1973, because subsequent documents support the conclusions of that final EIS that beneficial impacts would outweigh temporary or minor adverse impacts and that the project would be a feasible and beneficial use of water resources of the Delaware Basin.

Notice is hereby given of the Executive Director's intention to issue a Negative Declaration, based upon the environmental assessment, in accordance with Section 2-4.5 of the Commission's Rules of Practice and Procedure, as amended. Objection to the issuance of this Negative Declaration may be submitted by any interested person or agency in a written statement showing cause why an environmental impact statement should be prepared. To be considered, such written statement must be submitted to the Executive Director no later than 5:00 p.m., March 12, 1980.

Copies of the environmental assessment, dated February 15, 1980, are available from the Commission on request to Mr. J. W. Thursby (609-883-9500).

Copies are also available for pickup at the following locations:

Water Resources Association, Valley Forge Office Colony, Building No. 2, Valley Forge, Pa. (off Route 23 west of Valley Forge Park).

Bucks County Planning Commission, Cross Keys Office Center, 4259 Swamp Road, Doylestown, Pa.

Dated: February 15, 1980.

Gerald M. Hansler,

*Executive Director.*

[FR Doc. 80-5629 Filed 2-21-80; 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Projects Nos. 2971, 2988]**

## Allegheny Electric Cooperative, Inc., and Ohio Edison Co.; Applications for Preliminary Permit

February 13, 1980.

Take notice that Allegheny Electric Cooperative, Inc. and the Ohio Edison Company, filed on September 17, 1979, and November 5, 1979, respectively, competing applications (pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)-825(r)) for preliminary permits for proposed hydroelectric power projects each to be known as the Montgomery Hydroelectric Project, FERC Projects Nos. 2971 and 2988, respectively, that would be located at the U.S. Army Corps of Engineers' Montgomery Locks and Dam, on the Ohio River at river mile 31.7, in Industry Township, Beaver County, Pennsylvania. Correspondence with the Allegheny Electric Cooperative, Inc. should be directed to: Anthony C. Adonizio, Assistant General Counsel, Allegheny Electric Cooperative, Inc., P.O. Box 1266, Harrisburg, Pennsylvania 17108. Correspondence with the Ohio Edison Company should be directed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

*Purpose of Project*—Project energy developed from Project No. 2971 would be sold to the member-owner rural electric distribution cooperatives of the Allegheny Electric Cooperative, Inc. Project energy developed from Project No. 2988 would be utilized in the Ohio Edison Company's electric distribution system, and would be sold to public utility customers in its service area.

*Proposed Scope and Cost of Studies under Permit*—Both Applicants seek issuance of a preliminary permit for a period of three years, during which time each Applicant proposes that it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. The Allegheny Electric Cooperative, Inc. and the Ohio Edison Company estimate the costs of studies under the permit would be less than $100,000 and $400,000, respectively.

*Project Descriptions*—Both Applicants would utilize the U.S. Army Corps of Engineers' Montgomery Locks and Dam on the Ohio River, and each project would consist of: (1) A powerhouse to be located at the north (right) abutment of the existing dam; (2) turbine-generator units installed in the powerhouse; (3) an approach channel; (4) a tailrace channel; (5) a transformer/switching area; and (6) appurtenant facilities.

The Allegheny Electric Cooperative, Inc. intends to install two horizontal shaft bulb-type turbines and generators each rated at 10 MW for a proposed total generating capacity of 20 MW. Average annual generation is estimated at 134,400,000 kWh.

The Ohio Edison Company intends to install two or three turbine generator units of unspecified type, with a proposed total generating capacity between 30 MW and 45 MW. Average annual generation is estimated to be between 165,000,000 and 220,000,000 kWh. Additionally, there would be included in the Ohio Edison Company's project: (1) A training wall which may be necessary to prevent currents or eddies downstream caused by power plant discharge; and (2) improved recreational facilities at the project site.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the

proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for a preliminary permit. (A copy of the applications may be obtained directly from the respective Applicants). Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before April 18, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 18, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (*as amended,* 44 FR 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before April 18, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The applications are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5439 Filed 2-21-80; 8:45]

BILLING CODE 6450-85-M

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[Docket No. CI77-853]

## American Natural Gas Production Co., et al., Supplemental Application for Certificates of Public Convenience and Necessity

February 13, 1980.

Take notice that on November 5, 1979, American Natural Gas Production Company (American Natural), *et al.*, c/o Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed in Docket No. CI77-853 a supplemental application for certificates of public convenience and necessity pursuant to Sections 4 and 7 of the Natural Gas Act, Section 104(b)(2) of the Natural Gas Policy Act of 1978 (NGPA), and § 2.75 of the Commission's General Policy and Intepretations (18 CFR 2.75).

American Natural originally filed in application for a certificate in the above-captioned docket on September 30, 1977. In its original filing, American Natural requested authorization to make a sale of gas in interstate commerce to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) from its interest in gas produced from Eugene Island Block 327, offshore Louisiana, at the Commission's applicable national ceiling rate.

On January 13, 1978, American Natural filed an amended application for a certificate in which American Natural requested authorization to make sales of natural gas to Michigan Wisconsin from its interests in Eugene Island Block 288 and South Marsh Island Blocks 173 and 174, in addition to its originally proposed sale from Eugene Island Block 327. American Natural also requested authorization under the optional certificate procedure, § 2.75 of the Commission's General Policy and Interpretations, to collect a rate in excess of the applicable national ceiling rate for the proposed sales. In its amended application, American Natural did not specify the actual rate for which it was seeking authorization, but indicated instead that it would provide further information in a supplemental filing.

With its November 5, 1979 filing, American Natural has further revised its certificate application, and states that it is now joined in the application, by the other working interest owners of the blocks involved.[1] American Natural and the other applicants now request authorization to make sales of natural gas only from Eugene Island Block 327 to Michigan Wisconsin, Columbia Gas Transmission Corporation, and Tennessee Gas Pipeline Company. The applicants seek authorization under the optional certificate procedure to collect a rate of $2.96 per Mcf, plus monthly escalations in accordance with Section 101(a) of the NGPA, for the proposed sales.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 5, 1980, 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). All protests filed with the Commission wil 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 party 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. 80-5440 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP79-475]

## Arkansas Louisiana Gas Co.; Petition To Amend

February 13, 1980.

Take notice that on January 15, 1980,[2] Arkansas Louisiana Gas Company (Petitioner), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP79-475 a petition to amend the order of January 7, 1980, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) so as to authorize an increase in the total and single project dollar limitations for construction of new gas supply facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] Dow Chemical Company; Santa Fe Energy Company; Energy Reserves Group, Inc.; Mesa Petroleum Company; Oxy Petroleum Inc.; and Aminoil USA, Inc.

[2] This application was initially tendered for filing on January 15, 1980; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 23, 1980; thus, the filing was not completed until the latter date.

Petitioner states that on September 5, 1979, it filed an application pursuant to § 157.7(b) of the Commission's Regulations for construction of new facilities in which Petitioner estimated the maximum total cost of proposed facilities for the year 1980 at $12 million, with the cost for a single offshore project at a maximum of $2,500,000, it is stated. Petitioner states that it anticipated that a single onshore project might exceed the cost ceiling prescribed in the regulations existing at that time, and, therefore, sought a waiver of the $1,500,000 maximum for onshore projects and requested approval of a $2,000,000 maximum for a single onshore project.

Subsequently, it is stated, on November 1, 1979, in Order No. 56 the Commission amended its regulations so as to increase the dollar limitations for natural gas supply facilities; however, in the order of January 7, 1980, the Commission authorized the dollar amounts for which Petitioner had initially applied.

Petitioner states that it has reviewed its ongoing program for connection of new gas supplies and had determined that it is appropriate to seek amendment of its budget authorization in the instant docket so as to increase the annual and single project dollar limits during any calendar year to the amounts now provided by § 157.7(b) of the Commission's regulations. Accordingly, Petitioner hereby requests that the order issued January 7, 1980, be amended to provide as follows:

(1) The total cost of gas supply facilities constructed during any calendar year shall not exceed $20,000,000.

(2) The total cost of any single onshore project constructed pursuant to the budget-type certificate shall not exceed $2,500,000.

(3) The total cost of any single offshore project constructed pursuant to the budget-type certificate shall not exceed $3,500,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 5, 1980, 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. 80-5441 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ST80-109]

## Big Sandy Gas Corp.; Petition for Approval of Transportation Charges

February 12, 1980.

Take notice that on January 17, 1980, Big Sandy Gas Corporation (Petitioner), P.O. Box 3710, Charleston, West Virginia 25337, filed in Docket No. ST80-109 a petition pursuant to § 284.123(b)(2) of the Commission's regulations under the Natural Gas Policy Act of 1978 (NGPA) for an order approving its rate for the transportation of certain natural gas supplies on behalf of Industrial Gas Corporation (Industiral), all as more fully set forth in the petition which is on file with the Commission and open public inspection.

It is stated that on September 28, 1979, Petitioner filed an application under the Natural Gas Act in Docket No. CP79-507 for authorization to transport gas on a long term basis and, to date, there has been no final action with respect to this application.

According to Petitioner, Industrial has requested Petitioner to transport gas on Industrial's behalf for a period not to exceed two years. Petitioner states, as reflected in its pending application in Docket No. CP79-507, Industrial owns and operates a local distribution system located at the western terminus of Petitioner's pipeline. Industrial has arranged to purchase gas from Cabot Corporation at a point located near the eastern terminus of Petitioner's pipeline and has requested Petitioner to transport the gas from east to west, it is stated.

Petitioner states that it proposes to implement on a short term basis under the NGPA the transportation service requested by Industrial through the same pipeline system which it proposes to use on a long term basis under the Natural Gas Act in Docket No. CP79-507. According to Petitioner, it would terminate the short term transportation service proposed herein within two years from the date of initial delivery or upon its acceptance of a certificate issued in Docket No. CP79-507, whichever occurs first. The rate for which Petitioner seeks approval would be the same 40.0 cents per Mcf transportation rate, exclusive of compression, proposed in Docket No. CP79-507, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 7, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with 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 appropirate 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.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5442 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ST80-94]

## Big Sandy Gas Corp.; Petition for Approval of Transportation Charges

February 13, 1980.

Take notice that on December 20, 1979, Big Sandy Gas Corporation (Petitioner), P.O. Box 3710, Charleston, West Virginia 25337, filed in Docket No. ST80-94, a petition pursuant to § 284.123(b)(2) of the Commission's regulations under the Natural Gas Policy Act of 1978 (NGPA) for an order approving a transportation charge of 60.0 cents per Mcf of gas delivered to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that on September 28, 1979, Petitioner filed an application pursuant to Section 7(c) of the Natural Gas Act in Docket No. CP79-507 for a certificate of public convenience and necessity authorizing it to transport gas on behalf of Tennessee on a long term basis and, to date, there has been no final action with respect to this application.

Therefore, Petitioner proposes to implement on a short-term basis under the NGPA essentially the same transportation service it wants to implement on a long term basis in Docket No. CP79-507. According to Petitioner, it would terminate the short-term transportation service proposed herein at the end of two years from the date of initial delivery or upon its acceptance of a certificate issued in Docket No. CP79-507, whichever occurs

first. The rate for which Petitioner seeks approval is the same 60.0 cents per Mcf transportation rate proposed in Docket No. CP79-507, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 5, 1980, 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). 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. 80-5443 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Dockets Nos. ER77-485 and ER77-551]

## Carolina Power & Light Co.; Extension of Time

February 13, 1980.

On February 8, 1980, Carolina Power and Light Company filed a request for an extension of time to file Briefs Opposing Exceptions to the Initial Decision issued December 27, 1979, in the above-docketed proceeding. The motion states that the additional time is needed to facilitate settlement discussions which are scheduled for February 22, 1980. The motion further states that all parties concur in this request.

Upon consideration, notice is hereby given that an extension of time for filing Briefs Opposing Exceptions is granted to and including March 17, 1980.

[FR Doc. 80-5444 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. SA80-74]

## Circle One Oil Co.; Application for Adjustment

February 13, 1980.

Take notice that on January 21, 1980, Circle One Oil Company (Applicant) P.O Box 5333, Longview, Texas 75601, filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). The applicant seeks an adjustment from 18 CFR 271.804(c) of the Commission's regulations, which requires that an application for a stripper well determination under section 108 of the NGPA be based on a 90-day production period which falls entirely within the 180 days prior to the date on which the application is filed.

The applicant seeks such adjustment in order to base a stripper well application for this well on a 90-day production period which occurred in 1976, prior to the installation of a compressor on this well. The applicant indicates that if this adjustment is granted, and the well is determined to be a stripper well, a determination will be sought that installation of the compressor on the well qualifies as the application of a "recognized enhanced recovery technique" under §§ 271.803(a) and 271.805(e) of the Commission's regulations.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41), issued March 2, 1979, Order No. 24, docket No. RM79-32 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR 1.41(e). All petitions to intervene must be filed on or before March 10, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5445 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RP75-62]

## Cities Service Gas Co.; Extension of Time

February 13, 1980.

On February 6, 1980, Cities Service Gas Company filed a request for a further extension of time to file briefs on exceptions to the Initial Decision of the Administrative Law Judge issued October 29, 1979, in the above-docketed proceeding. The motion states that parties to this proceeding have agreed in principle to a settlement of the remaining issues in this case. Additional time is needed to facilitate a review of the draft of the Stipulation and the filing of the finalized Agreement.

Upon the filing of the settlement agreement, the dates for briefs will be suspended pending Commission action thereon. Otherwise, briefs on and opposing exceptions shall be due on or before March 6 and March 26, 1980, respectively.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5446 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-223]

## Consolidated Gas Supply Corp. Application

February 13, 1980.

Take notice that on February 1, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-223 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing long-term firm storage service for Texas Eastern Transmission Corporation (Texas Eastern) for a period commencing April 16, 1980, and ending April 15, 2000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed storage service being performed pursuant to a storage service agreement dated December 18, 1979, would consist of a storage capacity quantity of 32,000,000 dekatherm (dt) equivalent of natural gas and a storage demand quantity of 341,000 dt equivalent per day to be redelivered on a firm basis in accordance with Applicant's Rate Schedule GSS. Applicant further states that no additional facilities are proposed or required in connection with the service herein proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1980, 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 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 or its designee 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. 80-5447 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-226]

## Crown Zellerbach Corp.; Application

February 12, 1980.

Take notice that on February 1, 1980, Crown Zellerbach Corporation (Applicant), One Bush Street, San Francisco, California 94104, filed in Docket No. CP80-226 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a 5.8-mile long gas transmission line in Pearl River County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the subject 5.8-mile gas transmission line is in poor condition and must either be repaired or abandoned. Therefore, since Applicant asserts it sees no possible future use of the line, it has chosen to seek approval to abandon said line.

According to Applicant, all 5.8 miles of the abandoned gas line would be salvaged and sold to the contractor who removes the gas line. The purchase price of the salvaged material would be the cost of removing the line plus reimbursement to Applicant at the rate of 20.0 cents per foot of pipe salvaged, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 7 1980, 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 or its designee 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 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.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5448 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. SA80-77]

## Dow Pipeline Co.; Application of Adjustment

February 13, 1980.

On February 1, 1980, Dow Pipeline Company filed with the Federal Energy Regulatory Commission an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 and § 1.41 of the Commission's regulations, wherein Dow seeks to be permitted to file cost-of-service information with an appropriate state regulatory agency, the Railroad Commission of Texas, for a determination of the justness and reasonableness of the rate which Dow is charging Tennessee Gas Pipeline Company for section 311(a)(2) transporting service, and to use the resulting methodology in setting the transportation charge for sections 311(a)(2) and 311(b) transactions.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 10, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5449 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Project No. 2232]

## Duke Power Co.; Application for Approval of Change in Land Rights

February 13, 1980.

Take notice that an application for approval of a change in land rights was filed on June 7, 1979, by Duke Power Company (Applicant). (Copies of correspondence should be addressed to: Mr. John E. Lansche, Assistant General Counsel, Duke Power Company, Box 2178, Charlotte, North Carolina). The lands that are the subject of this application are in Gaston and Mecklenburg Counties, North Carolina, on the Catawba River (Lake Wylie) and are located within the project boundaries of FERC Project No. 2232 (Catawba Wateree).

Applicant proposes to grant an easement to Colonial Pipeline Company for the construction of a 40 inch diameter petroleum pipeline across the Catawba River approximately 2200 feet upstream of Interstate 85 near North Belmont, North Carolina. The pipeline would cross approximately 450 feet of project lands and waters. The right of way sought would be 150 feet wide and would extend 125 feet north and 25 feet south of the propposed pipeline. This new right of way includes an existing 50 foot wide right of way containing an existing 36 inch diameter pipeline. This existing 36 inch pipeline is located 100 feet upstream of and parallel to the proposed 40 inch pipeline. The proposed pipeline would be placed at a minimum depth of 5 feet below the river bed. The excavated trench and pipeline would be backfilled to surrounding grades.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in acordance with the requirements of the Commission's rules of practice and procdure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for

protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5450 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. SA80-69]

## Eason Oil Co.; Application for Adjustment

February 13, 1980.

Take notice that on January 16, 1980, Eason Oil Company (Eason) filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), wherein Eason sought such relief as may be necessary to charge and collect the maximum lawful price under section 106(b) of the NGPA on resales of natural gas at its Cresecent Plant in Oklahoma to the extent such resales involve gas subject to section 106(b) when purchased by Eason.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure, Order No. 24 issued March 22, 1979. 18 CFR 1.41.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 10, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5451 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. SA80-49]

## Energy Reserves Group, Inc.; Application for Adjustment

February 13, 1980.

On December 4, 1979, Energy Reserves Group, Inc. (applicant) filed with the Federal Energy Regulatory Commission an application for a price adjustment under Section 105 of the Natural Gas Policy Act of 1978 wherein applicant seeks an increase on price from $.14 per Mcf to $1.00 per MMBtu with $.10 per MMBtu for annual escalation in an intrastate contract entered into prior to November 8, 1978 with Conoco Inc. Applicant requests a price increase in consideration for recompletion of the John Wilfert No. 1 Well and for compression on the Wilfert No. 1 Well and the M.S. Romain No. 1 Well, North Tempate Field, Acadia Parrish, Louisiana.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 10, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5452 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-192]

## Florida Gas Transmission Co.; Application

February 13, 1980.

Take notice that on January 16, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP80-192 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and continued operation of facilities necessary to render service to certain direct sale customers in the states of Texas and Louisiana and the continued sale of gas to certain resale customers in the state of Texas (Western Division customers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

At the time the Western Division sales were commenced, Applicant states, it believed that it need not apply for authorization covering these sales. As a consequence of recently concluded reviews of its operations, however, Applicant states, it believes that certification of said Western Division sales may be required. Accordingly, Applicant requests that the Commission issue a certificate of public convenience and necessity. if it so determines that such certification is required, authorizing the construction and operation of those facilities necessary to render service to Applicant's Western Division customers and the continued sale of natural gas for resale to Gulfside Gas Company (Gulfside), the Texas Department of Corrections (TDC), and Entex, Inc. (Entex).

Applicant states that deliveries to its Western Division customers in calendar year 1978 totaled 196,567 Mcf while sales to its other customers in calendar year 1978 totaled 13,346, 418 million Btu.

Applicant states further that in light of the *de minimis* nature of the volumes that have historically been sold to the Western Division customers it is apparent that the volumes of gas involved herein have had and will have a negligible effect on Applicant's total gas supply. Applicant claims that while it has not secured estimates of future requirements from the Western Division customers, it is of the opinion, based upon such customers' historical takes, that their future requirements would remain in the same order of magnitude.

The direct sales deliveries that are reflected herein are, it is stated, used primarily for agricultural and irrigation pumping purposes and as such qualify as essential agricultural users as defined in Commission Order No. 29, *et seq.*, (Docket No. RM79-15). Accordingly, Applicant states that upon receipt of authorization, these direct sales customers would be placed in Priority 2 of its currently effective curtailment plan. Certification of the facilities used to render the subject service would insure, it is asserted, continuity of service and would allow Applicant to continue to honor its contractual obligations to such customers.

Applicant states that it also sells natural gas for resale in the state of Texas to Gulfside, Entex, and TDC. During calendar year 1978, sales amounted to 84,562 Mcf, as compared to Applicant's 1978 total sales of 13,346,418 million Btu, it is asserted. Further, Applicant states that it does not anticipate an increase in these volumes based upon each customer's historical takes.

Applicant states that each resale contract specifies the uses to which the natural gas sold thereunder may be placed: the sale to the TDC, through its natural gas distribution system, is for domestic use by the residents of TDC's housing development; the sale to Entex is for resale to the Pan American School, a non-profit organization in Kleberg County, Texas; the sale to Gulfside is for distribution and resale to the town of Port Aransas, Texas, for domestic uses. The foregoing uses, Applicant believes, would be categorized as high priority

requirements under Commission Order No. 29, *et seq.*, (Docket No. RM79–15) and hence, upon receipt of any authorization determined by the Commission to be necessary, would place these uses in Priority 1 of Applicant's presently effective curtailment plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1980, 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 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 or its designee 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. 80-5453 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-211]

## Florida Gas Transmission Co. and Southern Natural Gas Co.; Application

February 13, 1980.

Take notice that on January 28, 1980, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80–211 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities and a meter station to be located in Matagorda County, Texas, and the Brazos area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have signed natural gas purchase contracts with Bethlehem Steel Corporation (Bethlehem), Cotton Petroleum Corporation, Amax Petroleum Corporation (Amax) and Kirby Exploration Company (Kirby) for the purchase of 100 percent of the production from Block 340–L (Northwest Quarter), offshore Texas. Applicants further state that they have contracted with the Kilroy Exploration Company, Dan A. Hughes, George C. Morris, Chesley Pruet, Kirby, Bethlehem and Amax for 100 percent of the production from State Tract 367–L (Northeast Quarter), all in the Brazos area, offshore Texas.

In order to transport such gas and in order to transport gas that may become available to Applicants from blocks in proximity to the subject blocks, Applicants propose to construct jointly, to own (at 50 percent each), and to operate the following facilities:

(1) Approximately 15.5 miles of 10-inch pipeline and 13.5 miles of 8-inch pipeline which would connect Block 340–L with Florida Gas' existing facilities in Matagorda County, Texas;

(2) Approximately 4.3 miles of 4-inch pipeline which would connect Block 317–L to Block 340–L; and

(3) A meter station on the production platform in Block 340–L.

It is stated that the estimated reserves in Blocks 340–L and 367–L total 24,300,000 Mcf and that the estimated initial delivery therefrom would be 16,000 Mcf of natural gas per day.

Additionally, Florida Gas requests authorization to transport gas Southern would produce from the subject producers from Matagorda County, Texas, to Washington Parish, Louisiana.

Applicants state that the cost of constructing the proposed facilities would be $9,463,000, which cost would be financed initially from internally generated funds. It is further stated that any long-term costs would be financed from Applicants' long-term financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1980, 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 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 or its designee 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5454 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. EL80-11]

## Gulf States Utilities Co.; Procedural Schedule

February 13, 1980.

An audit of Gulf States Utilities Company's (Gulf States) books was conducted by Federal Energy Regulatory Commission Staff (Staff). Staff and Gulf States were unable to reach agreement on the accounting treatment of interdepartmental sales of steam.

Currently, Gulf States for reporting purposes does not allocate the portion of electric plant used to produce steam for the steam products department from Account 101, Electric Plant in service. Thus Gulf States records in Account 448, Interdepartmental sales, operation and maintenance expenses, depreciation

costs, and property taxes attributable to electric plant utilized to provide steam to Gulf States' steam products department. However, Staff and Gulf States were unable to agree on whether Account 448 should also be credited with amounts equal to the return and related income taxes on that portion of electric plant used to produce steam for the steam products department.

Gulf States has consented to the use of the shortened procedures specified in Part 41 of the Commission's rules and regulations under the Federal Power Act (18 CFR 41). Therefore any interested party may file a brief in accordance with 18 CFR 41.3. This brief may be accompanied by a petition to intervene in accordance with 18 CFR 1.8.

The following procedural schedule is established:

(1) Initial briefs and petitions to intervene shall be due no later than March 24, 1980; and

(2) Reply briefs shall be due no later than 20 days thereafter.

All briefs and petitions to intervene must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5455 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER77-531]

## Illinois Power Co.; Refund Report

February 13, 1980.

The filing Company submits the following:

Take notice that Illinois Power Company on January 25, 1980, tendered for filing a Report of Distribution of Refunds made by Illinois Power to the Village of Ladd, Illinois on January 23, 1980 pursuant to the Commission's "Order on Remand Directing the Refund of Rate Increase Payments" issued January 9, 1980.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (.8 CFR 1.8 and 1.10). All such protests should be filed on or before March 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5456 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. E-9520]

## Illinois Power Co.; Refund Report

February 13, 1980.

The filing Company submits the following:

Take notice that Illinois Power Company on January 25, 1980, tendered for filing a Report of Distribution of Refunds made by Illinois Power to the City of Oglesby, Illinois and the Village of Ladd, Illinois on January 23, 1980 pursuant to the "Commission's Order on Remand Directing the Refund of Rate Increase Payments" issued January 9, 1980.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission. 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before March 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5457 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. TC80-37]

## Inter-City Minnesota Pipelines, Ltd., Inc.; Tariff Filing

February 13, 1980.

Take notice that on January 28, 1980, Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), 1700-444 St. Mary Avenue Winnipeg, Manitoba, Canada R3C 3T7 filed in Docket No. TC80-37 the following tariff sheets to its FERC Gas Tariff:

First Revised Sheet No. 69—Superseding Original Sheet No. 69;
Original Sheet No. 69-A;
First Revised Sheet No. 70—Superseding Original Sheet No. 70;
First Revised Sheet No. 71—Superseding Original Sheet No. 71;
First Revised Sheet No. 72—Superseding Original Sheet No. 72;
First Revised Sheet No. 73—Superseding Original Sheet No. 73;
Second Revised Sheet No. 74—Superseding First Revised Sheet No. 74;
First Revised Sheet No. 74-A—Superseding Original Sheet No. 74-A;
First Revised Sheet No. 75—Superseding Original Sheet No. 75;
First Revised Sheet No. 76—Superseding Original Sheet No. 76.

Original Sheet No. 74-BN and Original Sheet 74-C are proposed to be cancelled.

By order issued November 30, 1979, in Docket No. TC80-37, the Commission extended Inter-City's time to file tariff sheets in compliance with Order No. 29 (Docket No. RM79-15, May 2, 1979) to February 1, 1980. Inter-City states that the above tariff sheets are submitted in compliance with Order No. 29 and that this filing supplements the index of entitlements and report of the data verification committee that were filed in this docket on December 19, 1979.

Inter-City requests the Commission to waive its requirements and permit the tariff sheets to become effective on February 1, 1980.

Among other things, the above tariff sheets establish the following priority of service categories:

1. (a) Residential and small commercial requirements (less than 50 Mcf on a peak day) including schools, hospitals, police and fire protection, sanitation facilities and correctional institutions.

(b) All other requirements for schools, hospitals, police and fire protection, sanitation facilities and correctional institutions.

2. Requirements for essential agriculture uses except where the Federal Energy Regulatory Commission has determined than an alternate fuel is economically practicable and that fuel is reasonably available.

3. Large commercial requirements (50 Mcf or more on a peak day) not included in priority 1(b) except boiler fuel use in excess of 300 Mcf per day, industrial requirements for plant protection, feedstock and process requirements, and all other industrial requirements up to 50 Mcf on a peak day.

4. All industrial requirements not specified in (3), (5), (6), (7) or (8).

5. Commercial and industrial boiler fuel requirements of more than 300 Mcf per day but less than 1,500 Mcf per day.

6. Commercial and industrial boiler fuel requirements of more than 1,500 Mcf per day but less than 3,000 Mcf per day.

7. Commercial and industrial boiler fuel requirements of more than 3,000 Mcf per day but less than 10,000 Mcf per day.

8. Commercial and industrial boiler fuel requirements of more than 10,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said filing should on or before February 25, 1980 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). 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. 80-5458 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-124]

## Lynchburg Gas Co., Applicant and Transcontinental Gas Pipe Line Corp., Respondent; Application

February 13, 1980.

Take notice that on December 5, 1979, Lynchburg Gas Company (Applicant), P.O. Box 61, Lynchburg, Virginia 24505, filed in Docket No. CP80-124 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Transcontinental Gas Pipe Line Corporation (Transco) to establish a physical connection of its transportation facilities with the facilities of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests the Commission to direct Transco to construct an additional connection of its facilities with Applicant's facilities in Pittsylvania County, Virginia, approximately three and one-half miles northwest of Danville, Virginia. It is stated that Applicant plans to extend approximately 12 miles of 4-inch pipeline from the proposed tap to the Brockway Glass Company (Brockway) plant in Pittsylvania County. Brockway is said to be a new customer of Applicant.

It is stated that the construction is scheduled to commence on April 1, 1980, and to be fully completed by September 1, 1980. Applicant states that the estimated cost of construction is $1,000,000. It is further stated that in the absence of the proposed tap, Applicant would have to install 14½ miles of pipeline to its nearest tap with Transco near Chatham, Virginia, at an estimated cost of $1,250,000.

Applicant states that the maximum deliveries to Brockway are anticipated to be 2,700 Mcf of gas per day and 573,000 Mcf of gas per year beginning September 1, 1980. It is further stated that applicant expects to double its volume of sales to Brockway in the future.

Applicant asserts it would require no additional supply of gas from Transco to serve Brockway.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1980, 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 156.9). 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. 80-5459 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-209]

## Michigan Wisconsin Pipe Line Co.; Application

February 13, 1980.

Take notice that on January 25, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-209 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 Northern Natural Gas Company (Northern) and the construction and operation of the requisite facilities to reinforce its onshore pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the gas reserves in West Cameron Area Block 205 have been committed by Atlantic Richfield Company to Northern pursuant to the terms and conditions set forth in an advance payment agreement between the parties dates November 7, 1975, as amended July 20, 1979, and that a gas purchase contract covering such supplies is pending. Applicant asserts that, in order to effectuate receipt of the gas supplies beneath Block 205, Northern would construct and operate a lateral line facility to be 9 miles of 16-inch O.D. diameter pipeline, necessary to connect the Block 205 "A" production platform to Applicant's pipeline system in West Cameron Block 171 (Block 171), offshore Louisiana. It is stated that the purpose of the instant application is to obtain authorization to provide transportation for Northern's Block 205 gas supply from the Block 171 point of receipt, and to redeliver by displacement said supplies to United Gas Pipe Line Company (United).

Applicant states that, pursuant to the transportation agreement between Applicant and Northern dated December 12, 1979, Northern would deliver up to 75,000 Mcf of natural gas per day attributable to Block 205 production, and Applicant would transport and deliver equivalent volumes of gas to United for Northern's account. It is stated that the point of receipt would be Block 171 where Northern's previously mentioned lateral pipeline would connect with Applicant's pipeline system, and the point of delivery would be at an existing onshore interconnection between the systems of Applicant and United located downstream from Applicant's Patterson Compressor Station in St. Mary Parish, Louisiana. Applicant states that, as consideration for the service, Northern would pay to Applicant a monthly demand charge equal to the product of th contract demand and $4.11 for a primary term of fifteen years, commencing with the date of initial deliveries.

It is further stated that Applicant's existing onshore pipeline system between its Grand Chenier and Eunice stations is presently operating at deliverability levels approaching design capacity. Applicant states that, in order to increase the deliverability of said system to accommodate the quantity of gas proposed to be transported for Northern's account, it proposes to construct and operate 15.3 miles of 30-inch O.D. pipeline forming a loop of an existing section of its 26-inch diameter Lowing Main pipeline between Mile Post 1.00 and Mile Post 16.30, Cameron and Jefferson Davis Parishes, Louisiana.

Applicant further states that the cost of the proposed loop would be $8,765,970, which cost would be financed with treasury funds and other internally generated funds, plus

borrowings from banks under short-term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before march 6, 1980, 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 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 or its designee 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. 80-5460 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-212]

## Michigan Wisconsin Pipe Line Co.; Application

February 13, 1980.

Take notice that on January 28, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-212 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional measurement facilities at its Patterson Compressor Station (Patterson) located near Patterson, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inpsection.

It is stated that on December 26, 1979, Texas Gas Transmission Corporation (Texas Gas) filed an application in Docket No. CP80-158 requesting authorization to construct and operate approximately 1,740 feet of 12-inch pipeline and related facilities looping an existing section of Texas Gas' existing pipeline system near Patterson, Louisiana. Incident to the proposed construction, Applicant states that Texas Gas has requested, and Applicant has agreed to expand its measurement facilities at Patterson, which would permit Texas Gas to optimize the operational flexibility of its system.

In order to supplement Texas Gas' proposal, Applicant proposes herein to install approximately 1,320 feet of 12-inch diameter pipeline and gas measurement facilities at Patterson. According to Applicant, the estimated cost of the facilities proposed herein would be $549,570. In accordance with the arrangement between the parties, Applicant would own and operate the facilities, and Texas Gas would reimburse Applicant for all associated construction costs, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1980, 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 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 or its designee on this application if no petition to invervene 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. 80-5461 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-215]

## Michigan Wisconsin Pipe Line Co.; Application

February 13, 1980.

Take notice that on January 29, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-215 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of gas measurement facilities and appurtenant facilities to be located at The Superior Oil Company's (Superior) platform in West Cameron Block 101, offshore Louisiana (Block 101), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it presently purchases from Superior gas reserves underlying West Cameron Block Nos. 71, 72, 101 and 102, offshore Louisiana (Block 71 Field). Applicant asserts that such gas is delivered to Applicant in Block 101 for transportation to delivery points in onshore Louisiana through a pipeline which extends southerly from Applicant's Grand Chenier Station to West Cameron Block 171, offshore Louisiana, and then to a point of interconnection with the High Island Offshore System (HIOS) in West Cameron Block 167, offshore Louisiana (Michigan Wisconsin Line). Applicant states that since the commencement of gas deliveries in West Cameron Block 167 from the HIOS pipeline system to the Michigan Wisconsin Line, the production from the Block 71 Field has been commingled with the volumes of gas received by Applicant from HIOS for transportation to various delivery points in onshore Louisiana.

It is stated that the gas delivered to Applicant from the Block 71 Field is currently measured by four 6-inch orifice meter runs located on Superior's platform in Block 101. It is further stated

that the meters used to measure gas deliveries to the HIOS pipeline system and to the Michigan Wisconsin Line from the HIOS system are turbine meters. It is stated that the present metering system in Block 101 is not compatible with the metering system employed to measure volumes received into the Michigan Wisconsin Line from the HIOS pipeline system, nor is it compatible with HIOS's supervisory control and data acquisition (SCADA) system located onshore at the Grand Chenier Station. Applicant states that, as the operator of the SCADA system, it has the capability to monitor on a daily basis all of the volumes transported through the HIOS pipeline system, as well as those volumes further transported through the Michigan Wisconsin Line to various locations in onshore Louisiana.

Applicant further states that under the present operation of the Michigan Wisconsin Line, the meter runs located in Block 101 are manually read by field personnel on a monthly basis. It is stated that the installation of two turbine meters with a telemetering system in Block 101 would provide Applicant with a metering station compatible with the SCADA system, and would allow Applicant to determine on a daily basis the volumes of gas flowing into the Michigan Wisconsin Line at Block 101.

Applicant therefore proposes to construct and operate two turbine meters with telemetering on Superior's platform in Block 101. Applicant states that such meters would cost $512,850, which would be financed with funds on hand, funds generated internally, borrowings under revolving credit agreements or short term financing. It is further stated that the present metering facilities located in Block 101 would be retained and used as check meters for measuring the production from the Block 71 Field.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 6, 1980, 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 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 or its designee 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. 80-5462 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-229]

## Mississippi River Transmission Corp.; Application

February 12, 1980.

Take notice that on February 4, 1980, Mississippi River Transmission Corporation (Applicant), P.O. Box 14521, St. Louis Missouri 63178, filed in Docket No. CP80-229 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies for periods of up to two years. Applicant states that it would comply with § 284.221(d) of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1980, 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 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 or its designee 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. 80-5463 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-217]

## Montana Power Co.; Filing

February 13, 1980.

The filing Company submits the following:

Take notice that on January 31, 1980, The Montana Power Company tendered for filing in compliance with the Federal Power Commission's Order of May 6, 1977, a summary of sales made under the Company's FPC Electric Tariff M-1 during December, 1979, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 3, 1980. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5464 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-220]

## Natural Gas Pipeline Co. of America; Application

February 12, 1980.

Take notice that on February 1, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-220 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 47.98 miles of 30-inch pipeline loop on the Oklahoma extension portion of its Amarillo pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that capacity limitations on the Oklahoma extension of Applicant's Amarillo pipeline system prevent efficient utilization of Applicant's existing gas supplies and facilities. Accordingly, Applicant requests authorization to construct and operate 47.98 miles of 30-inch pipeline loop and appurtenant facilities between Applicant's Sayre Storage Field tap in Beckham County, Oklahoma, and its Compressor Station No. 111 in Hutchinson County, Texas. Applicant states that the proposed loop lines would be located in Wheeler, Gray, and Carson Counties, Texas, and in Beckham County, Oklahoma.

It is stated that the proposed loop lines would increase capacity by approximately 100,000 Mcf of natural gas per day, thus improving supply management and flexibility. It is further stated that the cost of the proposed facilities would be $18,864,000 which sum would be financed through funds on hand and interim and permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 7, 1980, 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 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 or its designee 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.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5466 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-135]

## Northern Natural Gas Co.; Extension of Time

February 12, 1980.

On January 29, 1980, the Railroad Commission of Texas filed a request for an extension of time to file an intervention pursuant to a Commission Notice issued January 7, 1980, in the above-docketed proceeding. The motion states that additional time is needed because the issues in this proceeding may involve several questions which are under the jurisdiction of the Railroad Commission and will require careful examination by that Commission.

Upon consideration, notice is hereby given that an extension is granted to and including February 18, 1980, for the filing of interventions in this proceeding.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5467 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-237]

## Northern Natural Gas Co.; Amendment

February 13, 1980.

Take notice that on February 1, 1980, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP78-237 an amendment pursuant to Section 3 of the Natural Gas Act to its pending application in said docket requesting authorization to pay United Gas Limited of Ontario, Canada (United Gas) the increased U.S. Canadian border price of $4.47 (U.S.) per million Btu ($4.17 per gigajoule) which has been announced by the Government of Canada for exports of natural gas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern proposes in the instant docket to import from Canada 75,000 Mcf of natural gas per day during the heating season (November 1 through March 31), to begin in 1979 and ending in 1983. It is stated that such gas is to be purchased from Union Gas at a base price of $3.45 (U.S.) per million Btu. Northern states that it has been advised by Union Gas that the National Energy Board of Canada has established, effective February 17, 1980, a new border price of $4.47 (U.S.) per million Btu. Accordingly, Northern requests authorization to import said volumes at the new border price.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 5, 1980, 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). 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. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5468 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Project No. 2990]

## Ohio Edison Co.; Application for Preliminary Permit

February 13, 1980.

Take notice that an application was filed on November 5, 1979, under the Federal Power Act, 16 U.S.C. 791a–825r, by the Ohio Edison Company for a preliminary permit. The project is to be known as the Pike Island Hydroelectric Project, located at the U.S. Army Corps of Engineers' Pike Island Locks and Dam, on the Ohio River at river mile 84.2, in Belmont County, Ohio. Correspondence with the Applicant on this matter should be addressed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

*Purpose of Project*—Project energy will be utilized in the Applicant's electric distribution system and sold to public utility customers in the service area.

*Proposed Scope and Cost of Studies under Permit*—Applicant seeks issuance of a preliminary permit for a period of three years during which time it would perform surveys and geological investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $400,000.

*Project Description*—The proposed project would utilize the U.S. Army Corps of Engineers' Pike Island Locks and Dam on the Ohio River.

The project would consist of: (1) A powerhouse to be located at the west (right) abutment of the existing dam; (2) two or three turbine-generator units installed in the powerhouse with a proposed rated capacity between 33 MW and 50 MW; (3) an approach channel; (4) a tailrace channel; (5) a training wall which may be necessary to prevent currents or eddies downstream caused by power plant discharge; (6) an outdoor equipment erection pad; (7) a transformer/switching area; (8) improved recreational facilities; and (9) appurtenant facilities. The existing upper pool elevation is 644.0 feet m.s.l., and tailwater elevation is a minimum of 623.0 feet m.s.l., providing a maximum available head of 21 feet. Applicant estimates the annual generation would average about 220,000,000 kWh.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

*Agency Comment*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for a preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before April 18, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 18, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comment, protest, or petition to intervene must be filed on or before April 18, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5469 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Project 2991]

## Ohio Edison Co.; Application for Preliminary Permit

February 13, 1980.

Take notice that an application was filed on November 5, 1979, under the Federal Power Act, 16 U.S.C. 791a–825r, by the Ohio Edison Company for a preliminary permit. The project is to be known as the New Cumberland Hydroelectric Project, located at the U.S. Army Corps of Engineers' New Cumberland Locks and Dam, on the Ohio River at river mile 54.4, in Hancock County, West Virginia. Correspondence with the Applicant on this matter should be addressed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

*Purpose of Project*—Project energy will be utilized in the Applicant's electric distribution system and sold to public utility customers in the service area.

*Proposed Scope and Cost of Studies under Permit*—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $400,000.

*Project Description*—The proposed project would utilize the existing U.S. Army Corps of Engineers' New

Cumberland Locks and Dam on the Ohio River.

The project would consist of: (1) A powerhouse to be located at the east (left) abutment of the existing dam; (2) two or three turbine-generator units installed in the powerhouse with a proposed generating capacity between 33 MW and 50 MW; (3) an approach channel; (4) a tailrace channel; (5) a training wall which may be necessary to prevent currents or eddies downstream caused by power plant discharge; (6) an outdoor equipment erection pad; (7) a transformer/switching area; (8) improved recreational facilities; and (9) appurtenant facilities.

The existing upper pool elevation is 664.5 feet m.s.l., and tailwater elevation is a minimum 644.0 feet m.s.l., providing a maximum available head of 20.5 feet. Applicant estimates the annual generation would average about 212,500,000 kWh.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for a preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before April 18, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 18, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be file on or before April 18, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5470 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-227]

## Ohio Valley Electric Corp.; Filing

February 13, 1980.

The filing Company submits the following:

Take notice that on February 6, 1980 Ohio Valley Electric Corporation (OVEC) submitted for filing Modification No. 11 to the Power Agreement between OVEC and the United States of America, and Modification No. 5 to the Inter-Company Power Agreement between OVEC and certain other companies.

Modification No. 11 extends the term of the Power Agreement from its present expiration date of April 30, 1980 to October 14, 1992.

Modification No. 5 is designed to incorporate into the Inter-Company Power Agreement Correlatives to the amendments made by Modification No. 11 to the Power Agreement.

OVEC respectfully requests that the two modifications be effective immediately and that the Commission waive all rules and regulations with which OVEC has not already complied.

Any person desiring to be heard or to protest said application 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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 4, 1980. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5471 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. SA80-75]

## Schenley Distillers, Inc.; Application for Adjustment and Request for Interim Relief

February 13, 1980.

Take notice that on January 30, 1980, Schenley Distillers, Inc. (Schenley), McDermott, Will & Emery, 1101 Connecticut Avenue, N.W., Washington, D.C. 20036, filed in Docket No. SA80-75 pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41) a request for interim relief and for an adjustment from the interim regulations (Subpart C of Part 281) promulgated by Order No. 55, issued October 26, 1979, in Docket No. RM79-40, all as more fully set forth in the application and request which are on file with the Commission and open to public inspection.

Schenley seeks an exemption from the application of the alternative fuel rule for its plant located in Lawrenceburg, Indiana, on the basis that it cannot legally burn coal as an alternative fuel at that facility during this winter heating season, despite the intermittent ability to do so during the 1975-1978 period and, further, seeks interim relief to protect its Priority 2 entitlement as an essential agricultural user.

Schenley states that by Order No. 55, the Commission determined that those essential agricultural users which possessed the ability to use coal or residual fuel oil should be considered as having an economically practicable and reasonably available alternative fuel and that curtailment priority was thereby determined to be inapplicable for this winter heating season to those users who have previously demonstrated this capability. Schenley

indicates that it has the installed capability to use coal at its Lawrenceburg plant and has used coal under certain exigent circumstances since 1973. Schenley asserts that during the Arab oil embargo in 1973, it anticipated that it would not be able to obtain No. 2 fuel oil and purchased a supply of low sulfur coal and that the Indiana State authorities granted an exemption from emission standards during the period that fuel oil was unavailable. When the emergency ended, the general waiver of the air quality regulations was terminated, it is said. Schenley states that in 1976 the Indiana Air Pollution Control Division issued a temporary permit allowing Schenley to burn certain amounts of the deteriorating coal in storage in conjunction with its use of No. 2 fuel oil.

Schenley indicates that in response to the recent finding that Dearborn County, where the Lawrenceburg plant is located, is in a nonattainment area under the National Ambient Air Quality Standards for particulate matter, the Indiana Air Pollution Control Division issued regulations that will prohibit Schenley from burning any coal as of January 1, 1980. Therefore, Schenley asserts that from a practical standpoint, coal cannot be classified as an alternative fuel for the Lawrenceburg plant. Accordingly, Schenley maintains that the application of the alternative fuel rules could severely impair its ability to produce beverage spirits at its Lawrenceburg plant.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 10, 1980.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5472 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-229]

## Southern Indiana Gas & Electric Co.; Filing

February 13, 1980.

The Filing Company submits the following:

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on February 7, 1980 tendered for filing proposed changes in its FPC Electric Service Tariff, FPC Docket No. E-8542.

The purpose of this filing is to revise Service Schedule D-Short Term Power. The demand charge for Short Term Power is proposed to be increased from $0.60 to $0.70 per kilowatt for each week and from $0.10 to $0.12 per kilowatt per day if the period is less than a week. In the event the amount of Short Term Energy taken is reduced upon the request of the supplying party the demand charge for the period during which such reduction is made shall be reduced by $0.12 per kilowatt of reduction for each day (other than Sunday) during which such reduction is in effect.

The proposed revision and addition reflect a desire on the part of both parties to provide for present and anticipated future increases in costs and to attain the maximum benefit from the maximum interconnection of their systems.

Southern Indiana requests waiver of the notice requirements of § 35.3 of the Commission's regulations to permit an effective date of February 1, 1980.

Southern Indiana states that copies of the filing were served upon Big Rivers, the Public Service Commission of the State of Indiana and the Public Service Commission of the Commonwealth of Kentucky.

Any person 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 §§ 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 March 3, 1980. 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. 80-5473 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-228]

## Southern Indiana Gas & Electric Co.; Filing

February 13, 1980.

The filing Company submits the following:

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on February 7, 1980, tendered for filing, proposed changes in its FPC Electric Service Tariff.

Southern Indiana indicates that the purpose of this filing is to revise Service Schedule A-Contract Power. The Capacity Charge for Contract Power is proposed to be increased from $2.60 to $3.00 per Kw per month of Scheduled and Unscheduled Demand and the Capacity Charge for Emergency Service and Maintenance Power in Service Schedules B and C, is proposed to be increased from $0.06 to $0.70 per Kw per week.

The proposed revision reflects a desire on the part of both parties to provide for present and anticipated future increases in costs and to attain the maximum benefit from the interconnection of their systems.

Southern Indiana requests waiver of the notice requirements of § 35.3 of the Commission's regulations to permit an effective date of February 1, 1980.

Southern Indiana states that copies of the filing were served upon City of Jasper, Indiana who has filed its Certificate of Concurrence.

Any person desiring to be heard or to protest said application 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 §§ 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 March 3, 1980. 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. 80-5474 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-216]

## Southern Natural Gas Co.; Application

February 14, 1980.

Take notice that on January 30, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-216 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain transmission facilities and for a

certificate of public convenience and necessity authorizing the construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon by sale to Atlanta Gas Light Company (Atlanta) approximately 8.4 miles of 4-inch pipeline and appurtenant facilities running from Applicant's 16-inch South Main Line tap valves to the existing Sandersville Meter Station (the Sandersville Line), as well as the Sandersville Regulator Station, and the Sandersville Meter Station which is located at the downstream terminus of the Sandersville Line, all in Washington County, Georgia.

Applicant states that all of the facilities to be sold to Atlanta hereunder are currently being utilized by Applicant to make deliveries of gas to Atlanta for resale. Applicant further states that it and Atlanta have entered into a letter agreement dated December 18, 1979, providing for the sale by Applicant and purchase by Atlanta of the Sandersville Line, Sandersville Regulator Station and Sandersville Meter Station for the depreciated book value of $55,874.00. Furthermore, the letter agreement provides, it is stated, that Applicant would construct a new meter station at the intersection of the Sandersville Line with Applicant's 16-inch South Main Line. Therefore, Applicant requests authorization to construct and operate a new meter station for delivery of gas at main line pressure to Atlanta at the Sandersville Line.

It is stated, Atlanta would reimburse Applicant for all costs of construction incurred in the installation of the new meter station.

The abandonment by sale would provide greater operational efficiency for Applicant by eliminating Applicant's maintenance expenses for the Sandersville Line facilities, it is stated. Applicant asserts further that the proposed new meter station would provide the necessary measurement and related facilities for delivery of gas to Atlanta for resale.

The actions proposed herein, would not, it is stated, reduce the salable capacity of Applicant's system nor would these proposed actions result in any termination of service to Atlanta.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 10, 1980, 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 157.70). 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 or its designee 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. 80-5473 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP80-219]

## Southern Natural Gas Co.; Application

February 13, 1980.

Take notice that on January 31, 1980, Southern Natural Gas Company (Applicant) P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-219 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to render transportation services for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would comply with Section 284.221(d) of the Commission's Regulations in rendering said transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1980, 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 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 or its designee 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. 80-5474 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. CP79-70]

## Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Petition To Amend

February 13, 1980.

Take notice that on January 29, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-70 a joint petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act on April 10, 1979, in the instant docket so as to authorize Petitions to construct, own

and operate jointly the offshore pipeline and related facilities which by the original order Transco was authorized individually to construct, own and operate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by the order of April 10, 1979, Transco was authorized to construct and operate approximately 8.43 miles of 24-inch pipeline and appurtenant metering, regulating and connecting facilities located in the High Island Area, offshore Texas, known as "Project HI–179L" to connect the production facilities of Shell Oil Company (Shell) in High Island Block 197L to Transco's existing North High Island System at the junction platform in High Island Block 154L.

Petitioners state that the order noted that (1) Transco had acquired the right to purchase 25 percent of Shell's interest in Block 179L reserves, (2) Transco expected to acquire an additional 25 percent of Shell's interest which was then uncommitted, and (3) United had entered into a contract with Shell for the remaining 50 percent of Shell's interest. Transco, it is stated, has now acquired the additional 25 percent which was then undedicated, so that the purchase rights to Shell's Block 179L reserves are shared equally by Transco and United. In addition, Transco and United state that they have each acquired 50 percent of Shell's reserves in adjoining Galveston Block 180, and Transco has acquired 100 percent of Exxon Corporation's (Exxon) reserves in both High Island Block 193 and Galveston Block 192. Gas produced from an Exxon production platform located in High Island Block 193 would, it is stated, reach the Shell platform in Block 179L through 2.31 miles of 10-inch pipeline which was constructed individually by Transco under authorization granted by order issued September 10, 1979, in Docket No. CP79–407.

Petitioners state that in order to assist United in effectuating receipt of its gas supplies, Transco has agreed to permit United to share in the construction, ownership and operation of the Project HI–179L facilities. In accordance with the terms and conditions set forth in a construction, ownership, operation and maintenance agreement dated December 19, 1979, between Transco and United the individual undivided ownership percentages of Petitioners, subject to Commission approval hereof, are stated to be as follows:

Transco, 70.588 percent.
United, 29.412 percent.

Petitioners state that the effective capacity of the Project HI–179L facilities is calculated to be 170,000 Mcf per day; Transco anticipates that its utilization of such capacity would entail 50,000 Mcf per day from High Island Block 179L and Galveston Block 180, and 70,000 Mcf per day from High Island Block 193 and Galveston Block 192. United's anticipated utilization of capacity entails 50,000 Mcf per day from High Island Block 179L and Galveston Block 180, it is asserted.

Petitioners state that participation with Transco in the Project HI–179L facilities would enable United to make its gas supplies available for additional transportation from the High Island Block 154L junction platform via Transco's North High Island System.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 5, 1980, 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. 80-5477 Filed 2-21-80; 8:45 am]
BILLING CODE 6450-85-M

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[Docket No. CP80–217]

## Transcontinental Gas Pipe Line Corp.; Application

February 13, 1980.

Take notice that on January 30, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80–217 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 50,000 Mcf of gas per day for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement between Applicant and United dated December 28, 1979, Applicant proposes to transport up to 50,000 Mcf of gas from a mutually agreeable location in the Block 154L Field, High Island Area, offshore Texas, and redeliver thermally equivalent quantities, less quantities retained for compressor fuel and line loss makeup, to United at the existing points of interconnection near Starks, Calcasieu Parish, Louisiana, and near Inez, Victoria County, Texas.

The purpose of such transportation would be, it is stated, to assist United in receiving quantities of gas into its system which United would purchase in High Island Area, Block 179L and Galveston Area, Block 180, both of which are located in the offshore Texas area. Applicant states it has been informed by United's customers are currently experiencing curtailment in deliveries of gas due to the shortage of flowing gas supplies on the United system. The transportation service herein would, it is asserted, assist in minimizing the adverse effects of such curtailment by providing additional volumes of gas to United.

Applicant states that the subject transportation service would be provided on a best-efforts basis until additional facilities on its Southwest Louisiana Gathering System (SWLGS) and its North High Island System are completed. Upon completion of such facilities, best-effort transportation would cease and firm transportation service would commence, it is asserted.

For all quantities transported, United would, it is stated, initially pay Applicant a monthly demand charge of $254,000, and Applicant would initially retain 1.5 percent of the quantities received for transportation for fuel use and line loss make-up. Upon completion of the aforementioned additional facilities, the charges may, Applicant states, be increased to reflect the portion of the SWLGS installed in order to effectuate firm transportation for United hereunder.

Applicant states that should the transportation service be interrupted before completion of the aforementioned additional facilities, it would refund an amount equal to the product of (a) the difference between the amount tendered daily by United for transportation up to 50,000 Mcf and the daily quantity transported by Applicant, and (b) the then applicable equivalent commodity charge, which would initially be 16.7 cents per Mcf.

Applicant states that the agreement is for a primary term of ten years from the

date of initial deliveries, and would continue from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1980, 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.

Take further action that, pursuant to the authority contained in and subject to 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 or its designee 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. 80-5478 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CP80-218]**

## Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Application

February 13, 1980.

Take notice that on January 30, 1980, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-218 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants jointly to construct, own and operate certain pipeline and appurtenant facilities in onshore Texas and Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to expand the capacity of Transco's North High Island System (NHIS) by (1) constructing and operating 14.29 miles of 24-inch pipeline loop on the onshore portion of NHIS in Jefferson County, Texas, and Cameron Parish, Louisiana; (2) by installing and operating a 3,695 horsepower compressor unit at Station No. 44 in Cameron Parish; and (3) by expanding the capacity of he North High Island separation and dehydration plant located in Cameron Parish.

It is stated that the proposed facilities would provide an incremental increase in the capacity of NHIS of 60,000 Mcf of natural gas per day; up to 50,000 Mcf of such capacity would be used by United to transport its gas from the High Island Block 179L Field, offshore Texas, and the remainder would be used by Transco for transportation of its own supplies. It is further stated that the proposed facilities would be constructed by Transco and would jointly owned by Applicants, 16.109 percent by Transco and 83.891 percent by United, such percentages assigned pursuant to a construction, ownership, operation and maintenance agreement between Applicants dated December 19, 1979.

Applicants state that the proposed facilities would cost $13,090,000, which sum would be financed initially by short-term loans and funds on hand, with permanent financing to be arranged as part of Applicants' respective long-term financing programs at later dates.

It is stated that construction would commence during the summer of 1980, and would be completed by November 1, 1980.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1980, 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 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 or its designee 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-5479 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. CP80-24]**

## Transcontinental Gas Pipe Line Corp.; Third-Party Protests[1]

February 13, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] the Staff of the Commission protested on January 28, 1980, the assertion by the Transcontinental Gas Pipe Line Corporation (Transcontinental) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the contracts listed in Appendix A of this notice do not constitute authority for the producer to increase prices to the extent claimed by Transcontinental in its evidentiary submission.

Take further notice that the Associated Gas Distributors (AGD) filed a third-party protest on January 28, 1980.

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[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

AGD protests that the contracts listed in Appendix B do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before February 27, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

*Secretary.*

**Appendix A**

| Seller | Rate schedule No. or contract date |
|---|---|
| Mobil Oil Expl. & Prod. SE | 80 |
| Do | 79 |
| Amerada Hess Corp | 63 |
| Amoco Production Co | 312 |
| Do | 437 |
| Do | 526 |
| Arco Inc | 1/15/73 |
| C & K Petroleum | 1/15/73 |
| Florida Gas Exploration | 9 |
| Furth Oil Co | 1/15/73 |
| H. C. Price | 1/15/73 |
| Mitchell Energy Offshore | 1/15/73 |
| Robert A. Shepherd | 1/15/73 |
| Zapata Corp | 1 |
| Gulf Oil Corp | 11/28/78 |
| Kerr McGee Corp | 69 |
| Mesa Petroleum Co | 9/19/78 |
| McMoran Oil & Gas Co | 6/1/78 |
| Transco Exploration Co | 29 |
| Do | 5/15/78 |
| American Petrofina Co | 93 |
| General American Oil Co | 106 |
| Estate of H. L. Hunt | 11 |
| W. H. Hunt Trust Estate | 5 |
| Texaco Inc | 555 |
| Gulf Oil Corp | 410 |
| Sun Oil Co | 6 |
| Do | 480 |
| Union Texas Petroleum | 99 |

**Appendix B**

| Seller | Control No. | Rate schedule No. | Contract date |
|---|---|---|---|
| Joseph A. Langride | 12870 | SPC | 8-13-79 |
| Panhandle Producing Co | 12870 | SPC | 8-13-79 |
| Southern Union Exploration | 12370 | SPC | 8-13-79 |
| McMoran Oil & Gas | 12883 | SPC | 11-19-79 |
| Koch Industries, Inc | 21784 | SPC | 6-1-79 |
| Louisiana Land & Exploration | 21840 | 32 | 8-23-79 |
| Louisiana Land & Exploration | 21840 | 9 | 8-22-79 |
| Oxy Petroleum | 14039 | SPC | 5-10-79 |
| Oxy Petroleum | 14047 | SPC | 8-3-79 |
| Canadian Occidental | 14048 | SPC | 8-3-79 |
| Terra Resources | 14815 | 61 | 7-18-79 |
| Quintana Oil & Gas | 14843 | 3 | 8-30-79 |
| Quintana Oil & Gas | 14844 | 3 | 8-30-79 |
| Quintana Oceanic | 14845 | 1 | 8-30-79 |
| Quitana Gulf | 14846 | 1 | 8-30-79 |
| Amerado Hess Corp | 20830 | 68 | 8-10-79 |
| Amoco Production Co | 20875 | 242 | 5-23-79 |
| Mobil Oil Exploration & Production | 21797 | 79 | 6-4-79 |
| Canadian Occidental | 14040 | SPC | 5-10-79 |
| Texaco, Inc | 12866 | 258 | 9-27-79 |
| Chevron USA, Inc | 14847 | 170 | 8-24-79 |
| Gen. American Oil | 21783 | 115 | 6-1-79 |
| Conoco, Inc | 21857 | 484 | 9-17-79 |

**Appendix B—Continued**

| Seller | Control No. | Rate schedule No. | Contract date |
|---|---|---|---|
| Mobil Oil Exploration & Production | 21564 | 80 | 8-25-77 |
| Conoco, Inc | 12470 | 76 | 11-7-74 |
| Amoco Production | 14027 | 787 | 8-11-78 |
| Mesa Petroleum | 14652 | 102 | 9-19-78 |
| General American Oil | 14675 | NA | 10-20-78 |
| Transco Exploration Co | 21615 | NA | 5-15-78 |
| Gulf Oil Corp | 14685 | NA | 11-28-78 |
| McMoran Oil & Gas | 20621 | SPC | 6-1-78 |
| Louisiana Land & Exploration | 20746 | 37 | 3-22-79 |
| Estate of H. L. Hunt | 20495 | 11 | 1-1-76 |
| W. H. Hunt Trust Estate | 20495 | 5 | 1-1-76 |
| Texaco, Inc | 20584 | 555 | 11-28-77 |
| Mobil Oil Exploration & Production | 21117 | 91 | 9-18-57 |
| Ocean Production Co | 21117 | 6 | 9-18-57 |
| Petro Oil Co | 21117 | SPC | 9-18-57 |
| Sun Oil Co | 21117 | 599 | 9-18-57 |
| Mobil Oil Exploration & Production | 21339 | 49 | 3-31-69 |
| Mobil Oil Exploration & Production | 21504 | 66 | 7-29-76 |
| Union Texas Petroleum | 21305 | 99 | 10-3-67 |
| Amoco Production Co | 21324 | 437 | 3-3-69 |
| Sun Oil Co | 21358 | 450 | 12-15-69 |
| Arco, Inc | 21436 | NA | 1-15-73 |
| Mobil Oil Exploration & Production | 21640 | 99 | 8-10-78 |
| A. A. Seeligson, Jr | 12870 | SPC | 8-13-79 |

[FR Doc. 80-5480 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-224]

## Union Texas Petroleum, a Division of Allied Chemical Corp.; Application

February 14, 1980.

Take notice that on February 1, 1980, Union Texas Petroleum, a Division of Allied Chemical Corporation (Applicant), P.O. Box 2120, Houston, Texas 77001, filed in Docket No. CP80-224 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas and certain facilities necessary therefor so that West Lake Arthur Corporation (West Lake) may succeed to such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this application is to enable Applicant to abandon its rights and obligations to an 1.8-mile, 8-inch pipeline used to transport gas on behalf of Sugar Bowl Gas Corporation (Sugar Bowl) for delivery to Michigan Wisconsin Pipe Line Company (Mich Wisc) of up to 100,000 Mcf of natural gas per day. It is stated that upon approval of this application, Applicant would convey to West Lake the 1.8-mile pipeline used to deliver the gas to Mich Wisc. It is further stated that no exchange of funds, financing, or construction would be involved in the transfer.

It is asserted that pursuant to an exchange agreement between Mich Wisc and Sugar Bowl dated September 20, 1967, Sugar Bowl agreed to cause up to 100,000 Mcf of natural gas per day to be delivered to Applicant which in turn Applicant would redeliver equivalent volumes to Mich Wisc at a delivery point located in the West Lake Arthur Field, Jefferson Davis Parish, Louisiana.

Applicant proposes further to abandon the gas purchase contracts dedicated to the performance of the exchange agreement with Mich Wisc to West Lake which would continue to perform the subject exchange service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 10, 1980, 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 Section 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 or its designee on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that 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. 80-5481 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-216]

## Utah Power & Light Co.; Filing

February 13, 1980.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah Power), on January 31, 1979, tendered for filing five Service Agreements under Volume 2 to its F.E.R.C. Electric Tariff under which Utah Power will sell and deliver nonfirm thermal energy to any electric utility for resale in accordance with Utah Power's Service Schedule, Utah-1B. Utah Power requests that the filings be made effective on October 15, 1979. The Service Agreements were signed by:

The Montana Power Company, Portland General Electric Company, Puget Sound Power & Light Company, San Diego Gas & Electric Company, Washington Water Power Company.

Cost support and billings through December 1979 were included with the filings.

Copies of the filings were served on all parties to the Service Agreements, Sierra Power Company and Regulatory Commission of Utah, Idaho and Wyoming.

Any person 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 §§ 1.8 and 1.10 of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 3, 1980. 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. 80-5482 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-225]

## West Lake Arthur Corp.; Application

February 14, 1980.

Take notice that on February 1, 1980, West Lake Arthur Corporation (Applicant), P.O. Box 2120, Houston, Texas 77001, filed in Docket No. CP80-225 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to deliver, in lieu of Union Texas Petroleum (UTP), to Michigan Wisconsin Pipe Line Company (Mich Wisc) natural gas in the West Lake Arthur Field, Jefferson Davis Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that UTP has delivered gas to Mich Wisc on behalf of Applicant's parent corporation, Sugar Bowl Gas Corporation (Sugar Bowl). Applicant now proposes to succeed to UTP and assume the responsibility of delivering gas to Mich Wisc. It is stated that upon Applicant's succession to UTP's rights and obligations, UTP would convey to Applicant the 1.8-mile, 8-inch pipeline used to deliver gas to Mich Wisc as well as the gas purchase contracts dedicated to the performance of the exchange agreement with Mich Wisc. It is further stated that no exchange of funds, financing, or construction is involved in the transfer, and there would be no change in existing service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 10, 1980, 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 intervent in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee 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. 80-5483 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-163]

## Northwest Pipeline Corp.; Application

February 19, 1980.

Take notice that on December 27, 1979, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80-163 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Application requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with § 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1980, 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 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 or its designee 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. 80-5558 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC79-128]

## Natural Gas Pipeline Co. of America; Tariff Filing

February 12, 1980.

Take notice that on January 31, 1980, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. TC79-128 the following tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

First Revised Sheet No. 150.
First Revised Sheet No. 151.
Original Sheet No. 151-A.
Original Sheet No. 151-B.
Original Sheet No. 151-C.

Natural states that the proposed tariff revisions, which are proposed to become effective March 1, 1980, are filed in compliance with the Commission's order of May 2, 1979, in Docket No. TC79-128. In that order, the Commission directed Natural to "file tariff sheets containing curtailment provisions that will ensure the protection of high priority and essential agricultural users, in a manner consistent with the policies embodied in the final rule in Docket No. RM79-15." [1] On December 31, 1979, the Commission granted Natural an adjustment in Docket No. SA80-14, extending the time for filing to January 31, 1980.

Natural states that the filed tariff sheets will protect its high priority and essential agricultural users without altering the essential nature of its curtailment plan. Natural further states that it will file data supporting the tariff sheets after its data verification committee has analyzed data submitted by Natural's customers in accordance with the proposed sheets.

Among other things, the proposed tariff sheets provide that if a high priority or essential agricultural user served by a buyer will suffer curtailment due to curtailment by Natural, the buyer may request that Natural waive curtailment to the extent necessary to serve the user for the period required. A buyer will not qualify for relief, however, if it is able to receive gas purchased from Natural and delivered under any of Natural's rate schedules other than peaking service (S-1) in excess of the buyer's established high priority and essential agricultural requirements attributed to Natural for the period relief is requested.

Copies of Natural's filing are on file with the Commission and available for public inspection.

Any person desiring to be heard or to make any protest with reference to said filing should on or before February 25, 1980, 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). 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.

Lois D. Cashell,

*Acting Secretary.*

[FR Doc. 80-5465 Filed 2-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The final rule was promulgated by Order No. 29, issued May 2, 1979.

## Office of Hearings and Appeals

### Cases Filed; Week of November 30, 1979, Through December 7, 1979

Notice is hereby given that during the week of November 30, 1979 through December 7, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

February 15, 1980.

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Nov. 30, 1979 | Double "B" Oil, Inc., Pawnee County, Kansas | BXE-0434 | Price Exception (Section 212.73). If granted: Double "B" Oil, Inc., would be permitted to continue to sell the crude oil produced from the Hagerman Lease located in Pawnee County, Kansas, at upper tier ceiling prices. |
| Dec. 3, 1979 | American Petrofina, Inc., Dallas, Texas | BEA-0035 | Appeal of Assignment Order. If granted: The September 27, 1979, Assignment Order issued to American Petrofina, Inc., by the Economic Regulatory Administration, Region IV, would be rescinded regarding American Petrofina, Inc.'s supply obligations to Treasure Coast Oil, Inc. |
| Dec. 3, 1979 | Lake Charles Refining Co., Washington, D.C. | BEA-0092 | Appeal of the Entitlements Notice. If granted: The August 1979 Entitlements Notice would be modified with respect to Lake Charles Refining Company's entitlements purchase obligations. |
| Dec. 3, 1979 | Mobil Oil Corporation, New York, New York | BEA-0063 | Appeal of Supplemental Notice. If granted: The Canadian Crude Oil Allocation Program Supplemental Notice for the October through December 1979 allocation period would be modified. |
| Dec. 3, 1979 | Texas Oil Marketers Association, Austin, Texas | BEE-0436 and BEL-0436. | Price Exception and Temporary Exception. If granted: Texas Oil Marketers Association would receive an exception from the provisions of 10 CFR 212, which would permit its members to sell motor gasoline at a price above the applicable ceiling price. The firm would receive a Temporary Exception pending a final determination of its application for exception. |
| Dec. 4, 1979 | Cities Service Company, Washington, D.C. | BFA-0084 | Appeal of an Information Request Denial. If granted: The November 1, 1979, Information Request Denial issued by the Division of Freedom of Information and Privacy Acts would be rescinded, and Cities Service Company would receive access to DOE documents relating to posted prices for crude oil in the State of Kansas. |
| Dec. 4, 1979 | City of Wilson, North Carolina, Wilson, North Carolina. | BEE-0442 | Exception to the reporting requirements. If granted: City of Wilson, North Carolina, would not be required to file Form EIA-149 ("Natural Gas Supply Requirements and Usage"). |

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Dec. 4, 1979 | E. J. Flemister & Son Oil Co., Sandersville, Georgia | BEE-0437 | Allocation Exception. If granted: E. J. Flemister & Son Oil Company would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 4, 1979 | Gardner, Kirk and Cowden, Inc | BEE-0441 | Allocation Exception. If granted: Gardner, Kirk and Cowden, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 4, 1979 | Navajo Refining Company, Dallas, Texas | BEX-0014 | Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Navajo Refining Company during its fiscal year ended July 31, 1979, to determine whether the level of relief accorded the firm was appropriate. |
| Dec. 4, 1979 | Northern Arizona Gas Service, Inc., Flagstaff, Arizona. | BEE-0438 | Allocation Exception. If granted: Northern Arizona Gas Service, Inc., would be assigned a lower-priced supplier of propane to replace its base period supplier, Petrolanco, Inc. |
| Dec. 4, 1979 | San Benito County Citizens for Gasohol, Hollister, California. | BEE-0443 | Allocation Exception. If granted: San Benito County Citizens for Gasohol would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 5, 1979 | American Petrofina, Inc., Washington, D.C | BMR-0014 | Request for Modification. If granted: The September 14, 1979, Decision and Order issued to Fina Jobbers Association, Inc., would be modified to provide that American Petrofina, Inc., would not be required to make any gasoline purchases that would result in an increase of more than two cents per gallon in Fina's selling price for motor gasoline. |
| Dec. 5, 1979 | Aminoil U.S.A., Houston, Texas | BEX-0015 | Supplemental Order. If granted: Aminoil U.S.A. would be permitted to sell the crude oil produced from the California State Lease No. 390 at upper tier prices. |
| Dec. 5, 1979 | Howard B. Barnwell, Jr., Chattanooga, Tennessee | BEE-0455 | Exception from the Emergency Building Temperature Restrictions. If granted: Howard B. Barnwell, Jr., would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions. |
| Dec. 5, 1979 | Chalfant Oil Co., Inc., Aurora, Missouri | BEE-0458 | Allocation Exception. If granted: Chalfant Oil Co., Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 5, 1979 | Common Cause, Washington, DC | BFA-0086 | Appeal of Information Request Denial. If granted; The November 6, 1979, Information Request Denial would be rescinded, and Common Cause would receive access to the full text of the Alexander Grant and Company October 12, 1979, report of "Summary and Review of Major Refinery Inventory Management System." |
| Dec. 5, 1979 | Exxon Company, U.S.A., Houston, Texas | BEA-0093 | Appeal of Assignment Order. If granted: The November 2, 1979, Assignment Order issued to Service Oil Company by the Economic Regulatory Administration, Region III, regarding Exxon Company's supply obligations to Service Oil Company would be rescinded. |
| Dec. 5, 1979 | JOC Oil, Inc. and Wellen Oil, Inc., Washington, D.C. | BFA-0087 | Appeal of Information Request Denial. If granted: The November 5, 1979, Information Request Denial, issued by the District Manager, Office of Enforcement, Northeast District, would be rescinded, and JOC Oil, Inc., and Wellen Oil, Inc., would be granted access to certain DOE documents. |
| Dec. 5, 1979 | Kerr-McGee Refining Co., Oklahoma City, Oklahoma. | BEE-0457, BEL-0457, and BSG-0008. | Petition for Special Redress, Allocation Exception, and Request for Temporary Exception. If granted: Kerr-McGee Refining Co. will be assigned additional supplies of crude oil to compensate for its loss of imported crude oil. |
| Dec. 5, 1979 | Manatee Energy Company, Port Manatee, Florida | BES-0025 | Request for Stay. If granted: Manatee Energy Company would receive a stay of the provisions of 10 CFR 211, pending a final determination on an Appeal which the firm intends to file. |
| Dec. 5, 1979 | Marathon Oil Company, Findlay, Ohio | BEA-0088, BEA-0089, and BEA-0090. | Appeal of Redirection Orders. If granted: The October 30, 1979, Redirection Orders issued to Marathon Oil Company by the Economic Regulatory Administration, Region IV, would be rescinded regarding Marathon's supply obligations to Treasure Coast Oil, Inc., Palm Beach Oil, Inc., and B. W. Simpkins Oil, Inc. |
| Dec. 5, 1979 | Mobil Oil Corporation, New York, New York | BES-0026 | Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the October 11, 1979, Assignment Order issued to Mobil Oil Corporation by the Economic Regulatory Administration, Office of Petroleum Operations, Region VII, pending a final determination on its Appeal (Case No. BEA-0057). |
| Dec. 5, 1979 | Petroleum Treating Company, Bakersfield, California. | BST-0027 and BEL-0027. | Request for Temporary Stay, Temporary Exception from Reporting Requirements. If granted: Petroleum Treating Company would receive a temporary stay from the reporting requirements for Form ERA-69, pending a final determination on the firm's application for temporary exception. |
| Dec. 5, 1979 | Texaco, Inc., White Plains, New York | BES-0052 | Appeal of Assignment Order. If granted: Texaco, Inc., would receive a stay of the October 11, 1979, Assignment Order issued to Texaco, Inc., by the Economic Regulatory Administration, Region VII, pending a final determination on its Appeal (Case No. BEA-0052). |
| Dec. 6, 1979 | Coleman Co., Inc., Wichita, Kansas | BES-0028 | Request for Stay. If granted: Coleman Co., Inc., would receive a stay of the provisions of 10 CFR 430.24, pending a final determination on its Application for Exception (Case No. DEE-6485). |
| Dec. 6, 1979 | Commonwealth Oil Refining Co., Inc., Washington, D.C. | BEX-0016 | Supplemental Order. If granted: A Supplemental Order would be issued with regard to the question of whether the Commonwealth Oil Refining Company, Inc., should be required to refund naphtha entitlement benefits which it may have received improperly in the past. |
| Dec. 6, 1979 | D. W. Small & Sons, Inc., Farmington, Maine | BEE-0461 | Allocation Exception. If granted: D. W. Small & Sons, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 6, 1979 | Ewing Oil Co., Inc., Hagerstown, Maryland | BEE-0459 | Allocation Exception. If granted: Ewing Oil Co., Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |
| Dec. 6, 1979 | Hilton-Davis Chemical Company, Cincinnati, Ohio | BEE-0463 | Exception to Emergency Building Temperature Restrictions. If granted: Hilton-Davis Chemical Company would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions. |
| Dec. 6, 1979 | Naph-Sol Refining Co., Inc., Washington, D.C | BMR-0015 | Motion for Reconsideration. If granted: The November 23, 1979, Decision and Order issued to Naph-Sol Refining Company, Inc., dismissing the firm's application for exception and temporary exception would be rescinded. |
| Dec. 6, 1979 | Peter H. Clark, Inc., Pawtucket, Rhode Island | BEA-0094 | Appeal of an Assignment Order. If granted: The November 21, 1979, Assignment Order issued to Peter H. Clark, Inc., by the Economic Regulatory Administration, Region I, would be modified regarding Getty Refining and Marketing's supply obligations to Peter H. Clark, Inc. |
| Dec. 6, 1979 | Texaco, Inc. and Commonwealth Oil Refining Co., Inc., Washington, D.C. | BEJ-0009 | Protective Order. If granted: A stipulation of Protective Order agreed to by Texaco, Inc., and the Commonwealth Oil Refining Company, Inc., would be issued as an interlocutory Order of the DOE. |
| Dec. 7, 1979 | Almarc, Bensenville, Illinois | BEE-0467 | Allocation Exception for Gasohol. If granted: Almarc would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. |

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Dec. 7, 1979 | Crown Central Petroleum, Baltimore, Maryland | BEA-0096 | Appeal of Assignment Order. If granted: The October 5, 1979, Assignment Order issued to J & B Automotive by the Economic Regulatory Administration, Region III, regarding Crown Central Petroleum's supply obligations to J & B Automotive would be rescinded. |
| Dec. 7, 1979 | Drug Transport, Inc., Atlanta, Georgia | BEH-0005 | Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objection submitted by Drug Transport, Inc., in response to the Proposed Decision and Order issued to the firm. |
| Dec. 7, 1979 | Karam Petroleum, New Hartford, New York | BEA-0097 | Appeal of Order. If granted: The October 17, 1979, Decision and Order issued to Karam Petroleum by the Economic Regulatory Administration, Region III, regarding Karam Petroleum's application for assignment of base period volume and base period supplier would be rescinded. |

## Notices of Objection Received

[Week of Nov. 30, to Dec. 7, 1979]

| Date | Name and location of applicant | Case No. |
|---|---|---|
| 12/4/79 | Johnson's Standard, Farmington, Ill. | BEO-0241 |
| 12/3/79 | Texaco Service Station, Lake Worth, Tex. | BEO-0244 |
| 12/3/79 | Crume-Hundley Oil Co., Inc., Shelbyville, Ky. | BEO-0243 |
| 12/3/79 | South Ridgewood Amoco, South Daytona, Fla. | BEO-0242 |
| 12/4/79 | New Jersey Bell Telephone, Newark, N.J. | BEE-0118 |
| 12/4/79 | Fill-It Car Wash, Lauderhill, Fla | BEO-0249 |
| 12/4/79 | Tire Products Co., Inc., Birmingham, Ala. | BEO-0248 |
| 12/4/79 | Justice Exxon, Columbus, Ohio | BEO-0247 |
| 12/4/79 | Bullitt County Schools, Shepherdsville, Ky. | BEO-0246 |
| 12/4/79 | Belle Meade Shell, Nashville, Tenn. | BEO-0245 |
| 12/4/79 | Shelby County Board of Education, Shelbyville, Ky. | BEO-0256 |
| 12/4/79 | Buttros Shell Mart, Largo, Fla | BEO-0255 |
| 12/4/79 | Jim's Standard Station, McLain, Miss. | BEO-0254 |
| 12/4/79 | Zionsville Standard Station, Zionsville, In. | BEO-0251<br>BEO-0252<br>BEO-0253 |
| 12/4/79 | Tom's Service Center, Grand Rapids, Mich. | BEO-0250 |
| 12/4/79 | Irv's Service Center, Bossier City, La. | DXE-8111 |
| 12/4/79 | Roger's Standard Service, St. Louis, Mo. | BEO-0257 |
| 12/4/79 | Bondurant Shell Service Center, Jacksonville, Fla. | BEO-0258 |
| 12/4/79 | Universal Atlas Cement, Waco, Tex. | BEO-0265 |
| 12/4/79 | Twin Mini Shop, Miami, Fla | BEO-0266 |
| 12/4/79 | Buccaneer Boats, St. James City, Fla. | BEO-0264 |
| 12/4/79 | Griffin Industries, Inc., Cold Spring, Ky. | BEO-0263 |
| 12/4/79 | Reynolds Superette, Timmonsville, S.C. | BEO-0262 |
| 12/4/79 | Cabot Corp., Pamoa, Tex | BEO-0261 |
| 12/4/79 | Queenstown Exxon, Hyattsville, Md. | BEO-0260 |
| 12/4/79 | Bob Busse Standard, Alton, Ill | BEO-0259 |
| 12/4/79 | George H. Coates, San Antonio, Tex. | BEE-0138 |
| 12/4/79 | Tucker Standard Oil, Tucker, Ga | BEO-0280 |
| 12/4/79 | Budget Rent a Car of Louisville, Louisville, Ky. | DEE-6992 |
| 12/4/79 | North Side Service, Washington, D.C. | DEE-3341 |
| 12/4/79 | Jerry Cox Co., Washington, D.C | DEE-7944 |
| 12/4/79 | Buchannon Shell, Inc., San Francisco, Calif. | BEO-0233 |
| 12/6/79 | Han-D-Sac Drive In Grocery, Memphis, Tenn. | BEO-0267 |
| 12/4/79 | I-70 Standard, Arado, Colo | BEO-0268 |
| 12/4/79 | J. B. Service, Seattle, Wash | BEO-0269 |
| 12/4/79 | Olens Texaco, Metairie, La | BEO-0270 |
| 12/4/79 | Rancho Super Car Wash, Rancho Mirage, Calif. | BEO-0271 |
| 12/4/79 | Rogers Beauty School, Detroit, Mich. | BEO-0272 |
| 12/4/79 | Rogers Skelly Service, Des Moines, Iowa. | BEO-0273 |
| 12/4/79 | Sheetz Kwik Shoppers, Inc., Washington, D.C. | BEO-0274 |
| 12/4/79 | Tadlock Country Store, Montgomery, Ala. | BEO-0275 |
| 12/4/79 | Universal Atlas Cement, Leeds, Ala. | BEO-0277 |
| 12/4/79 | Car Care, Kannapolis, N.C. | BEO-0281 |

## Notices of Objection Received—Continued

[Week of Nov. 30, to Dec. 7, 1979]

| Date | Name and location of applicant | Case No. |
|---|---|---|
| 12/4/79 | San Fernando Chevron, San Fernando, Calif. | BEO-0284 |
| 12/4/79 | Quick Car Wash, Jacksonville, N.C. | BEO-0279 |
| 12/4/79 | Los Feliz Co., Camarillo, Calif | BEO-0283 |
| 12/5/79 | Wayne Petty, Paducah, Ky | BEO-0289 |
| 12/5/79 | Moore's Gulf, Melbourne, Fla | BEO-0288 |
| 12/5/79 | Jeffersonville Exxon, Louisville, Ky. | BEO-0287 |
| 12/5/79 | Glaser's Texaco Service, Ellisville, Mo. | BEO-0286 |
| 12/5/79 | Callahan & Sons, Inc., Woodbury, N.J. | BEO-0285 |
| 12/5/79 | Manatee County Board of County Commissioners, West Bradenton, Fla. | BEO-0276 |
| 12/5/79 | Bennett's Amoco, West Palm Beach, Fla. | BEO-0294 |
| 12/5/79 | K & W Auto Elect., Inc., Melbourne, Fla. | BEO-0290 |
| 12/5/79 | Boone Exxon, Kingsport, Tenn | BEO-0291 |
| 12/5/79 | City of North Miami Beach, Fla., North Miami Beach, Fla. | BEO-0292 |
| 12/6/79 | Kirstensen Standard, Woodstock, Ill | BEO-0295 |
| 12/6/79 | Stamp's Marathon, Kokomo, Ind | BEO-0296 |
| 12/6/79 | Albert Hall, Jackson, Tenn | BEO-0297 |
| 12/6/79 | Big Daddy Liquers, Lexington, Ky | BEO-0299 |
| 12/6/79 | Carl's Chevron, Cocoa, Fla | BEO-0300 |
| 12/6/79 | Bellevue Texaco, Nashville, Tenn | BEO-0301 |
| 12/6/79 | Fornell Oil Co., Holly Hill, Fla | BEO-0302 |
| 12/6/79 | Wm. T. Burton Industries, Inc., Sulphus, La. | DEE-0866 |
| 12/6/79 | Interstate Standard, Des Moines, Iowa. | BEO-0298 |
| 12/6/79 | Drum Hill Gulf, Blamont, Maine | DEE-5635 |
| 12/4/79 | Tarpen Springs Fina Gas and Car Wash, Orlando, Fla. | BEO-0278 |
| 12/7/79 | T J's Service Station, Washington, D.C. | BEO-0305 |
| 12/6/79 | Kentucky-Indiana Lumber Co., Inc., Louisville, Ky | BEO-0304 |
| 12/6/79 | Belden Village Shell, North Canton, Ohio. | BEO-0303 |
| 12/6/79 | E. I. Dupont DeNemours and Co., Wilmington, Del. | BEO-0307<br>BEO-0308<br>BEO-0309 |
| 12/7/79 | Leonard's Standard, Jacksonville, Ill | BEO-0321 |
| 12/7/79 | Fritz Standard, Omaha, Neb | BEO-0322<br>BEO-0323 |
| 12/7/79 | Howell Insulation Co., Inc., Birmingham, Ala. | BEO-0324 |
| 12/7/79 | Sandy's Chevron, Clearwater, Fla | BEO-0325 |
| 12/7/79 | Dilly's Service Station, Hastings, Nebr. | BEO-0326 |
| 12/7/79 | SmithKline Clinical Laboratories, Inc., Boston, Mass. | DEE-5436 |
| 12/7/79 | H-30, Inc., Wichita, Kans | DEE-5735 |
| 12/7/79 | Palm Beach Gulf Station, Palm Beach, Fla. | BEO-0306 |
| 12/7/79 | Western Auto, Red Boiling Springs, Tenn. | BEO-0310 |
| 12/7/79 | Chebanse Texaco, Chebanse, Ill | BEO-0311 |
| 12/7/79 | Ollie Arthur Trucking Co., Inc., Orlando, Fla. | BEO-0312 |
| 12/7/79 | Avis Rent-A-Car, Indianapolis, Ind | BEO-0313 |
| 12/7/79 | Pine Crest School, Fort Lauderdale, Fla. | BEO-0314 |
| 12/7/79 | Zwierzynski Marathon Service, South Bend, Ind. | BEO-0315 |
| 12/7/79 | Crossroads Shell, St. Petersburg, Fla. | BEO-0316 |

## Notices of Objection Received—Continued

[Week of Nov. 30, to Dec. 7, 1979]

| Date | Name and location of applicant | Case No. |
|---|---|---|
| 12/7/79 | Broadway Spur Service Station, Campbellsville, Ky. | BEO-0317 |
| 12/7/79 | Armstrong Self Service, Yulee, Fla | BEO-0318 |
| 12/7/79 | YM & YW Hebrew Association, Wayne, N.J. | BEO-0319 |
| 12/7/79 | Black Jack Service Station, Florissant, Mo. | BEO-0320 |

## List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

*Week of November 30 Through December 7, 1979*

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

November 30, 1979

Boudoin and Richard, BEE-0433, Louisiana.
Economy TV Appliance Centers, BEE-0427, Florida.
McCulloch Chainsaw Company, BEE-0429, Arizona.
Twin State Oil Co. of Tabor Cy, BEE-0435, North Carolina.

December 4, 1979

Chantilly Sunoco, BEE-0449, Virginia.
Cleveland, M.B. BEE-0446, Virginia.
Gold Oil Company, BXE-0454, Illinois.
Huestis Oil Co./Bill's Mobile, BEE-0444, New York.
Mini-Mart Corporation, BEE-0448, Pennsylvania.
Paul J. Cave Oil Co., BEE-0439, Virginia.
R&S Car Wash, BEE-0445, Nebraska.
Shaw, Carleton E., BEE-0440, California.
Sunset Airport Systems, BEE-0447, California.

December 5, 1979

Briar Vista Chevron, BEE-0450, Georgia.
Harold's Shell, BEE-0456, Missouri.
Northlake Chevron, BXE-0451, Georgia.
Riverdale Chevron, BEE-0452, Georgia.
Scott Boulevard Chevron, BEE-0453, Georgia.

December 6, 1979

Mendon Leasing Corp., BEE-0464, New York.
Ron's Exxon Service Center, BEE-0462, California.
Stiner, Carl W., BEE-0460, Tennessee.

December 7, 1979

Brooklea Service, BEE-0465, New Hampshire.

Du-Cor Service Stations, Inc., BEE-0494, New York.
Executive Auto Service, BEE-0498, Massachusetts.
H&G Bantam Market, BEE-0466, West Virginia.
Mike Capone's Gulf, BEE-0468, Louisiana.
Village Gro, BEE-0496, North Carolina.
Items retrieved, 27.

[FR Doc. 80-5531 Filed 2-21-80; 8:45 am]
BILLING CODE 6450-01-M

## Issuance of Decisions and Orders; Week of December 10 Through December 14, 1979

Notice is hereby given that during the week of December 10 through December 14, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

### Appeals

*Casson, Calligaro, and Mutryn, Washington, D.C.; BFA-0037, Freedom of information*

The law firm of Casson, Calligaro & Mutryn filed an Appeal from a partial denial by the Deputy Assistant Administrator for Enforcement of a Request for Information that the firm had submitted pursuant to the Freedom of Information Act. In considering the Appeal, the DOE found that portions of two documents that had initially been withheld pursuant to Exemptions 2 and 5 should be released to the public. The two documents contained information relating to DOE audits of resellers of crude oil. The DOE held, however, that the names of firms that the Office of Enforcement has neither formally charged with wrongdoing nor decided not to charge must be withheld pursuant to Exemption 7(A) and that the names of firms that the office of Enforcement has audited and decided not to charge might fall within Exemption 7(E).

*Industrial Fuel and Asphalt of Indiana, Inc., Hammond, Ind.; DEA-0664, crude oil*

Industrial Fuel and Asphalt of Indiana, Inc. (IFAI) filed an Application for Exemption from the provisions of the Buy/Sell Program governing the emergency allocations of crude oil (10 CFR 211.65(c)(2)). The IFAI exception request related to a Decision and Order issued to the firm by the Economic Regulatory Administration (ERA) which approved an emergency allocation of crude oil for the month of June 1979. In that determination, the ERA excluded from IFAI's runs to stills during the period on which the level of an emergency allocation is based the quantity of crude oil which IFAI had processed in its refinery for the account of another refiner. In considering the IFAI submission, the DOE determined that the exception request should be construed as an Appeal from the ERA determination. The DOE concluded that the ERA Order was defective because the applicable regulations did not support the exclusion of processing volumes in emergency allocation cases and because the ERA Order did not explain the basis of that exclusion. The Order was therefore remanded to the ERA. The DOE also directed the ERA to issue an Order granting an emergency allocation of crude oil to IFAI in December 1979 and January 1980.

*Systems Technology Corp., Xenia, Ohio; BFA-0024, freedom of information*

Systems Technology Corporation filed an Appeal from a denial by the acting Assistant Administrator of the DOE Office of Fuels Conversion of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the acting Assistant Administrator acted correctly in withholding under Exemption 4 of the FOIA information on the boiler capacities and plant energy requirements of major fuel burning installations.

### Requests for Exception

*Amoco Oil Co., Chicago, Ill.; DEE-7193*
*Atlantic Richfield Co., Los Angeles, Calif.; DEE-0123*
*Cities Service Co., Tulsa, Okla.; DEE-8088*
*Derby Refining Co., Houston, Tex.; DEE-7366*
*Pacific Resources, Inc., Honolulu, Hawaii; BEE-0059*
*Pester Refining Co., Washington, D.C.; DEE-7449*
*Phillips Petroleum Co., Bartlesville, Okla.; DEE-7804*
*Texaco, Inc., White Plains, N.Y.; DEE-7209*
*Time Oil Co., Washington, D.C.; BEL-0008*
*United Refining Co., Warren, Pa.; DEE-8024 gasohol*

Each firm listed above filed an Application for Exception or Temporary Exception from the provisions of 10 CFR 212.83 in which the firm sought relief in order to facilitate its production and marketing of gasohol. In considering the requests, the DOE found that, since the provisions of the DOE price regulations have recently been amended to permit refiners to recover the full cost of alcohol used in the production of gasohol from sales of gasoline, it appears that the relief requested in these exception proceedings is now unnecessary. Accordingly, the Applications of the firms listed above were dismissed.

*Community Interfaith Services, Inc., Wintersville, Ohio; BEO-0033, emergency building temperature restrictions*

Community Interfaith Services, Inc. filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought permission to raise the maximum heating temperature above 65°F in one room of its building and lower the minimum cooling temperature below 78°F. In considering the request, the DOE found that the firm had not demonstrated how its activities (bio-feedback, meditation, and hypnosis) differed from those in other cultural, social, and recreational centers. Accordingly, exception relief was denied.

*Gold Key Shell Sunrise, Fla.; DEO-0393, motor gasoline*

Gold Key Shell filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that an anomalous event occurred during the base period which distorts the use of that period for measurement purposes as one of relatively normal and customary business activity for the firm. The DOE further found however that the firm had failed to show that it would experience serious financial difficulties in the absence of exception relief and the firm's Application was accordingly denied.

*Highway Oil, Inc., Topeka, Kans.; DEE-0872, motor gasoline*

Highway Oil, Inc. filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increased base period allocation of unleaded motor gasoline in order to produce and market gasohol. In considering the request, the DOE found that exception relief was necessary to prevent Highway from experiencing a gross inequity as a result of the DOE allocation regulations. Accordingly, exception relief was granted. The important issues discussed in the Decision and Order include (i) the applicability of the gross inequity criterion to exception requests involving gasohol; (ii) the propriety of exception versus rulemaking proceedings; and (iii) the guidelines to be followed by the Regional Office in its selection of new suppliers.

*Hunt Oil Co., Dallas, Tex.; DEE-6107, crude oil*

Hunt Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which would allow the firm to sell the crude oil that is produced from Outer Continental Shelf Lease No. 0424, located in the Eugene Island Area of the Gulf of Mexico, at upper tier ceiling prices. In considering the Application, the DOE found that additional information would be required to permit an informed judgment to be made concerning the merits of the firm's request. Since Hunt failed to submit the required data despite repeated requests, the Application for Exception was dismissed with prejudice.

*IBM Rochester, Rochester, Minn.; DEE-0254, DES-8254 emergency building temperature restrictions*

The IBM Corporation filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought permission to continue to utilize procedures previously established by the firm for the issuance of auxiliary heating devices (space heaters) to employees in the firm's Rochester, Minnesota facility. In considering the request, the DOE found that IBM's established standards for issuing space heaters to employees who would otherwise experience health hazards were generally consistent with the standards used by the Office of Hearings and Appeals, in granting exceptions to the Emergency Building Temperature Restrictions. Accordingly, exception relief was granted.

*Lantz Texaco, Tucson, Ariz.; DEE-4569 motor gasoline*

Lantz Texaco filed an Application for Exception from the provisions of 10 CFR

211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to show that the DOE allocation regulations as applied in this case resulted in a serious hardship, gross inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

*Mid-Michigan Truck Service, Inc., Kalamazoo, Mich.; DXE-1997 motor gasoline*

Mid-Michigan Truck Service, Inc. filed an Application for Exception in which the firm sought an extension of relief that would prohibit Gulf Oil Corporation from designating Bestrom Oil Company as the substitute supplier of motor gasoline to Mid-Michigan under 10 CFR 211.25. In considering the request, the DOE found that exception relief was necessary in order to alleviate the serious hardship which Mid-Michigan would otherwise incur. Accordingly, exception relief was granted.

*Newman Manufacturing, Inc., Woodstock, Ontario; DEE-8237*
*Hunter Enterprises Orillia, Orillia, Ontario; DEE-5971*
*Powrmatic, Inc., Finksburg, Md.; DEE-8225*
*Riteway Manufacturing Co., Harrisonburg, Va.; DEE-8236*

The four firms listed above filed Applications for Exception from the provisions of 10 CFR Part 430 (the Energy Conservation Program for Consumer Products). In their Applications, the firms contended that the energy efficiency test procedures applicable to furnaces are not appropriate to the combination wood/fossil fuel furnaces which each firm manufactures. In considering the requests, the DOE found that the test procedures applicable to furnaces yielded inappropriate results when applied to combination fuel furnaces. Accordingly, exception relief was granted which permits the firms to market their combination fuel furnaces without regard to the energy efficiency test procedures.

*Orloski's Service Stations, Inc., Wilkes-Barre, Pa.; BEE-0280 motor gasoline*

Orloski's Service Stations, Inc. filed an Application for Exception in which the firm requested that it be permitted to designate Gulf Oil Corporation as the firm's sole base period supplier. In considering the request, the DOE found that, pursuant to the provisions of 10 CFR 211.105(d), Orloski could designate as its base period supplier that supplier which was supplying the firm on February 28, 1979, provided Orloski informed any other base period suppliers of its decision before June 15, 1979. Since Orloski had made all appropriate notifications by that date, the DOE found that Orloski could designate Gulf as its base period supplier under the regulations and therefore did not require an exception. Accordingly, Orloski's Application for Exception was dismissed.

*Phillips Petroleum Co., Bartlesville, Okla.; DEE-2165 crude oil*

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Phillips to sell at upper tier prices 23.61 percent of the crude oil produced from the Burbank Unit.

*Phillips Petroleum Co., Bartlesville, Okla; DXE-2174 crude oil*

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Theimer "D" Lease at upper tier ceiling prices. In considering the exception application, the DOE found that Phillips continued to incur increased operating expenses at the Theimer Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that property. The DOE accordingly granted exception relief to permit Phillips to sell at market prices 100 percent of the crude oil produced from the Theimer Lease for the benefit of the working interest owners for a six-month period.

*Pinecrest Texaco, Alexandria, Va.; DEO-0380 motor gasoline*

Pinecrest Texaco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the retail outlet was realizing a reasonable profit from its current allocation of motor gasoline and other petroleum-related activites. Accordingly, exception relief was denied.

*Robertson Texaco, Garland, Tex., DEO-0384, motor gasoline.*

Robertson Texaco filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm commenced operations after the publication of Standby Regulation Activation Order No. 1 on February 28, 1979, and failed to consider the effect of the allocation regulations upon its investment. The DOE noted that the exception process is not designed to relieve adverse consequences of a business decision made in apparent disregard of applicable regulations. Accordingly, exception relief was denied.

*Superior Oil Co., Houston, Tex., DEE-1401, DEE-1402, DEE-6391, crude oil.*

The Superior Oil Company filed an Application for Exception from the provisions of 10 CFR 212.75 in which the firm sought to recertify certain lower tier crude oil as upper tier crude oil to partially compensate it for suspending production operations at the McElmo Creek Unit and the Southeast McElmo Creek Field during an Indian takeover. In considering the request, the DOE found that exception relief was necessary because the field had been closed for two weeks at the request of another federal agency to avoid environmental damage. Accordingly, exception relief was granted. Important issues discussed in the Decision and Order are (i) whether in this case royalty interest owners were also entitled to relief; and (ii) whether current cumulative deficiencies caused by the shutdown should be eliminated.

**Request for Temporary Exception**

*Kentucky Oil and Refining Co., Inc., Betsy Layne, Ky., BES-0013, BEL-0013, crude oil.*

Kentucky Oil & Refining Company, Inc. filed an Application for Stay of the requirement that it purchase entitlements pursuant to 10 CFR 211.67. In considering the Application, the DOE determined that the financial material and other information which the firm had filed indicated that the firm's limited financial resources would enable it to purchase only a portion of its entitlement obligations. The DOE further determined that the firm had not engaged in any actions which either increased its entitlement purchase obligations or resulted in a deterioration in the firm's financial ability to meet its entitlement obligations. Kentucky Oil & Refining Company, Inc.'s stay request was therefore granted in part.

**Request for Modification and/or Rescission**

*Fina Jobbers Association, Inc., American Petrofina, Inc., Washington, D.C., Dallas, Tex., BMR-0010, BMR-0014, motor gasoline.*

On September 14, 1979, the DOE issued a Decision and Order that directed American Petrofina, Inc. (Fina) to take the steps necessary to supply gasoline to its jobbers at specified allocation levels during the September-December 1979 period. The September 14 Order also directed the ERA to issue Orders assigning suppliers of gasoline to Fina which would provide the firm with four million gallons of gasoline in each month during the September-December period. On November 1, 1979, Fina Jobbers Association, Inc. (Fina Jobbers) filed an Application for Reconsideration requesting that a stay of the September 14 Order be lifted. On December 5, Fina filed an Application for Modification requesting that the September 14 Order be modified so as to provide that Fina would not be required to purchase additional quantities of gasoline that would ultimately result in a price increase in excess of $.02 per gallon. A hearing was held with respect to these petitions on December 7, 1979. At the conclusion of the hearing, the Presiding Officer determined that (i) the stay of the ERA Assignment Orders should be lifted for the month of December; (ii) the provisions of the ERA Assignment Orders pertaining to October and November should be rescinded; and (iii) the Fina modification request should be dismissed.

**Request for Stay**

*Mobile Oil Corp., New York, N.Y., BES-0019, BST-0019, crude oil.*

Mobile Oil Corporation filed an Application for Stay and an Application for Temporary Stay in which it sought a stay of the Canadian Crude Oil Allocation Program Supplemental Allocation Notices issued by the Economic Regulatory Administration for the months of October and November 1979. 44 Fed. Reg. 61085 (October 23, 1979); and 44 Fed. Reg. 62930 (November 1, 1979). In considering the Applications, the DOE

determined that ERA acted lawfully in allowing Murphy Oil Corporation and Ashland Oil, Inc. to submit amended nominations for Canadian crude oil after the deadline established in 10 CFR 214.31(h). Mobile Oil Corporation's stay and temporary stay requests were therefore denied.

**Supplemental Order**

*Crown Central Petroleum Corp., Office of Special Counsel, Baltimore, Md., Washington, D.C., BRX-0011, distillates: motor gasoline.*

Crown Central Petroleum Corporation and the Office of Special Counsel jointly filed a request for an extension of a stay of enforcement proceedngs that were initiated by a Proposed Remedial Order issued to Crown Central on October 3, 1978. In reviewing the parties' submission, the DOE determined that the considerations which led the Office of Hearings and Appeals to grant the original stay were still present and that the parties were nearing a final resolution of the underlying enforcement proceeding. The Crown Central and Special Counsel request was therefore granted.

**Protective Order**

The following firms filed an Application for Protectiver Order. The Application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firms. The DOE granted the Application and issued the requested Protective Order as an Order of the Department of Energy.

*Name, Case No. and Location*

Commonwealth Oil, Texaco, Inc., BEJ-0009; Washington, D.C.

**Interim Orders**

The following firms were issued Interim Orders. In each case the Order implements on an immediate basis the exception relief which the DOE tentatively determined should be granted in a Proposed Decision and Order issued on the same date as the Interim Order:

*Company Name, Case No., and Location*

American Car Wash Corp., DEN-5006; Annandale, VA
Dennis K. Burke, DEN-7672; Chelsea, MA
Fegley's Mini Mart, DEN-6289; Tamaqua, PA
H. L. Mills Pet. Products, BEN-0139; Washington, DC
Kickapoo Oil Co., DEN-8220; Hillsboro, WI
Lake Oil Co., BEN-0008; Clear Lake, IA
Neil R. Feeley, DEN-7021; S. Yarmouth, MA
Onyx Corp., BEN-0013; Creve Coeur, MO
W. Broward Phillips "66" Service, BEN-0006; Ft. Lauderdale, FL

**Petitions Involving the Motor Gasoline Allocation Regulations**

The following firms filed Applications for Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The reguests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

*Company Name, Case No., and Location*

Alex Nuszen, DEO-0365; Washington, DC
Daigh Automotive, BXE-0255; Wilmington, CA
Mountain Oil Co., DXE-8302; Boone, NC

**Petitions Involving the Motor Gasoline Allocation Regulations**

The following firm filed an Application for Exception, Stay, Temporary Stay and/or Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be denied.

*Company Name, Case No., and Location*

James E. Mathison, BEO-0057; Weatherford, TX

**Petitions Involving the Motor Gasoline Allocation Regulations**

The following firms filed Applications for Exception, Stay, Temporary Stay, and Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date.

*Company Name and Case No.*

Abraham Oil Co., DES-7397, DST-7397
Boston Road Shell, DES-5569
Camino Car Wash, DES-6592
Chromalloy, DES-4245
Cogan's Gulf & Pac 6-12, DES-3475
Colorado County Oil Co., Inc., DES-6656, DST-6656
Davcon, Ltd., DES-4650
Delloachs Texaco, DES-6695, DST-6695
Fischer Shell Service, DES-2756, DST-2743
Frank Catlett Retail Outlet & Mini-Mart, DES-6641, DST-6641
Franklin Oil Co., DES-5839
Gottlieb Corp., DES-2269, DST-2269
Lynn Smith's Arco Mini-Mart, DES-7250
Harron's Amoco, DES-5233
Jim's Exxon, DST-3700
M.D. Fisher Oil Co., Inc., DES-4880, DST-4880
Malone Oil Co., DES-3019, DST-3019
Mojave Petroleum Co., DES-2743, DST-2743
Montebello Land and Water Co., DES-5572
Noyes Sunoco, DES-6813
Oswald's Standard, DES-3437
Aplo/Arco, DES-4980
Ralph's Service Station, DST-7103
Royal Oil Co., DST-3096
Roxy Mini Market, DES-5220
Sparkle Car Wash, DES-2761
Tara's Shell, DES-3955
Todisco Amoco, DES-4644, DST-4644
Twin State Oil Co., Inc., DES-5759, DST-5759
Walt's Shell Service, DES-3774, DST-3744
West Texas Gas, Inc., DES-3521, DST-3521
Bud Wolfe's Arco Mini Market, DES-6310
Lee Roy Lane, DES-6959
South Sheridan Conoco, DES-3528
Whistlestop, DST-5838
Saffari Mobil Service, DST-0051
District Petroleum Products, Inc., DST-4044
C. & B. Exxon, DES-4510
Town and Country Texaco, DES-3865
Service Oil Co., DES-8286
Smith Brothers Petroleum Corp., DES-2887
Sea Shell Car Wash, DST-2823
Northland Oil Co., DST-2744
Du-Cor Service, DST-2828
Duane's Chevron, DES-7011

*Dismissals*

The following submissions were dismissed without prejudice to refiling at a later date:

*Company Name and Case No.*

Andy's Conoco Bulk, DEE-3253
Bailey's Young World, DEE-5608
Carlton E. Shaw, BEE-0440
City of Beaver Dam, DEO-0104
City Service, Inc., DEE-2849
Common Cause, BRA-0086
Days Inns of America, DEE-7609
Don's Standard Service, DEE-3462
Douglas Shell Service, DEE-6421
Elm Street Arco, DEE-7688
Grondin's Auto Service, DEE-4029
H. L. Mills Petroleum products, BES-0139
Hearn Circle Shell, DEE-7522
Jenkins Oil Co., Inc., DST-3318
Johnie Jones Roofing, DEE-6919
Lim Lilley's I-65 Standard, DEE-6123
Mt. Ice Water Co., DEE-6627
N. Wash. Conoco, DEE-5886, DST-5886
Nickerson Farms, DEE-3466
Peary's Gulf, DEE-6835
Riverside Pet., Inc., DEE-2416
Russian River Gas, BEE-0281
S. W. Oil Co., of San Antonio, Inc., DEE-5455
Stanco Auto Repair, DEE-6706
Stockbridge Gulf, DEE-7284
Strickland Oil Co., DEE-2386
Telum, Inc., DEE-5787
Vermont Morgan Corp., DEE-7018
Vickers Petroleum Corp., BED-0005

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
*Director, Office of Hearings and Appeals.*
February 15, 1980.

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## Issuance of Proposed Decisions and Orders; January 14 Through January 18, 1980

Notice is hereby given that during the period January 14 through January 18, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy

with regard to Application for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a Written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by any aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

February 15, 1980.

*American Motohol Supply Corp., Washington, D.C.; Motor gasoline/ gasohol DEE-7203*

American Motohol Supply Corp. (Motohol) filed an Application for Exception from the provisions of 10 CFR 211. The exception request, if granted, would permit Motohol to receive an allocation of unleaded motor gasoline for the purpose of blending Gasohol. On January 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

*Coleman Company, Inc., Wichita, Kans.; Consumer products DEE-6485*

The Coleman Company, Inc. (Coleman) filed an Application for Exception from the provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. In its Application, Coleman requests that it be permitted to modify the energy efficiency test procedures specified in 10 CFR 430, Subpart B, Appendix N, which are applicable to the sealed combustion furnaces manufactured by Coleman. On January 16, 1980, the DOE issued a Proposed Decision and Order in which it stated the tentative determination that the Coleman exception request should be denied.

*Energy Cooperative, Inc., East Chicago, Ind.; Crude oil DXE-8112*

On September 12, 1979 Energy Cooperative, Inc. filed an Application for Exception from the provisions of 10 CFR 211.65 and 10 CFR 211.67. The exception request, if granted would permit ECI to purchase sufficient quantities of crude oil under the provisions of the DOE Buy/Sell Program to allow the firm to operate its refinery at the national refinery utilization ratio at a maximum pre-entitlement price of $22.60 per barrel. On January 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted, and established a crude oil allocation for ECI under the terms of the DOE Buy/Sell Program of 3,034,896 barrels for the period October through December 1979.

*Ergon Refining, Inc., Vicksburg, Miss.; BEE-0308, BEL-0308, Crude oil*

Ergon Refining, Inc. (Ergon) filed an Application for Exception and Application for Temporary Exception from the provisions of 10 CFR 211.65. The Applications, if granted, would permit Ergon to participate in the Buy/Sell Program as a refiner-buyer in order to expand its refinery capacity. On January 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request and temporary exception request be denied.

*Hilton-Davis Chemical Co., Cincinnati, Ohio; BEE-0463 product*

The Hilton-Davis Chemical Company filed an Application for Exception from the provisions of 10 CFR, Part 490. The exception request, if granted, would permit Hilton-Davis to raise the temperature in two of its shower facilities to 70°F. On January 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

*Kirschner Bros. Oil Co., Haverford, Pa.; DEE-7408 Motor gasoline*

Kirschner Brothers Oil Company filed an Application for Exception which, if granted, would increase the firm's allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. In considering the firm's request, the DOE found that Kirschner lacked assured access to the requisite blending facilities and that the firm already had substantial volumes of unleaded gasoline available in order to begin gasohol operations. Under these circumstances, on January 18, 1980, the DOE issued a Proposed Decision and Order in which it expressed the tentative determination that the Kirschner request should be denied.

*Pennzoil Producing Co., Houston, Tex.; Crude oil BXE-0087*

Pennzoil Producing Company filed an application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the McGraw-Stevens Water Flood Unit for the benefit of the working interest owners at market price levels and the remaining working interests' share of production at upper tier ceiling prices. On January 18, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

*Pryor Interprises, Inc., Griffin, Ga.; Product DEE-5441*

Pryor Interprises, Inc. (Pryor) filed an application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase Pryor's base period allocation of unleaded motor gasoline for the express purpose of blending and marketing gasohol. On January 17, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

*Southland Oil Co., Jackson, Miss.; Crude Oil DEE-2247*

Southland Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Southland to sell additional entitlements for each barrel of crude oil purchased from Sun Petroleum Products Company for processing Southland's refineries. On January 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued proposed Decisions and Orders which determined that the exception requests be granted.

*Company Name, Case No., and Location*

Brack's Automotive, DEE-8275; El Paso, TX
Busler Enterprises, DEE/5175; Evansville, IN
Fountain Hills Servicenter, DEE-2995; Fountain Hills AZ
Reece Oil Co., Inc., DEE-5130; Terre Haute, IN
Wagoner Gas & Oil, DEE-4837; W. Newton, PA

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

*Company Name, Case No., and Location*

Brucken's Auto Center, DEE-3201; Dayton, OH
Convenience Petroleum Co., DEE-4495; San Angelo, TX
Dipilato Bros. Gulf, DEE-5723; Worcester, MA
Dow Jones & Co., Inc., BEE-0505; Princeton, NJ
Frank Bower Chevron, DEE-5906; Twenty-Nine Palms, CA

Henry's Citgo, DEE-7099; Framingham, MA
Jim's Standard Service, DEE-3813;
Milwaukee, WI
Mitchell Slone, DEE-7150; Pippa Passes, KY
Newspaper Printing Corp., DEE-4370;
Nashville, TN

[FR Doc. 80-5533 Filed 2-21-80; 8:45 am]
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## Objection to Proposed Remedial Orders Filed; Week of January 14 Through January 18, 1980

Notice is hereby given that during the week of January 14 through January 18, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before March 13, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

February 15, 1980.

Melvin Goldstein,

*Director, Office of Hearings and Appeals.*

*Bragg Service Center, Jamiaca, N.Y.; Motor Gasoline BRO-0821*

On January 16, 1980, Bragg Service Center, Building No. 134, John Fitzgerald Kennedy International Airport, Jamaica, New York 11430, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy, Northeast District Office of Enforcement issued to the firm on December 20, 1979. The Proposed Remedial Order found that during the period August 1, 1979 through November 2, 1979 Bragg committed pricing violations of $31,791 in connection with the sale of motor gasoline in the State of New York.

*Exeter Shell Service, Inc., Portsmouth, N.H.; Motor gasoline BRO-0820*

On January 16, 1980, Exeter Shell Service, Inc., 84 Portsmouth Avenue, Portsmouth, New Hampshire 03833, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement (Northeast District) issued to it on December 20, 1979. In the Proposed Remedial Order, the Northeast District found that during the period January 1, 1974 through April 30, 1974, Exeter Shell Service, Inc. made retail sales of motor gasoline at prices which exceeded its applicable ceiling prices set in accordance with the price regulations contained in 6 CFR, Part 150 and 10 CFR, Part 212. According to the Proposed Remedial Order, Exeter Shell Services violations of the provisions of 6 CFR, Part 150 and 10 CFR, Part 212, resulted in overcharges to its customers of $8,866.20.

[FR Doc. 80-5530 Filed 2-21-80; 8:45 am]
BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1418-3; OPTS-51020]

## 1,2-Disubstituted-4,5-Dimethoxybenzene Premanufacture Notice

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance 1,2-disubstituted-4,5-dimethoxybenzene and provides a summary of certain information provided in the PMN.

**DATE:** Written comments by March 21, 1980.

**ADDRESS:** Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-3936.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register of January 10, 1979 (44 FR 2242). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice

indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, EPA is issuing the PMN set forth below.

*PMN No. 80-9.*

*Close of Review Period.* April 20, 1980.

*Manufacturer's Identity.* E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

*Specific Chemical Identity.* Claimed confidential. Generic name provided: 1,2-Disubstituted-4, 5-dimethoxybenzene.

*Data.* The following summary is taken from data submitted by the manufacturer in support of claims made in the application.

*Use.* Photo products.

*Production Estimates.*

| Production year | Minimum | Maximum |
|---|---|---|
| | (Kilograms) | |
| First year | 100 | 250 |
| Second year | 375 | 750 |
| Third year | 500 | 1,000 |

*Physical/Chemical Properties.*

| | |
|---|---|
| Melting point | 84-85°C. |
| Minimum purity | 96%. |
| Physical state | Pale yellow solid. |
| Reactivity | Stable under ambient conditions. |

*Test Data.* Results of the following tests performed on the PMN substance were supplied.

Mutagenicity—Ames test.

Primary skin irritation and sensitization tests on guinea pigs.

Eye and skin irritation tests on rabbits.

Rat oral lethal dose test ($LD_{50}$11,000 mg/kg).

*Disposal.* The following methods of disposal will occur incidental to manufacture, processing, or use of the substance.

Primary method: Destruction by incineration.

Minimal release to the air and water.

Interested persons may, on or before March 21, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51020]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays. (Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: February 15, 1980.

John P. DeKany,

*Deputy Assistant Admininstrator for Chemical Control.*

[FR Doc. 80-5544 Filed 2-21-80; 8:45 am]

BILLING CODE 6560-01-M

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[FRL 1418-4; OPTS-51021]

## Anhydro 3,10-Bis(2-(4-(3-Pyrodinio)-6-(2,5-Disulfophenylamino)-1,3,5-Triazin-2-Ylamino) Ethylamino)-6,13-Dichloro-4,11-Disulfotripheno-Dioxazine Dihydroxide, Hexasodium Salt Premanufacture Notice

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance anhydro 3,10-bis(2-(4-(3-pyrodinio)-6-(2,5-disulfophenylamino)-1,3,5-triazin-2-ylamino) ethylamino)-6,13-dichloro-4,11-disulfotripheno-dioxazine dihydroxide, hexasodium salt and provides a summary of certain information provided in the PMN.

**DATE:** Written comments by March 22, 1980.

**ADDRESS:** Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Bagley, Premanufacturing Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-3936.

**SUPPLEMENTMENTARY INFORMATION:** Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Inital Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commerical purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register of January 10, 1979 (44 FR 2242). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identify and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this

information are not entitled to confidential treatment, the agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, EPA is issuing the PMN set forth below.

*PMN 80-17.*

*Close of Review Period.* April 21, 1980.

*Manufacturer's Identity.* ICI Americas Inc., Wilmington, DE 19898.

*Specific Chemical Identity.* Anhydro 3,10-bis[2-(4-(3-pyrodinio)-6-(2,5-disulfophenylamino)-1,3,5-triazin-2-ylamino)ethylamino)-6,13-dichloro-4,11-disulfotripheno-dioxazine dihydroxide, hexasodium salt.

*Data.* The following summary is taken from data submitted by the manufacturer in support of claims in the application.

*Use.* Dye.

*Physical/Chemical Properties.*

| | |
|---|---|
| Solubility | 100 g/l water at 20°C. |
| Physical form | Free flowing powder. |

*Health and Environmental Effects.*

| | |
|---|---|
| Acute oral toxicity (rat) | >5,000 mg/kg of body weight (bw). |
| Skin irritation (rat) | Non-irritating. |
| Skin sensitization (Guinea pig) | Not a strong sensitizer. |
| Eye irritation (rabbit) | Slight irritant. |

*Exposure.* The substance will not be used in sites controlled by the company. Each 300 workers in about 300 sites will be exposed to the substance for about 100 hours/year, and that the consuming public will only be exposed to clothing materials which has the dye tightly bound to the fibers.

*Environmental Release/Disposal.* Process water, containing residual dye and salts, is disposed of through the sewer and usually subjected to treatment. The vapors from the drying ovens are generally vented to the outside.

Interested persons may, on or before March 22, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51021]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays. (Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: February 15, 1980.

John P. DeKany,

*Deputy Assistant Administrator for Chemical Control.*

[FR Doc. 80-5545 Filed 2-21-80; 8:45 am]

BILLING CODE 6560-01-M

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**[FRL 1418-5; OPTS-51022]**

## Stearyl Stearamide Premanufacture Notice

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance stearyl stearamide and provides a summary of certain information provided in the PMN.

**DATE:** Written comments by March 22, 1980.

**ADDRESS:** Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202-755-8050.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kirk Maconaughey, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202-426-2601.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register of January 10, 1979 (44 FR 2242). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file,

after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, EPA is issuing the PMN set forth below.

*PMN 80-16.*

*Close of Review Period.* April 21, 1980.

*Manufacturer's Identity.* Humko Sheffield Chemical, PO Box 398, Memphis, TN 38101.

*Specific Chemical Identity.* Stearyl stearamide.

*Data.* The following summary is taken from data submitted by the manufacturer in support of claims made in the application.

*Use.* The substance will be used in plastics commercial production but not to be used to treat drinking water or in products that will come in contact with drinking water.

*Production Estimates.*

| Production year | Minimum | Maximum |
|---|---|---|
| | (*Kilograms*) | |
| First year | 100,000 | 140,000 |
| Second year | 112,000 | 156,000 |
| Third year | 125,000 | 175,000 |

*Health/Environmental Effects.* The substance will be produced in a closed system, except for sampling and laboratory analysis. The substance does not escape into the atmosphere. The impurities will be the unsaponifiables and non-amine materials of the starting reactants plus unreacted primary amine and stearic acid. The unreacted primary amine and stearic acid are controlled not to exceed 5% each by setting specification limits at this point. They would exist as salts of one another.

During manufacture, a maximum of four employees at the company's plant may be exposed to the substance. At the user's plant the submitter estimates approximately 40 people might be exposed to the product on a 2-plant, 4-shift operation. This includes warehouse handling. The material will go to a landfill for disposal.

Risk assessment has not been evaluated.

Interested persons may, on or before March 22, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51022]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: February 15, 1980

John P. DeKany,

*Deputy Assistant Administrator for Chemical Control.*

[FR Doc. 80-5540 Filed 2-21-80; 8:45 am]

BILLING CODE 6560-01-M

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[FRL 1418-2]

## Intent To Prepare a Draft Environmental Impact Statement

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Modification of a Notice of Intent to prepare a draft environmental impact statement (EIS).

**PURPOSE:** To fulfill the requirements of Section 102(2)(c) of the National Environmental Policy Act, EPA has identified a need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7

**FOR INFORMATION CONTACT:** EIS Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30308, (404) 881-7458.

**SUMMARY:** 1. Description of proposed action: On February 22, 1979, the Environmental Protection Agency, Region IV, issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement for a proposed phosphate mine in DeSoto and Manatee Counties, Florida. The mine and associated processing facilities were being proposed by the AMAX Chemical Corporation and the Phillips Petroleum Company. Through an agreement between AMAX and Phillips, AMAX has acquired an option to purchase Phillips' lands and assumed responsibility for obtaining governmental approvals and permits for the proposed mine and facilities. The Notice stated that Memorandum of Understanding has been written to guide the preparation of the EIS, and that AMAX has requested EPA to use the third-party procedure whereby AMAX retains a consultant to prepare the EIS under EPA's management. The Notice further stated that EPA has approved Environmental Science and Engineering, of Gainesville, Florida (ESE) to be the Third-Party Consultant. Environmental Science and Engineering is currently collecting baseline environmental data according to an approved plan of study.

On October 29, 1976, Noranda Phosphate, Inc. was notified that their proposed Pine Level Mine in DeSoto County, Florida was a new source as defined by Section 306 of the Federal Water Pollution Control Act. On February 25, 1977, the company was further notified of EPA's preliminary determination to prepare an Environmental Impact Statement. At that time, the company was directed to prepare a detailed environmental impact assessment. Subsequently, Noranda engaged several consultants to collect baseline environmental data.

On October 1, 1979, AMAX Chemical Corporation acquired the Noranda property, and on December 18, 1979, AMAX exercised its option to purchase the proposed project lands owned by Phillips Petroleum Company. Therefore, AMAX is the sole applicant proposing to mine and construct processing facilities on the lands formerly owned by Noranda and the lands formerly owned by Phillips. It is the expressed intention of AMAX to maintain their previously proposed level of production and extend the life of mining operations by incorporating the newly acquired Noranda property into their proposed mine. EPA will withdraw the preliminary determination to do an EIS on the Noranda proposal, and will expand the scope of the AMAX EIS to include the newly acquired property. Conduct of the expanded scope EIS will follow the general format of the previously approved Plan of Study and will be expanded as required to obtain compatible environmental baseline data in the new acquired property. All data reports, correspondence, public comments or other information previously developed for the Noranda project will be applied to the expanded AMAX EIS.

2. Scoping: Because the described modification involves only a geographic extension of a previously approved POS, EPA does not propose to conduct a scoping meeting. Any group or individual wishing to have input into the

draft impact statement should contact Mr. Howard at the address given above.

3. Timing: EPA estimates the draft EIS will be available for public review and comment around September 1980.

4. Request for copies of Draft EIS: All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: February 15, 1980.

William N. Hedeman, Jr.,

*Director, Office of Environmental Review (A-104).*

[FR Doc. 80-5543 Filed 2-21-80; 8:45 am]

BILLING CODE 6560-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. 80N-0063]

### KI Thyroid Blocking Agent for Use in Radiological Emergency; Approval and Availability

Cross Reference: For a document issued by the Food and Drug Administration that announces approval and availability of KI Thyroid Blocking Agent for use in radiological emergency, see FR Doc. No. 80-5644 appearing elsewhere in the "notices" section of this issue of the Federal Register.

BILLING CODE 4110-03-M

## GENERAL SERVICES ADMINISTRATION

[E-80-5]

### Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Texas Public Utilities Commission involving the application of the Texas Power and Light Company for an increase in its electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 8, 1980.

Ray Kline,

*Acting Administrator of General Services.*

[FR Doc. 80-5422 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-AM-M

[Intervention Notice 109; Application No. 59351]

### Southern California Edison Co., the California Public Utilities Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the California Public Utilities Commission concerning the application of the Southern California Edison Company for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT) Washington, DC 20405), telephone 202-566-0750. March 24, 1980, 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 Administration Services Act, 40 U.S.C. 481(a)(4))

Dated: February 8, 1980.

Ray Kline,

*Acting Administrator of General Services.*

[FR Doc. 80-4521 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-AM-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### Advisory Committees; Meeting

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This notice announces a forthcoming meeting of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

| Committee name | Date, time, and place | Type of meeting and contact person |
|---|---|---|
| Gastrointestinal Drugs Advisory Committee. | March 11 and 12, 9 a.m., Conference Rm. G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. | Open public hearing March 11, 9 a.m. to 10 a.m.; open committee discussion March 11, 10 a.m. to 2:30 p.m.; closed committee deliberations March 11, 2:30 p.m. to 4:30 p.m.; open committee discussion March 12, 9 a.m. to 3 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20910, 301-443-3730. |

*General function of the committee.* The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

*Agenda—Open public hearing.* Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

*Open committee discussion.* The Committee will discuss Tagamet (cimetidine) (NDA 17-920), update on nitrosation and endocrine studies; report of the Subcommittee on Hepatotoxicity

(pediatric guidelines); and report of the Subcommittee for Revision of Guidelines for Motility Modifying Agents.

*Closed committee deliberations.* The Committee will discuss IND 10,971 (Rowell Laboratories); IND 12,916 (Gerald Salen); IND 14-862 (ICI Industries); and IND 17,004 (Glaxo). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings before public advisory committees under 21 CFR Part 14. This program is described in regulations that were published in the Federal Register of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF-70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2932. Although reimbusement may be made available for hearings under Part 14, the program's priority will be given to funding participation in formal evidentiary public hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Part 12 or 13).

Applications for reimbursement for participation in the meeting listed above should be sent to Ronald Wylie (HF-70), Office of Consumer Affairs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-2932), rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). The time limits for applying for such reimbursement are as follows:

| Committee meeting | Meeting date | Deadline for reimbursement application |
|---|---|---|
| Contraceptive Drugs Advisory Committee | March 11 and 12 | March 3 |

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting announced in this notice. The Office of Consumer Affairs, FDA, will file any applications for reimbursement for participation in the meeting announced in this notice in the docket for this notice.

Dated February 14, 1980.
Jere E. Goyan,
*Commissioner of Food and Drugs.*
[FR Doc. 80-5306 Filed 2-21-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 75N-0230; DESI 1786]

## Certain Combination Drugs Containing an Organic Nitrate and a Sedative; Withdrawal of Approval of New Drug Applications

*Correction*

In FR Doc. 80-2039, appearing at page 6174, in the issue of Friday, January 25, 1980, make the following corrections:

On page 6174, third column, the last line of numbered paragraph "2." under "Supplementary Information:" should have read: "511, Kankakee, IL 60901.

On page 6174, third column, the first word of the fourth line of numbered paragraph "4." under "Supplementary Information:" should have read: "tetranitrate".

BILLING CODE 1505-01-M

[Docket No. 79F-0480]

## Ciba-Geigy Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Ciba-Geigy Corp. has filed a petition proposing the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for rigid polyvinyl chloride polymers intended for food-contact use.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3472) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of octadecyl 3-5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for rigid polyvinyl chloride polymers intended for food-contact use.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the requirement of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: February 13, 1980.
Sanford A. Miller,
*Director, Bureau of Foods.*
[FR Doc. 80-5430 Filed 2-21-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0304; DESI 1730]

## Combination Drugs Containing Butabarbital, Hydrochlorothiazide, and Reserpine; Withdrawal of Approval of New Drug Application

**AGENCY:** Food and Drug Adminstration.

**ACTION:** Withdrawal of approval.

**SUMMARY:** This notice withdraws approval of the new drug application (NDA 13-313) for Butiserpazide-25 and Butiserpazide-50 Prestabs containing butabarbital, Hydrochlorothiazide, and reserpine. The basis of the withdrawal is that the drug products lack substantial evidence of effectiveness for their labeled indications. These combination drug products, which were previously used to treat hypertension, are no longer marketed.

**EFFECTIVE DATE:** March 3, 1980.

**ADDRESS:** Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 1730 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth J. Carter, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

**SUPPLEMENTARY INFORMATION:** In a notice of opportunity for hearing, (DESI 1730, Docket No. FDC-D-534, now Docket No. 79N-0304) published in the Federal Register of December 23, 1972 (37 FR 28433), the Food and Drug Administration proposed to issue an order withdrawing approval of the new drug application for Butiserpazide-25 and Butiserpazide-50 Prestabs containing butabarbital, hydrochlorothiazide, and reserpine (NDA 13-313). The proposed order was based on the lack of substantial evidence of effectiveness.

In response to the notice, McNeil Laboratories, Inc., requested a hearing.

McNeil has since withdrawn its hearing request because these drug products are no longer manufactured. Approval of the new drug application for the following drug products is now being withdrawn.

NDA 13-313; Butiserpazide-25 and Butiserpazide-50 Prestabs, prolonged action tablets containing butabarbital, hydrochlorothiazide, and reserpine; McNeil Laboratories, Inc., Camp Hill Rd., Fort Washington, PA 19034.

Any drug product that is identical, related, or similar to Butiserpazide-25 and Butiserpazide-50 Prestabs and is not the subject of an approved new drug application is covered by the new drug application reviewed (NDA 13-313) and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 13-313 and all amendments and supplements applying thereto is withdrawn effective March 3, 1980.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: February 7, 1980.
J. Richard Crout,
*Director, Bureau of Drugs.*
[FR Doc. 80-5429 Filed 2-21-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 80F-0030]

## ICI Americas, Inc.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a preservative in paper and paperboard coatings that contact aqueous foods.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B3497) has been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) of the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a preservative in paper and paperboard coatings that contact aqueous foods, and to delete the temperature limitation prescribed for the use of the additive under the current regulation (44 FR 20653, April 6, 1979).

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the need of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: February 13, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-5425 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0027]

## Lonza, Inc.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Lonza, Inc., has filed a citizen's petition requesting that the Food and Drug Administration (FDA) reverse a determination that quaternary alkyl dimethylammonium compounds derived from olefin-based amines are within existing food additive regulations.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 701(e)(1), 70 Stat. 919 as amended (21 U.S.C. 371(e)(1))), notice is given that a petition (OCP 3488) has been filed by Lonza, Inc., Fair Lawn, NJ 07410, requesting that FDA reverse an informal determination that quaternary alkyl dimethylammonium compounds derived from olefin-based amines are regulated no differently than those derived from fatty acids. Section 178.1010 (21 CFR 178.1010) provides for the safe use of various sanitizing solutions on food-processing equipment and utensils and on other food-contact articles. Section 178.1010(b) lists compounds including a number of quaternary ammonium compounds that may be used in such sanitizing solutions. Such compounds have been derived from alkyldimethylamine (ADMA) synthesized from fatty alcohols.

By letter dated December 23, 1977, Ethyl Corp., Baton Rouge, LA, stated that it believed quaternary ammonium compounds produced from olefin-based amines met the requirements of § 178.1010 and requested FDA to give its concurrence. Lonza, Inc., Fair Lawn, NJ, a manufacturer of ADMA synthesized from fatty alcohols, submitted letters dated February 21, 1979 and June 25, 1979, arguing that ADMA synthesized from alpha olefins contained many more impurities than did their product, and consequently does not comply with the requirements for use in sanitizing solutions as regulated by § 178.1010. On June 29, 1979, FDA's division of Food and Color Additives advised both Ethyl Corp. and Lonza, Inc., that ADMA synthesized from alpha olefins was for regulatory purposes no different chemically from ADMA synthesized from fatty alcohols and could be used in making *n*-alkyl ($C_{12}C_{18}$) benzyl-dimethylammonium chloride sanitizing solutions (§ 178.1010(b)(9)).

Lonza, Inc., has submitted a petition dated November 1, 1979, and a supplement dated December 10, 1979, objecting to that determination and requesting it be reversed. Specifically, the petition requests:

(1) That said Commissioner reverse the informal decision and findings set forth in Appendix A, attached hereto, which consists of a two-page "decision" in letter-form dated June 29, 1979, addressed to Mr. Irving Gottlieb of Lonza, Inc., and signed by Neal D. Singletary, Ph.D., Petitions Control Branch, HFF–334, Division of Food and Color Additivies, Bureau of Foods;

(2) That said Commissioner reverse the informal devision and findings set forth in Appendix B, attached hereto, which consists of a two-page "decision" in letter-form dated June 29, 1979, addressed to Mr. Jerome H. Heckman, and signed by Richard J. Ronk, Director, Division of Food and Color Additives, Bureau of Foods;

(3) That said Commissioner find that because quaternary ammonium compounds manufactured from the Ethyl Corporation's alkyldimethylamine (ADMA), (hereafter referred to as the Ethyl-based Product) is derived from alpha olefin rather than from fatty alcohols, that the Ethyl-based Product contains substantially more impurities which have increased the toxicity and decreased antimicrobial efficacy relative to the Lonza Product;

(4) That said Commissioner further find that because the Ethyl-based Product contains substantially more impurities than the Lonza Product which could increase toxicity and decrease antimicrobial efficacy relative to the Lonza Product, that said Ethyl-based Product is not "* * * of a purity suitable for its intended use" within the meaning of 21 CFR 174.5(a)(2);

(5) That said Commissioner further find that because the Ethyl-based Product contains substantially more impurities than the Lonza Product which could increase toxicity and decrease antimicrobial efficacy relative to the Lonza Product, that said Ethyl-based Product is as not safe as the Lonza Product and consequently it cannot properly be found that the Ethyl-based Product "* * * may by (as) safely used on food-processing equipment and utensils, and on other food-contact articles * * *" as the Lonza Product within the meaning of 21 CFR 178.1010;

(6) That said Commissioner further find that because the Ethyl-based Product contains substantially more impurities than the Lonza Product which could increase toxicity and decrease antimicrobial efficacy relative to the Lonza Product, that said Ethyl-base Product contains more "poisonous or deleterious substance(s)" within the meaning of Section 346 of the Food, Drug, and Cosmetic Act, (hereafter referred to as the Act); that such additional toxicity is "not required in the production" of any food; that its use *may* be "avoided by good manufacturing practice" and, accordingly, that it is "* * * unsafe for purposes of the application of Clause (2)(A) of section 342(a) of the Act";

(7) That, because of the aforementioned substantial differences in toxicity and efficacy between the Ethyl-based Product impurities and the Lonza Product, that the Commissioner require as a condition to marketing the Ethyl-based Product, that it bear a label disclosing that it is derived from alpha olefins, and a succinct disclosure of the volume of impurities contained therein, the higher levels of toxicity of those impurities that result, and the lesser levels of efficacy of those impurities;

(8) That, because of the aforementioned substantial differences in toxicity and efficacy between the Ethyl-based Product impurities and the Lonza Product, that the Commissioner take appropriate administrative action to specify in 21 CFR 178.1010(b)(9) a limit on non-terminal and branched chain alkyl groups in order to distinguish for regulatory purposes between products derived from alpha olefins and those derived from fatty alcohols;

(9) That, because of the potential long-term effects on health and the environment, the Commissioner should treat the Ethyl-based Product as "* * * a new material, i.e., not the same as that already regulated * * *" under 21 CFR 178.1010(b)(9) and require long-term testing data concerning adverse long-term effects to support a regulation of the Ethyl-based Product;

(10) That, because of the fluctuation in the amount of impurities in the Ethyl-based Product, and because of the trend towards

increasing amounts of impurity in the Ethyl-based Product, the Commissioner should establish a mandatory ceiling on the amount of impurities that the Ethyl-based Product can contain.

In a supplement dated December 10, 1979, Lonza stated:

Appendix D to the aforementioned Lonza Petition demonstrates that the level of impurities in the Ethyl-based Product increased by 22.8% during the period 1977–1979. It is therefore evident that this 22.8% increment of increased impurity is *not* required in the production of the Ethyl-based Product, and it *can* be avoided by good manufacturing practice, since Ethyl did so in its 1977 production. Moreover, Appendix C to the aforementioned Lonza Petition demonstrates that as the level of impurities increase, toxicity increases proportionately and thus an unnecessary increment of poisonous or deleterious substances is added. Therefore under the terms of Section 406 (346) of the Act, the Ethyl-based Product must be "* * * deemed to be unsafe for purposes of the application of clause (2)(A) of section 402(a)" (342). The legal effect of a product being "unsafe" within the terms of this provision is that its use on food-processing equipment and utensils and on food-contact articles would *adulterate* the food it contacted. Section 301 (331) expressly prohibits adulteration of food in interstate commerce subject to the penalties prescribed in Section 303 (333) of the Act, and is subject to injunction by a Federal District Court under the provisions of section 302 (332) of the Act which provides for injunctive relief to restrain violations of section 301 (331) of the Act.

Moreover, even as to the 1977 production of the Ethyl-based Product, it is undisputed that it contains more than seven times the amount of impurities by volume than the Lonza Product (15% compared to 2%). It has heretofore been shown that increased impurities result in proportionately increased toxicity and decreased antimicrobial efficacy. Lonza contends that these differences between the subject products constitute "material facts" within the meaning of Section 201(n) (321(n)) of the Act. Therefore, to the extent that the Ethyl-based Product is marketed without a label and/or advertising notification of these material facts, it "* * * fails to reveal facts material * * * with respect to consequences which may result from the use of the article to which the labeling or advertising relates * * *" within the meaning of section 201(n) (321(n)) of the Act.

The legal effect of failure to disclose these material facts concerning higher levels of toxicity (and lower levels of antimicrobial efficacy) constitutes misbranding. Section 301(b) (331(b)) prohibits misbranding subject to the penalties set forth in Section 303 (333) and subject to the injunctive provisions of section 302 (332) of the Act.

Finally, Appendix D to the aforementioned Lonza Petition shows that there is an increasing trend in the level of impurities in the Ethyl-based Product. Under the Bureau of Food's interpretation of 21 CFR 178.1010(b)(9) there is no constraint or means to prevent *further increases* in the level of impurities.

If the Bureau's interpretation of § 178.1010(b)(9) is correct, i.e., that it does not limit the amount of impurities that a product may contain, then the regulation is unlawful because it fails to implement properly the above-cited provisions of the Act which clearly provide that these impurities adulterate food with which they come into contact. Section 178.1010(b)(9) was promulgated prior to the development of the synthetic Ethyl-based Product at a time when amines were derived from fatty alcohols which did not pose a need for the imposition of explicit regulatory limits on non-terminal and branched chain alkyl groups.

Thus, the Bureau's present interpretation of this regulation renders it obsolete and mandates its revision to set a limitation on the level of these impurities that is acceptable within the limits imposed by the Act, i.e., to eliminate impurity increments *not* required in the production of the product, to eliminate impurity increments which *can* be avoided by good manufacturing practice, and to avoid unnecessary increments of poisonous and deleterious substances.

Wherefore, Lonza respectfully petitions that in addition to the relief requested in its Petition dated November 5, 1979, that the Commissioner further find:

(1) That the 22.8% increment of increased impurity in the Ethyl-based Product between 1977 and 1979 is *not* required in the production of the product, *can* be avoided by good manufacturing practice, does add *unnecessary* poisonous and deleterious substances to food contact surfaces and hence to exposed food and that consequently use of the Ethyl-based Product would adulterate food in violation of the Act;

(2) That even the lower 1977 level of impurities (15%), compared to the Lonza Product (2%), is a difference of such magnitude as to constitute a "material fact" which, if not disclosed by label and in *all* advertising of the Ethyl-based Product, would constitute misbranding in violation of the Act; and

(3) That for reasons heretofore shown, § 178.1010(b)(9) must as a matter of law, be revised to impose a mandatory limit on the non-terminal and branched chain alkyl groups which produce these impurities in order to implement the nondiscretionary provisions of the Act which prohibit the indirect food additives not required in the production of the product, which can be avoided by good manufacturing processes and which constitute unnecessary poisonous and deleterious substances which would adulterate whatever food it contacts in violation of the Act.

Dated: February 14, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-5424 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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[Docket No. 80F-0046]

## Procter & Gamble Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Procter & Gamble Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium and potassium salts of *N*-acetyl-*L*-methionine as nutrients in foods.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0A3496) has been filed by Procter & Gamble Co., 6071 Center Hill Rd., Cincinnati, OH 45224, proposing that § 172.372 *N-acetyl-L-methionine* (21 CFR 172.372) of the food additive regulations be amended to include the sodium and potassium salts of *N*-acetyl-*L*-methionine for use as a nutrient in foods.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, and environmental assessment report as applicable, will be published in the Federal Register as permitted by 21 CFR 25.25(b).

Dated: February 14, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-5420 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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[Docket No. 80N-0041]

## Schering Corp., et al.; New Drug Applications; Withdrawal of Approval

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This document withdraws approval of 26 new drug applications (NDA's) based on the written request of the applicants.

**EFFECTIVE DATE:** March 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** Herbert T. 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:** The holders of the new drug applications listed herein have informed the Food and Drug Administration that these drug

products are no longer marketed and have requested withdrawal of approval of the NDA's. The applicants have also waived their opportunity for hearing.

| NDA and drug name | Applicant's name and address |
|---|---|
| 6-461 Trimeton Tablets | Schering Corp., 60 Orange St., Bloomfield, NJ 07003. |
| 6-569 Wyamine Inhaler | Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19106. |
| 6-652 Wyamine Sulfate Nasal Solution. | Do. |
| 7-659 Dormin Sleeping Capsules. | Dormin, Inc., Nauset Real Estate Bldg., Orleans, MA 02653. |
| 7-814 Trimetose Liquid | Schering Corp. |
| 8-608 Isoniazid Tablets | ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213. |
| 8-658 Corcidin With Codeine Phosphate Tablets. | Schering Corp. |
| 8-718 Levo-Dromoran Hypodermic Tablets. | Hoffmann-La Roche, Inc., Nutley, NJ 07110. |
| 8-961 Prantal Cream | Schering Corp. |
| 9-277 Serpentin Tablets | Goldleaf Pharmacal Co., Inc., Box 150, Englewood, NJ 07631. |
| 9-437 Piperazine Citrate Syrup. | Heun-Norwood Laboratories, Gibco/Invenex Division, 2303 Schuetz Rd., St. Louis, MO 63141. |
| 9-632 Rauwoleaf Tablets | Goldleaf Pharmacal Co., Inc. |
| 10-015 Theraderm Lotion | Briston-Myers Products, 345 Park Ave., New York, NY 10022. |
| 11-344 Tusilan Compound Antitussive Syrup. | Do. |
| 11-488 Polykol Drops | The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002. |
| 11-489 Ostensin Tablets | Wyeth Laboratories. |
| 11-667 Casakol Syrup | The Upjohn Co. |
| 11-744 Isuprel HCl Mistometer. | Sterling Drug Inc., 90 Park Ave., New York, NY 10016. |
| 11-916 Quimotrase Ophthalmic Injection. | Cooper Laboratories, Inc., 455 E. Middlefield Rd., Mountain View, CA 94043. |
| 12-043 Diloderm Cream | Schering Corp. |
| 12-274 Assure Tablets | Bristol-Myers Products. |
| 12-622 Defencin Tablets | Do. |
| 15-295 Celestone Aerosol | Schering Corp. |
| 16-124 Duramax Tablets | Bristol-Myers Products. |
| 17-222 Sodium Iodide I-125 Capsules. | Mallinckrodt, Inc., P.O. Box 5840, St. Louis, MO 63134. |
| 17-843 Aggregated Radioiodinated (I-131) Albumin (Human) Injection. | Do. |

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order will become effective on March 3, 1980.

Dated: February 9, 1980.

J. Richard Crout,

*Director, Bureau of Drugs.*

[FR Doc. 80-5428 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80G-0006]

## State Agricultural Experiment Stations, Rutgers University and Oregon State University; Filing of Petition for Affirmation of Gras Status

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The State Agriculture Experiment Stations at Rutgers University and Oregon State University have jointly filed a petition (GRASP 7G0090) proposing affirmation that ammonium lignin sulfonate is generally recognized as safe (GRAS) for use as a pear flotation agent in packing house dump tanks.

**DATE:** Comments by April 22, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

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

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 7G0090) has been jointly filed by the State Agricultural Experiment Station, Rutgers University, Office of IR-4, P.O. Box 231, New Brunswick, NJ 08903, and the State Agricultural Experiment Station, Oregon State University, Corvallis, OR 97331, proposing affirmation that ammonium lignin sulfonate used as a pear flotation agent in packing house dump tanks is GRAS. The petition has been placed on display at the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as preliminary indication of suitability for affirmation.

Interested persons may, on or before April 22, 1980, review the petition and/or file comments (four copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-5427 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0011]

## Zinpro Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Zinpro Corp. has filed a petition proposing that the food additive regulations be amended to provide for use of zinc methionine sulfate tablets as a means of providing dietary zinc.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A 3268) has been filed by the Zinpro Corp., 303 Hazeltine Gates Office Park, Chaska, MN 55318, proposing that the food additive regulations be amended to provide for use of zinc methionine sulfate tablets as a means of providing dietary zinc.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report and the environmental assessment report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-5431 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0451]

## Rohm & Haas Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Rohm and Haas Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a preservative in polymer latex emulsions used to coat paper which contacts food.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3406) has been filed by the Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of a mixture containing 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one as a preservative for polymer latex emulsions to coat paper which contacts food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report and the environmental assessment report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1980.

Sanford A. Miller,

*Director, Bureau of Foods.*

[FR Doc. 80-519 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-03-M

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[Docket No. 80N-0063]

## Potassium Iodide for Thyroid Blocking in a Radiation Emergency Only; Approval and Availability

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has approved two new drug applications (NDA's) for potassium iodide as a thyroid-blocking agent for use in radiation emergencies only. This drug is now available for this use in the form of tablets and solution U.S.P. from Wallace Laboratories, Division of Carter-Wallace, Inc., Cranbury, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** For information concerning FDA-approved labeling and NDA's for potassium iodide as a thyroid-blocking agent for use in a radiation emergency: JoAnne C. Marrone, Division of Metabolism and Endocrine Drug Products (HFD-130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3490.

For information on the commercial availability and dosage form of potassium iodide for the purpose of thyroid blocking in a radiation emergency: Dr. William R. Darrow, Research and Medical Director, Wallace Laboratories, Half Acre Rd., Cranbury, NJ 08512, 609-655-6420 (24-hour emergency telephone number: 609-655-6000 or 609-799-1167).

**SUPPLEMENTARY INFORMATION:** An invitation to drug manufacturers to submit an NDA to provide and market potassium iodide to support a radiological emergency preparedness program for possible accidents at a fixed nuclear facility was published by FDA in the Federal Register of December 15, 1978 (43 FR 58798).

At the request of the Federal Emergency Management Agency and the Nuclear Regulatory Commission, FDA is announcing that FDA subsequently approved two NDA's held by Wallace Laboratories, Division of Carter-Wallace, Inc., Cranbury, NJ 08512, for potassium iodide as a thyroid-blocking agent for use as directed by State or local public health authorities in the event of a radiation emergency only. The drug is available for this use in the form of tablets and solution U.S.P. The use of this drug for this purpose was the subject of a study by the National Council on Radiation Protection and Measurements (NCRP) and an NCRP report published August 1, 1977 (NCRP Report No. 55, "Protection of the Thyroid Gland in the Event of Releases of Radioiodine"). Copies of that report may be obtained from NCRP Publications, P.O. Box 30175, Washington, DC 20014. The report recommended the consideration of the drug for the stated purpose.

The FDA approval of these NDA's assures the commercial availability of potassium iodide as a thyroid-blocking agent for use in a radiation emergency and also provides FDA-approved labeling for the drug for this use, including patient leaflets containing important information which must be given to each person who receives the drug for this use.

This action does not affect the marketing status of potassium iodide when labeled for use as an expectorant, and for other purposes, and available only by prescription. These formulations of the drug will continue to be available in the same form as they have in the past.

To obtain information on the commercial availability and dosage form of potassium iodide for the purpose of thyroid blocking in a radiation emergency, contact Dr. William R. Darrow, Research and Medical Director, Wallace Laboratories, Half Acre Rd., Cranbury, NJ 08512; telephone 609-655-6420 (telephone 609-655-6000 for all emergencies on a 24-hour basis; an additional "back-up" emergency telephone number is 609-799-1167). The trade names of the drug for the two dosage forms of the Wallace Laboratories' product are "Thyro-Block Tablets" and "Thyro-Block Solution."

Effective date: February 22, 1980.

Dated: February 19, 1980.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 80-5644 Filed 2-20-80; 11:05 am]

BILLING CODE 4110-03-M

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[Dockets Nos. 75N-0139, 75N-139A, 75N-139B, 75N-139C, 75N-139D, 75N-139E, 75N-139F]

## Reimbursement for Participation in Hearing on Proposal To Withdraw Approval of New Drug Applications for Oral Proteolytic Enzymes; Availability

*Correction*

In FR Doc. 80-1335, appearing at page 2909 in the issue of Tuesday, January 15, 1980, the tenth line of the "Supplementary Information" paragraph should read, "became effective on October 25, 1979 (44".

BILLING CODE 1505-01

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## Health Care Financing Administration

## Medicare Program; Coverage of Oxygen for Use in a Patient's Home

**AGENCY:** Health Care Financing Administration (HCFA), HEW.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** This notice extends the period for public comment to a notice published on December 14, 1979 (44 FR 72635), regarding Medicare coverage of oxygen for use in a patient's home. That notice discusses policy issues such as

prescription, laboratory evidence and health conditions indicating the need for oxygen, portable oxygen systems, and special provisions for patients now on oxygen. An opportunity for comment was provided through February 12, 1980. In response to requests from beneficiaries, provider organizations, and interest groups who are requesting additional time to submit comments, we are extending the comment period through March 13, 1980.

**DATE:** To assure consideration, comments should be received by March 13, 1980.

**ADDRESSES:** Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Maryland 21235. Please refer to the code MAB-116-N.

Physicians, suppliers, agencies and organizations are requested to submit comments in duplicate. Physicians who comment are requested to describe their professional qualifications with respect to treatment of pulmonary diseases, since the comments of specialists in that field are of particular interest.

The public may review the comments on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. at the Health Care Financing Administration, Room 5220, 330 C Street, SW., Washington, D.C. 202-245-0365.

**FOR FURTHER INFORMATION, CONTACT:** Henry J. Hehir, Director, Division of Medical Services Coverage Policy, 301-594-8561, or, for medical information: Herbert Jacobs, M.D., Physician Staff Consultant, Health Standards and Quality Bureau, 301-594-3830.

Dated: February 15, 1980.

Leonard D. Schaeffer,

*Administrator, Health Care Financing Administration.*

[FR Doc. 80-5551 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-35-M

## National Institutes of Health

### Amended Notice of Meetings

Notice is hereby given of a change in the meeting date or time of the following National Institutes of Health Study Section which were published in the Federal Register on January 31, 1980 (45 FR 7009).

The Human Development Study Section was to meet March 4-7, 1980, at 8:30 a.m., but will meet March 4-7, 1980, at 7:30 p.m., Gramercy Inn, Washington, D.C., the same dates and location for which it was originally scheduled.

The Physiology Study Section was to have met February 21-23, 1980, at 9:30 a.m., but will meet February 20-23, 1980, at 2:00 p.m. at the Sheraton Inn, Silver Spring, MD, the same location for which it was originally scheduled.

The meetings will be open to the public for approximately 1 hour at the beginning of the first session of the first day of the meeting.

Dated: February 15, 1980.

Suzanne L. Fremeau,

*Committee Management Officer, NIH.*

[FR Doc. 80-5435 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-08-M

## Office of Education

### Grants to Local Educational Agencies Serving Areas With Concentrations of Children From Low-Income Families; Intent to Compromise Claim

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Intent to Compromise Claim.

**SUMMARY:** Notice is given that under Section 452(f) of the General Education Provisions Act, 20 U.S.C. 1234a(f), the Commissioner intends to compromise a claim against the Minnesota State Department of Education now pending before the Education Appeal Board, Docket No. 1-(1)-73.

**DATE:** Interested persons may express their opinions by submitting written data, views or arguments on or before April 7, 1980.

**FOR INFORMATION CONTACT:** Additional information may be obtained by writing to: Ms. Barbara Miller, Attorney, Education Division, Office of the General Counsel, Department of Health, Education, and Welfare, 400 Maryland Avenue, S.W., (Room 4098, FOB-6), Washington, D.C. 20202.

**SUPPLEMENTARY INFORMATION:** Under Section 451(a) of the General Education Provisions Act, 20 U.S.C. 1234, the Commissioner established in the Office of Education an Education Appeal Board which functions to, among other things, conduct audit appeal hearings. The procedures of the Education Appeal Board were published in the Federal Register on May 25, 1979 (44 FR 30529). These procedures became effective on June 29, 1979.

Section 111 of Title I ESEA, 20 U.S.C. 2711, authorizes grants for programs operated by local educational agencies designed to meet the special educational needs of educationally deprived children residing in low income areas. The regulations governing the local educational agency program under Title I of the Elementary and Secondary Education Act (ESEA) are found in 45 CFR Part 116 and 45 CFR Part 116a. These regulations were published in the Federal Register on September 29, 1976 (41 FR 42894).

The claim in dispute arose out of an audit conducted by the HEW Audit Agency which determined that the Bemidji local educational agency had improperly spent Title I funds to construct and equip a library. On September 21, 1972, the Office of Education notified the Minnesota State Department of Education that it must refund $207,900. Minnesota appealed this final determination, and the case was docketed for hearing before the Education Appeal Board (then the Title I Audit Hearing Board). A Prehearing Conference before the Board was held on July 24, 1973. On April 8, 1974, Minnesota submitted a plan to alternatively repay the claim. Although Minnesota was informally notified that this plan was unacceptable, the Office of Education did not formally reject the plan. Subsequently, it was determined that, due to the applicability of the statute of limitations at 20 U.S.C. 3383, the amount of the claim should be reduced to $14,546.

The Commissioner proposes to compromise the claim of $14,546 to $7,500. The Commissioner has determined that it would not be practical or in the public interest to continue this proceeding, given the cost of taking the claim through the appeal process, the substantial reduction of the claim, and the difficulties in gathering evidence for the old claim. Furthermore, the Commissioner has determined that the practice which resulted in the claim has been corrected and will not recur. This proposed compromise will not adversely affect any other audit proceeding currently pending before the Education Appeal Board.

The public is invited to comment on the Commissioner's intent to compromise this claim for $7,500. Additional information may be obtained by writing to Ms. Barbara Miller. (See address under "For Information Contact" at the beginning of this notice.)

(20 U.S.C. 1234 and 1234a(f).)

Dated: February 14, 1980.

(Catalog of Federal Domestic Assistance No. 13.428, Educationally Deprived Children—Local Educational Agencies and 13.430, Educationally Deprived Children—State-Administration)

William L. Smith,

*U.S. Commissioner of Education.*

[FR Doc. 80-5537 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-02-M

## National Advisory Council on Indian Education Full Council Meeting

**AGENCY:** National Advisory Council on Indian Education.

**ACTION:** Notice.

**SUMMARY:** The notice sets forth the schedule and proposed agenda of the forthcoming Full Council meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a) (2)). This document is intended to notify the general public of their opportunity to attend.

**DATES:** Full Council Meeting: March 7, 1980, 9:00 a.m. to 5.00 p.m., and March 8, 1980, 9:00 a.m. to 5:00 p.m., and March 9, 1980, 9:00 a.m. to 5:00 p.m. Committee Meetings: To be announced.

**ADDRESS:** North Carolina Association of Educators, 702 S. Salisbury Street, Raleigh, North Carolina 27611.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street, N.W., Washington, D.C. 20004 (202) 376-8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 920318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874), as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs; and,

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

> Sec. 453 [Title IV, Pub. L. 92-318]. For the purpose of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The meeting will be open to the public. This meeting will be held at the North Carolina Association of Educators, 702 S. Salisbury Street, Raleigh, North Carolina 27611, Dawson Auditorium.

The proposed agenda includes:

(1) Executive Director's Report,
(2) Action on previous meeting minutes,
(3) Committee discussions and reports,
(4) Review of NACIE FY'80 Budget,
(5) Special Reports and Presentations,
(6) Plans for future NACIE activities,
(7) Regular Council Business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

For further information call Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, (202) 376-8882.

Dated February 1, 1980. Signed at Washington, D.C.

**Dr. Michael P. Doss,**

*Executive Director, National Advisory Council on Indian Education.*

[FR Doc. 80-5557 Filed 2-21-80; 8:45 a.m.]

BILLING CODE 4110-02-M

## Office of the Assistant Secretary of Education

## Fund for the Improvement of Postsecondary Education, Comprehensive Program Final Year Dissemination Competition; Invitation for Applications for New Awards for Fiscal Year 1980

**AGENCY:** Office of the Assistant Secretary of Education, HEW.

**ACTION:** Application Notice for Receipt of Applications for New Awards for Fiscal Year 1980.

**SUMMARY:** Applications are invited for new awards under the Comprehensive Program Final Year Dissemination Competition conducted by the Fund for the Improvement of Postsecondary Education. Eligible applicants for this competition include current grantees under the Fund's Comprehensive Program whose projects are currently in their final year of support from the Fund.

Applications for awards must be mailed (postmarked) or hand delivered by March 7, 1980.

If an application is late, the Office of the Assistant Secretary for Education may lack sufficient time to review it with other applications and may decline to accept it.

**SUPPLEMENTARY INFORMATION:** Authority for this program is contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d), as amended.

A regulatory provision describing dissemination competitions is presently being prepared for final publication. This provision is expected to read as follows:

*§ 1501.9 Targeted Competitions*

The Fund may also conduct one or more targeted competitions * * * The targeted competitions may include, for example * * * (d) Dissemination competitions, in which the Fund supports efforts by grantees to disseminate project ideas and results. Applicants in these

competitions are limited to grantees whose projects are in the final year of funding.

If the final rule differs materially from this version, then the closing date will be postponed so that applicants may revise their applications accordingly.

This program issues awards to institutions of postsecondary education and other public and private educational institutions and agencies. The purpose of the awards is to improve postsecondary education by supporting efforts by current grantees to disseminate project ideas and results.

**APPLICATIONS DELIVERED BY MAIL:** An application sent by mail must be addressed to the Comprehensive Program Final Year Dissemination Competition, Attention: 13.925G, Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commerical carrier; or (4) any other proof of mailing acceptable to the Assistant Secretary for Education.

If an application is sent through the U.S. Postal Service, the Assistant Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail.

**APPLICATIONS DELIVERED BY HAND:** An application that is hand delivered must be taken to the Comprehensive Program Final Year Dissemination Competition, Attention: 13.925G, Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202.

The Office of the Assistant Secretary will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on March 7, 1980.

**PROGRAM INFORMATION:** This dissemination competition solicits proposals to disseminate the results of Comprehensive Program projects. Applications will be accepted only from Comprehensive Program grantees whose projects are currently in their final year of support from the Fund for the Improvement of Postsecondary Education. Applications will be evaluated in accordance with the criteria set out at 45 CFR 1501.7.

**AVAILABLE FUNDS:** Approximately $50,000 is estimated to be available for new awards in fiscal year 1980. It is estimated that these funds could support approximately 15 new awards. The estimated amount for new awards will be up to $5,000 for a 12-month period.

The estimates set forth in the preceding paragraph do not bind the Assistant Secretary for Education except as may be required by applicable statute and regulations.

**APPLICATION FORMS:** Application forms and program information packages will be sent directly to all Comprehensive Program grantees in their final year of funding from the Fund for the Improvement of Postsecondary Education.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

**APPLICABLE REGULATIONS:** The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are set forth in 45 CFR Part 1501. Awards are also subject to the provisions set forth in 45 CFR Parts 100 and 100a, except that awards are not subject to the provisions of 45 CFR 100a.26(b) relating to criteria for awards. When the proposed Education Division General Administrative Regulations (EDGAR) become final, the post-award provisions of EDGAR will apply to awards made in response to this application notice.

**FURTHER INFORMATION:** For further information, contact the Fund for the Improvement of Postsecondary Education, Attention: 13.925G, Office of the Assistant Secretary for Education, DHEW, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202. Telephone: (202) 245-8091.

(20 U.S.C. 1221d).

(Catalog of Federal Domestic Assistance No 13.925, Fund for the Improvement of Postsecondary Education)

Dated: February 14, 1980.

Peter D. Relic,

*Acting Assistant Secretary for Education*

[FR Doc. 80-5338 Filed 2-21-80; 8:45 am]

BILLING CODE 4110-24-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Prairie Band of Potawatomi Indians of Kansas; Plan for the Use of the 20-percent Program Funds of the Prairie Band of Potawatomi Indians in Dockets 15-K, 29-J and 217, 15-M, 29-K and 146 Before the Indian Claims Commission

February 14, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

A plan for the use of certain judgment funds of the Prairie Band of Potawatomi Indians, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, became effective on March 6, 1978. Under that plan, twenty (20) percent of the band's share of the Potawatomi funds awarded in Dockets 15-K, 29-J and 217 and Dockets 15-M, 29-K and 146 were set aside for the program aspect of the plan to be developed at a later date. Plan for the use of the program funds of the Prairie Band of Potawatomi Indians of Kansas was submitted to the Congress by a letter dated June 26, 1979, and was received (as recorded in the Congressional Record) by the Senate and the House of Representatives on June 27, 1979. Congress not having adopted a resolution disapproving it, the program plan became effective on September 7, 1979.

The plan reads as follows:

"Tribal Plan—Twenty Percent (20%) Program Funds

"The Program Aspect of the plan established by the Prairie Band of Potawatomi Indians pursuant to the Act of October 19, 1973 (Public Law 93-134, 87 Stat. 466), provides that the 20% portion of the tribe's share of the judgment funds awarded in Dockets 15-K, 29-J and 217 and Dockets 15-M, 29-K and 146 shall be programmed as follows:

"*The Prairie Band of Potawatomi Indians of Kansas.* The funds for the program aspects of the Prairie Band plan shall be invested by the Secretary until such time the band, within one year from the effective date of this plan, develops a further plan for the use of such funds, which plan shall be subject to Secretarial approval. The Secretary shall approve no plan for the use of the program funds of the band until at least thirty days after the plan has been submitted by the Secretary to the Congress."

"Pursuant to the provisions of the above plan, which became effective March 6, 1978, the Prairie Band of

Potawatomi Indians request Secretetarial approval on the following program plan for the use of the 20% portion of the judgment funds awarded in Dockets 15–M, 29–K and 146 and Dockets 15–K, 29–J and 217.

"Twenty (20) percent of the funds apportioned to the Prairie Band of Potawatomi Indians in Dockets 15–K, 29–J, 217, 15–M, 29–K, and 146 shall be held and continued to be invested by the Secretary pursuant to the provision in 25 USC 162a until such time as a social, economic or other developmental program or programs benefiting the Prairie Band of Potawatomi Indians are established which shall be subject to the approval of the Secretary of the Interior."

"Upon approval by the tribe, the program portion of the funds to be apportioned from subsequent awards, including all interests and investment income accrued, may be included in the program or programs established for the use of the program funds from the above-named dockets."

Rick Lavis,

*Deputy Assistant Secretary, Indian Affairs.*

[FR Doc. 80–5619 Filed 2–21–80; 8:45 am]

BILLING CODE 4310–02–M

## Bureau of Land Management

### District Managers, Arizona; Redelegation of Authority To Issue Free Use Permits and Material Sales

Under the provision of Bureau Order No. 701, as amended, authority is hereby redelegated to the District Managers, Arizona, to issue Free Use Permits and Material Sales for material other than forest products not exceeding $10,000 unless authority to make sales in greater amounts is delegated by the State Director (B.O. 701, Part III, sec. 3.9(g)).

Dated: February 13, 1980.

Tom Allen,

*Associate State Director.*

[FR Doc. 80–5497 Filed 2–21–80; 8:45 am]

BILLING CODE 4310–84–M

### Carson City District Grazing Advisory Board; Meeting

Notice is hereby given, in accordance with Public Law 94–579, that the Carson City District Grazing Advisory Board will meet on Tuesday, March 26, 1980.

The meeting will be held at the Convention Center, Fallon, Nevada, at 10:00 a.m. and will continue into the afternoon after a break for lunch.

Items on the agenda (as they relate to range improvements and Allotment Management Plans) are the vegetative inventory method being used for the grazing environmental impact statements, current and future range improvements, wild horse and burro management objectives and up dating certain allotment management plans.

The meeting is open to the public. Any person may attend, appear before the Board, or file a written statement.

Dated: February 15, 1980.

Thomas J. Owen,

*District Manager.*

[FR Doc 80–5500 Filed 2–21–80; 8:45 am]

BILLING CODE 4310–84–M

### Intergovernmental Planning Program's Gulf of Mexico Regional Technical Working Group; Meeting

As authorized by the Secretary of the Interior and pursuant to 43 CFR 1784 and 43 U.S.C. 1739(d), a meeting of the Intergovernmental Planning Program's (IPP) Gulf of Mexico Regional Technical Working Group will be held on April 1 and 2, 1980, and April 15 and 16, 1980. The meeting is in the Bureau of Land Management's New Orleans OCS Office, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

Meeting times are as follows: A. April 1: 1:00 p.m.–4:00 p.m.; B. April 2: 8:00 a.m.–4:00 p.m.; C. April 15: 1:00 p.m.–4:00 p.m.; and D. April 16: 8:00 a.m.–12:00 noon.

Agenda items include the First and Second Field Briefings on the Environment, Sale 67/69; Second Stipulation Meeting, Sales A66 & 66; Update on Gulf of Mexico Leasing; Oil and Gas Resource Development; The Regional Studies Plan; Mexican Oil Spill; Gulf of Mexico Oil Spill Planning; and the Regional Transportation Management Plan for CY 1980.

The meeting is open to the public and interested persons may make oral or written presentations. Summary minutes and a taped transcript of the meeting will be available for public inspection not later than 60 days after the meeting at the New Orleans OCS Office.

Further information in regard to this meeting can be obtained from Sydney H. Verinder at the above office, telephone number (504) 589–6541.

John L. Rankin,

*Manager, New Orleans Outer Continental Shelf Office.*

February 14, 1980.

[FR Doc. 80–5498 Filed 2–21–80; 8:45 am]

BILLING CODE 4310–84–M

### Nevada; Realty Action—Noncompetitive Sale Public Land in White Pine County

February 12, 1980.

The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian

T. 17 N., R. 64 E.,
Sec. 19, NW¼NE¼NW¼NE¼.

The above-described land, comprising 2.5 acres, is being offered as a direct, non-competitive sale to Francis Hesselgesser, owner of the adjoining tract and improvements on the sale tract.

In 1971, Mr. Hesselgesser purchased 5 acres of land which he mistakenly believed included two residential dwellings. It was later determined that the improvements were on public land immediately west of the land he had purchased. Disposal by direct sale, rather than public auction, will legalize his occupancy of the land, protect his equity investment in the improvements on the land, and eliminate an undue hardship if he were compelled to remove or otherwise dispose of the improvements.

The sale will resolve a complicated trespass situation. The lands have not been used and are not required for any federal purpose. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system.

The land will not be offered for sale for at least 60 days after the date of this notice.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning the sale is available for review at the Nevada State Office, 300 Booth Street, Reno, Nevada.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, BLM–320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary, who may vacate or modify

this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department of the Interior and the required payment, plus the cost of publishing the notice, shall be requested of Mr. Hesselgesser. Such payment, in full, is in accordance with 43 CFR 1822.1–2.

John H. Trimmer,

*Acting Chief, Division of Technical Services.*

[FR Doc. 80-5549 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

## New Mexico; Area Managers, Socorro District; Redelegation of Authority

1. Pursuant to the authority contained in Part III Section 3.1 of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to Area Managers, Socorro District, within their areas of responsibility, authority to take all actions on the matters listed in Part III Section 3.2(b), 3.3(b), 3.3(d), 3.6(m), 3.6(n), Section 3.7(a)(1), (2), (3), and (8) Refunds pursuant to 43 CFR 4130.5–2(a)(b), 3.7(b), 3.7(c), 3.7(d), 3.7(e), 3.7(f),[1] 3.8(a), Section 3.9(g) material other than forest products not exceeding $5,000 in value and issue free use permits for material other than forest products not exceeding $5,000 in value, Section 3.9(m), 3.9(o)(1)(3) and 3.9(z).

2. All previously published orders of redelegation pursuant to the authority of Bureau Order 701, as amended which pertain to the Area Managers, Socorro District, and which are inconsistent with this order are hereby cancelled and superseded.

3. Effective date. This redelegation will become effective March 17, 1980.

Arlen P. Kennedy,

*District Manager.*

Approved: February 13, 1980.

Arthur W. Zimmerman,

*State Director.*

February 6, 1980.

[FR Doc. 80-5499 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

## Utah; Richfield District Resource Management Plan Preparation

February 13, 1980.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notification of Resource Management Plan Preparation; House Range Resource Area, Richfield District.

**ADDRESS:** Comments or requests for further information should be directed to Carl J. Thurgood, Chief of Planning, Bureau of Land Management, P.O. Box 768, Richfield, Utah 84701.

**SUMMARY:** The Richfield District, Bureau of Land Management, hereby announces the intent to prepare a Resource Management Plan for the public lands within the House Range Resource Area.

The House Range Resource Area consists of all public land administered by BLM in Juab County, Utah and approximately 25 percent of the public land administered by BLM in Millard County, Utah as designated on the accompanying map.

The Bureau of Land Management will hold a workshop on Febraury 26, 1980, 7:00 p.m. at the Nephi Elementary School Multi-Media Center, Nephi, Utah to provide opportunity for public participation in the identification of issues to be considered during the planning process. The Richfield District has invited key public land user and interest group representatives to participate in the workshop. Additional persons who wish to participate should contact the Richfield District Office by the close of business, February 22.

The Richfield District will identify an interdisciplinary team to be involved in each step of the resource management planning process. The disciplines to be represented are: lands, minerals, recreation, wildlife, range, watershed, land use planning, and socio-economics. Issues to be identified include those resource uses which are of high public concern or controversy, significantly affect the human environment, or identified as significant by special legislation or executive direction.

The public will have numerous opportunities to comment throughout all phases of the development of the resource management plan, including field trips during the resource inventory, input to data collection, scoping for formulation of management alternatives, and the review of the draft resource management plan.

Previous planning documents for units within the House Range Resource Area are available for review at the following Bureau of Land Management locations:

House Range Resource Area Headquarters, P.O. Box 778, Fillmore, Utah

Richfield District Office, 150 East 900 North, Richfield, Utah

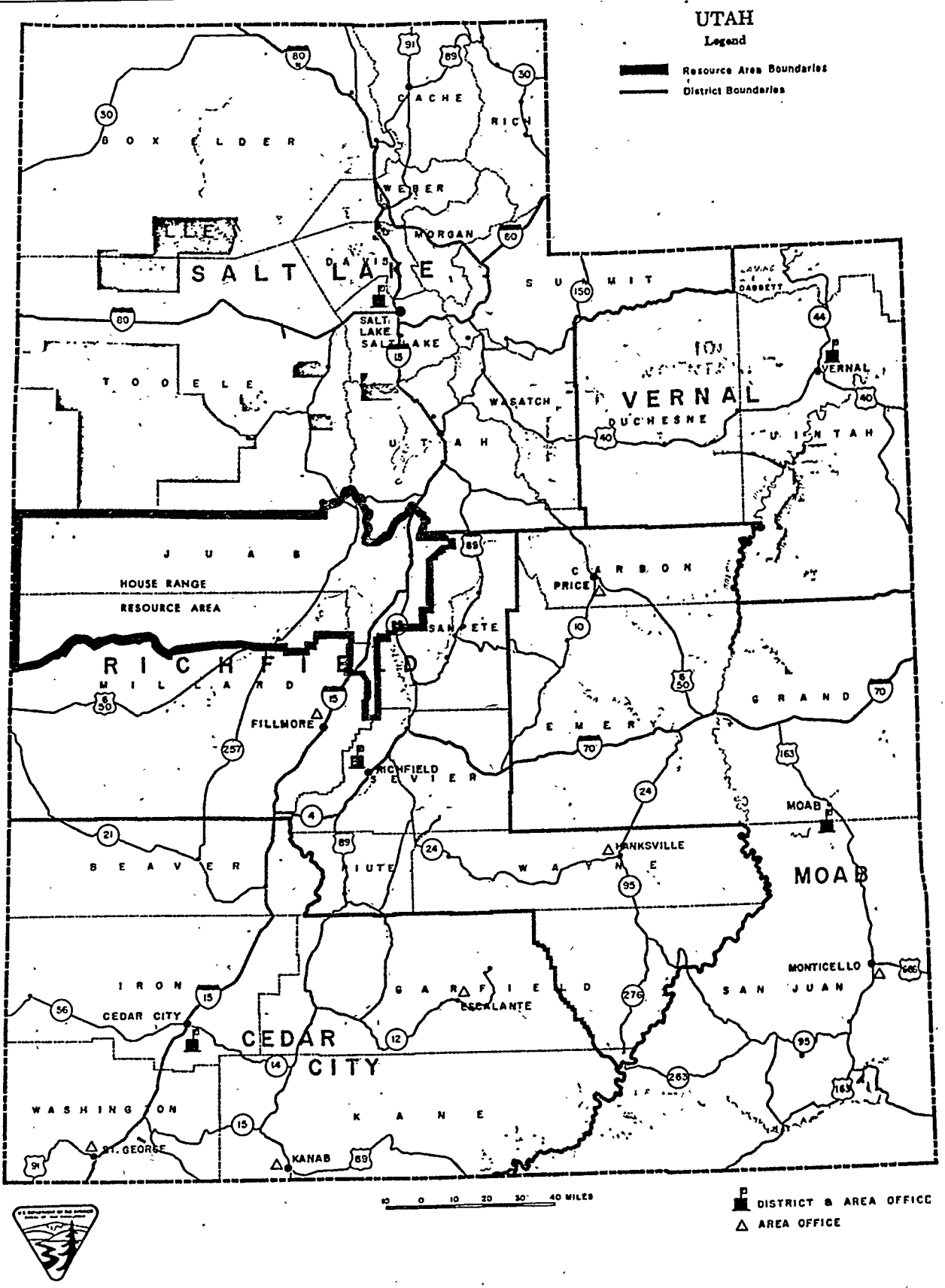
For further information or to submit written comments related to the identification of issues, contact Carl J. Thurgood, Chief of Planning Section, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, Telephone (801) 896-8221.

Donald L. Pendleton,

*District Manager.*

BILLING CODE 4310-84-M

[1] Jornada only.




[FR Doc. 80-5501 Filed 2-21-80; 8:45 am]
BILLING CODE 4310-84-C

## Arizona, Announcement of Final Decision of the Special Wilderness Inventory for the Overthrust Belt, Arizona Strip District

The Bureau of Land Management has completed an accelerated wilderness inventory of lands within the Overthrust Belt in northwest Arizona. I hereby announce the final decision on the results of that inventory.

A 90-day comment period and a series of open houses for the review of preliminary findings were announced in the Federal Register, Vol. 44, No. 175, September 7, 1979. All comments received during that comment period which ended December 12, 1979 have been reviewed and incorporated into this decision.

Of the 518,873 acres of public land inventoried, 285,405 acres are now dropped from further consideration in the wilderness review required by the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579). A total of 15 Wilderness Study Areas (WSAs) totaling 233,468 acres are hereby identified to be studied for wilderness suitability. A study schedule has not yet been established for those WSAs. The following is a summary of the results of the inventory units inventoried:

| Inventory Unit No. | Preliminary findings [1] | | Decision [2] | |
|---|---|---|---|---|
| | Acres dropped | Acres proposed WSA | Acres dropped | Acres WSA |
| 1-105 | 11 | 33,272 | ..... | ..... |
| 1-105A | ..... | ..... | 135 | 19,457 |
| 1-105B | ..... | ..... | 0 | 9,500 |
| 1-105C | ..... | ..... | 0 | 2,715 |
| 1-105D | ..... | ..... | 1,575 | 0 |
| 1-106 | 1,280 | 0 | 1,280 | 0 |
| 1-107 | 0 | 8,141 | 0 | 8,141 |
| 1-108 | 16,930 | 0 | 16,930 | 0 |
| 1-109 | 364 | 33,348 | 364 | 33,348 |
| 1-112 | 9,601 | 24,217 | 2,315 | 31,503 |
| 1-113 | 25,702 | 0 | 25,702 | 0 |
| 1-114 | 8,373 | 16,459 | 8,373 | 16,459 |
| 1-115 | 44,848 | 0 | 44,848 | 0 |
| 1-119 | 10,583 | 5,980 | 0 | 16,563 |
| 1-120 | 59,278 | 0 | 59,278 | 0 |
| 1-121 | 20,045 | 0 | 20,045 | 0 |
| 1-122 | 5,706 | 0 | 5,706 | 0 |
| 1-123 | 110 | 13,944 | 14,054 | 0 |
| 1-124 | 4,292 | 9,650 | 13,942 | 0 |
| 1-127 | 2,100 | 6,300 | 8,400 | 0 |
| 1-128 | 728 | 42,408 | 3,075 | 40,061 |
| 1-129 | 15 | 46,961 | 13,270 | 33,706 |
| 1-130 | 16,069 | 1,440 | 16,069 | 1,440 |
| 1-134 | 23,126 | 12,850 | 23,126 | 12,850 |
| 1-135 | 6,918 | 7,725 | 6,918 | 7,725 |
| Total | 256,178 | 262,695 | 285,405 | 233,468 |

[1] Before public comment.
[2] After public comment.

The boundary and detailed description of each of the WSAs is on file and available for inspection in the Arizona Strip District, Bureau of Land Management, 196 East Tabernacle, St. George, Utah 84770; phone (801) 673–3545.

The decision for each inventory unit is considered independent and separate from the decision for every other inventory unit. These decisions will become effective on March 26, 1980, unless timely protest is submitted to the State Director.

Persons wishing to protest decisions herein must file a written protest with the State Director to be received by, or postmarked no later than, the close of business March 26, 1980.

The protest must specify the specific inventory unit to which it is directed. It must include a clear and concise statement and reason for the protest as well as data supporting the reason.

At the conclusion of the protest period, the State Director will publish in the Federal Register a notice of those decisions which were not protested and have become final and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The State Director will issue a written decision on any protest which is filed according to above requirements and will publish a notice in the Federal Register of the action taken in response to the protest. Any person adversely affected by the State Director's decision may appeal such decision under the provision of 43 CFR Part 4.

All Wilderness Study Areas or inventory units under protest or otherwise not formally dropped from further consideration are subject to certain management and use restrictions as identified in the Interim Management Policy published December 12, 1979.

Tom Allen,
*Acting State Director.*

[FR Doc. 80-5627 Filed 2-21-80; 8:45 am]
BILLING CODE 4310-84-M

## Colorado and Wyoming; Adoption of Leasing Target and Notice of Regional Coal Team Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Under the Federal coal management program regulations (43 CFR 3420.3–2(j); 44 FR 42620; July 19, 1979), the secretary of the Interior has the responsibility for establishing a Federal coal leasing target for each of the Federal coal production regions. This notice is to inform the public that on January 23, 1980, the Secretary adopted a leasing target of 416 million tons of in-place Federal coal for the Green River-Hams Fork Federal Coal Production Region. The target is to satisfy a 1987 annual production shortfall of 18.5 million tons of coal from all sources in the region and is sufficient to meet the Department of Energy's medium production goal for the region.

In addition, the Secretary approved an increase of 25 percent over the target to account for the likelihood that not all coal offered for lease will be mined; to promote competition and reasonable coal prices; and to provide greater assurance that production goals are satisfied. This 25 percent increase raises the in-place Federal coal leasing target to 520 million tons.

The target was arrived at after analyzing potential production from non-Federal coal mines in the region, after extensive public hearings, and after consultation with State and local officials and the Departments of Energy and Justice. Such factors as oil prices, installed nuclear capacity, rail transportaton rates, economic growth, and air pollution control requirements were also taken into consideration in the analysis and adoption of the regional leasing target. The target will be reevaluated after completion of a regional lease sale environmental impact statement that will address the impacts of leasing in the region.

The regional coal team for the Green River-Hams Fork Federal Coal Production Region will meet on March 21, 1980, at 9:00 a.m., at the Holiday Inn-North, 4849 Bannock Street, Denver, Colorado 80216, to review the detailed cumulative analysis and the team's ranking and preliminary selection of possible Federal coal lease tracts prior to the preparation of the draft regional lease sale environment impact statement.

**FOR FURTHER INFORMATION CONTACT:** Gary J. Wicks, Regional Coal Team Chairperson, Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, (801) 524–5322.

Dated: February 15, 1980.

Arnold E. Petty,
*Acting Associate Director.*

[FR Doc. 80-5521 Filed 2-21-80; 8:45 am]
BILLING CODE 4310-84-M

## Completion of the Wilderness Inventory of Public Lands Within the Overthrust Belt

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice announces completion of the wilderness inventory

process for public lands within the so-called "Overthrust Belt," an area of high oil and gas potential in six Mountain States. Due to the high energy resource potential of the Overthrust Belt, the wilderness inventory was scheduled for completion ahead of the inventory for most public lands.

Accompanying this notice is a table summarizing the results of the inventory; acreage totals were derived by compiling figures from both initial inventory and intensive inventory conducted by the respective BLM State Offices. The table indicates that a total of 9.9 million acres of public land in the Overthrust Belt have been found to lack wilderness characteristics. After completion of any relevant protest or appeal process, lands determined to lack wilderness characteristics are released from any further wilderness review. The table also indicates that a total of 1.5 million acres of public land in the Overthrust Belt have been determined to have wilderness characteristcs. These areas will be known as wilderness study areas (WSA's) and must be studied to determine if they are more suitable for wilderness or other resource uses.

**FOR FURTHER INFORMATION CONTACT:**

Andy Gibbs, Bureau of Land Management, Division of Wilderness and Environmental Areas; 18th and C Street NW., Washington, D.C. 20240, telephone (202) 343-6064.

**SUPPLEMENTARY INFORMATION:**

Following are two tables: (1) Table I identifies recent Federal Register notices issued by BLM State Offices to announce the completion of intensive inventory for Overthurst Belt lands on which the inventory was not previously completed; (2) Table II is a statistical summary of the results of the total wilderness inventory in the Overthrust Belt; figures are rounded to the nearest 1000 and reflect all inventory decisions affecting the Overthrust Belt.

Table I.—*Reference to Notices Announcing Final Decisions*

| State | Date of notice in FEDERAL REGISTER | Page No. |
|---|---|---|
| Arizona | Feb. 22, 1980 | (1) |
| Idaho | Dec. 28, 1979 | 76867 |
| Montana | Feb. 22, 1980 | (1) |
| Nevada | Feb. 8, 1980 | 8731 |
| Utah | Feb. 6, 1980 | 8165 |
| Wyoming | Dec. 14, 1979 | 72659 |

[1] See contents.

Table II.—*Results of Wilderness Inventory of Public Lands in the Overthrust Belt*

| State | Overthrust belt acres administered by BLM | Acres found to lack wilderness characteristics | Acres identified as WSA |
|---|---|---|---|
| Arizona | 580,000 | 301,000 | 279,000 |
| Idaho | 783,000 | 782,000 | 1,000 |
| Montana | 1,397,000 | 1,192,000 | 205,000 |
| Nevada | 6,100,000 | 5,171,000 | 929,000 |
| Utah | 1,343,000 | 1,327,000 | 16,000 |
| Wyoming | 1,200,000 | 1,153,000 | 47,000 |
| Totals | 11,403,000 | 9,926,000 | 1,477,000 |

Dated: February 19, 1980.

Frank Gregg,

*Director.*

[FR Doc. 80-5626 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

## Montana Wilderness Inventory; Final Decision, Overthrust Belt Lands, Butte BLM District

February 19, 1980.

This notice announces the final wilderness inventory decision for all Bureau of Land Management administered lands in the Butte BLM District. This decision is issued under the authority of Section 603 of the Federal Land Policy and Management Act of October 21, 1976, and under the guidelines provided in Step 6 of the BLM Wilderness Inventory Handbook dated September 27, 1978.

The Butte BLM District is located entirely within the Rocky Mountain Overthrust Belt, a geologic zone with high oil and gas potential. The wilderness inventory for these lands was conducted in advance of the statewide schedule because of potential energy related conflicts. These lands were intensively inventoried during the 1979 field season for the presence or absence of wilderness characteristics as set forth in Section 2(c) of the 1964 Wilderness Act.

A proposed inventory decision was published in the September 26, 1979, Federal Register (Vol. 44, No. 188). That announcement identified 20 inventory units totalling 169,584 acres which were believed to possess wilderness characteristics and were proposed to become Wilderness Study Areas (WSA's). Another 28 inventory units totalling 151,739 acres were proposed to be dropped from further wilderness consideration.

The September 26 Federal Register notice established a 75-day public comment period beginning September 24, 1979, and ending December 7, 1979. This comment period was later amended by a notice which appeared in the October 12, 1979, Federal Register (Vol. 44, No. 199). That announcement established a 90-day comment period beginning October 15, 1979, and ending January 15, 1980. Public comment was solicited at 10 public meetings held during the comment period.

Written comments and meeting transcripts have subsequently been evaluated using a content analysis process, prior to arriving at a final inventory decision. This public comment record is on file and available for public inspection at the following locations:

Butte BLM District Office, 106 N. Parkmont, Butte, Montana 59701.

Montana State BLM Office, 222 North 32nd Street, Billings, Montana 59101.

This announcement is being made in advance of the release of final inventory decision documents and maps. These materials will be released to the public in late March 1980 when a 30-day protest period will be initiated. The protest period will begin March 30, 1980, and end April 30, 1980. A Federal Register notice and media releases announcing this fact will be published prior to the start of the protest period. All individuals on the Montana BLM wilderness mailing list will receive the final inventory decision documents. Any other interested persons may receive these materials by contacting either of the BLM offices listed above.

Following is the intended final decision:

I. Wilderness Study Areas:

(a) *Inventory Units Identified as Wilderness Study Areas* (These units were proposed to become WSA's in the September 26, 1979, Federal Register announcement).

| Unit name No. | Acreage identified for WSA status | Acreage dropped from wilderness consideration |
|---|---|---|
| Ruby Mountains-076-001 | 26,357 | 6,643 |
| Blacktail Mountain-076-002 | 19,189 | 2,201 |
| E. Fork, Blacktail Deer Creek-076-007 | 6,160 | ..... |
| Hidden Pasture Creek-076-02Z | 15,475 | ..... |
| Henneberry Ridge-076-028 | 10,111 | 27,589 |
| Farlin Creek-076-034 | 1,260 | 60 |
| Tobacco Root Tackons-076-063 | 860 | ..... |
| Axolotl Lakes-076-069 | 6,578 | 660 |
| Madison Tackons-076-079 | 1,469 | 51 |
| Blind Horse Creek-075-102 | 4,927 | ..... |
| Chute Mountain-075-105 | 3,085 | ..... |
| Deep Creek/Battle Creek-075-106 | 3,086 | ..... |
| Beaver Meadows-075-110 | 595 | ..... |
| Elkhorn-075-114 | 3,585 | 2,113 |
| Yellowstone River Island-075-133 | 53 | ..... |
| Hoodoo Mountain-074-151a | 11,380 | 1,293 |
| Gallagher Creek-074-151b | 4,257 | 1,670 |
| Quigg West-074-155 | 520 | ..... |

(b) *Inventory Units Identified as Wilderness Study Areas Which Were Proposed to be Dropped in the September 26, 1979, Federal Register Announcement.* (These units are

identified as WSA's in response to public comment.)

| | | |
|---|---|---|
| Bell/Limekiln Canyons-076-026 | 6,629 | 16,100 |
| North Fork of Sun River-075-107 | 196 | |
| Black Sage-075-115 | 5,976 | |

II. *Inventory Units Dropped From Wilderness Consideration:*

(a) *Inventory Units Previously Recommended for WSA Status in the September 26, 1979, Federal Register* Notice but Dropped After Evaluation of Inventory Data and Public Comments:

| | Acreage dropped |
|---|---|
| Big Spring Gulch-076-004 | 43,327 |
| McCartney Mountain/Sandy Hollow-076-025 | 16,380 |

(b) *Inventory Units Proposed to be Dropped in the September 26, 1979, Federal Register Announcement and Which Are Now Dropped:*

| | Acreage dropped |
|---|---|
| Blacktail Mountains W.-076-003 | 2,130 |
| White Hills South-076-006 | 8,850 |
| Basin Creek North-076-008 | 17,960 |
| Antelope Flats-076-009 | 14,130 |
| Basin Creek South-076-010 | 10,815 |
| Lima Reservoir-076-011 | 5,360 |
| Red Rocks Refuge N.-076-015 | 440 |
| Camp Creek South-076-024 | 7,200 |
| Bachelor Mountain-076-029 | 13,000 |
| Cold Spring Creek-076-031 | 7,100 |
| Garrett Hill-076-033 | 1,120 |
| Red Rock River Islands #1, 2-076-042-043 | 3 |
| Jimmy New Creek-076-047 | 6,275 |
| Maiden Rock Islands-076-051 | 1 |
| Nez Perce Hollow-076-054 | 12,743 |
| Block Mountain-076-059 | 6,700 |
| Sweetwater-076-070 | 7,749 |
| Elk Gulch-076-071 | 10,292 |
| Missouri River Island-075-123 | 22 |
| Missouri River Island-075-124 | 12 |
| Missouri River Island-075-125 | 5 |
| Missouri River Island-075-126 | 17 |
| Yellowstone River Island-075-134 | 23 |
| Missouri River Island-075-138 | 40 |

The 21 inventory units designated as Wilderness Study Areas total 131,768 acres. The 27 inventory units dropped from wilderness consideration total 249,360 acres. The acreage dropped differs from that reported in the September 26, 1979, Federal Register notice because of recalculation of acreage.

*When Decision Final*

Any person who has disagreement with this decision and has information which may influence the decision may file a written protest with the Montana BLM State Director (931), P.O. Box 30157, 222 North 32nd Street, Billings, Montana 59107, from the present time until the close of the official protest period on April 30, 1980. Protests must be received by the Montana State Director by 4:30 p.m., April 30, 1980, in order to be considered. Protests must specify the unit(s) upon which the decision is being protested and must include a clear and concise statement of reasons for the protest, including any supporting data available. Should protests be filed on any inventory unit(s), the Montana State Director will consider such protests and issue a decision which will be subject to appeal under 43 CFR, Part 4, to the Department of the Interior, Board of Land Appeals.

This decision will become final at 4:30 p.m., April 30, 1980, for all inventory units for which there were no protests received.

Michael J. Penfold,

*State Director.*

[FR Doc. 80-5628 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

## Minnesota; Final Intensive Wilderness Inventory Decision, Koochiching Bog Units 42 and 45

I hereby announce my final intensive wilderness inventory decision under the authority of Section 603 of the Federal Land Policy and Management Act, and in accordance with the guidelines in the September 27, 1978 BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78-61, Change 3.

By publication in the September 28, 1979 Federal Register, the Bureau of Land Management (BLM) announced the beginning of a 90-day public review and comment period on the initial wilderness inventory for the State of Minnesota. In the December 4, 1979 Federal Register, BLM announced the beginning of a 45-day public comment period on the accelerated intensive wilderness inventory for two units known as Koochiching Bog Units 42 and 45, encompassing 21,407.22 acres in Koochiching County. Following a ten-day extension announced in the January 15, 1980 Federal Register, the public comment period on the proposed intensive wilderness inventory decisions ended on January 28, 1980.

During the public comment periods, four public meetings were held, extensive mailings were completed, media coverage encouraged response, and inventory files and maps were made available to visitors at the BLM Lake States Office in Duluth. All comments, whether presented verbally or in writing, as well as late comments received in time to be reviewed before a final decision was made, were equally considered. They have been read, recorded, analyzed, and where appropriate, field checked. The inventory files, public comments, and the final intensive wilderness inventory report—which includes a summary narrative, report of public response, decision rationale and map for each unit—are available at the Lake States Office, Bureau of Land Management, 125 Federal Building, Duluth, Minnesota 55802.

*Final Intensive Wilderness Inventory Decision*

The following units, proposed to be dropped from further study in the December 4, 1979 Federal Register, are no longer subject to wilderness review because they were found to lack wilderness characteristics:

| Unit | Acres |
|---|---|
| Koochiching Bog Unit 42 | 10,394.72 |
| Koochiching Bog Unit 45 | 11,012.50 |
| Total acreage | 21,407.22 |

The decision for each inventory unit is considered individually and separately from the decision for the other unit. These final intensive wilderness inventory decisions will become effective on March 24, 1980, unless timely protests are received by the Eastern States Director.

Persons wishing to protest either of the decisions announced herein must file a written protest with the Director, Eastern States, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before 4:00 p.m., Eastern Standard Time, March 24, 1980. Only those protests received by the Eastern States Office by the time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed. It must include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the Eastern States Director will publish in the Federal Register a notice of those decisions that were not protested and therefore have become final, and those decisions which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The Eastern States Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice of the action taken in response to the protest in the Federal Register.

Any person adversely affected by the Eastern States Director's decision on a written protest, may appeal such decision under the provisions of 43 CFR Part 4.

For additional information, contact: Director, Eastern States, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 235-2840; or Manager, Lake States Office, Bureau of Land Management, 125

Federal Building, Duluth, Minnesota 55802, telephone (218) 727-6692, Ext. 378.

Roger L. Hildebeidel,

*Director, Eastern States.*

[FR Doc. 80-5534 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

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**[Colorado 23734-AA, 23734-AB, 24128-U, and 24402-W]**

## R/W Applications for Pipelines and Well Ties Northwest Pipeline Co.

February 14, 1980.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for a 4 ¼" and 8 ⅝" o.d. natural gas pipelines for North and East Douglas and the Philadelphia Creek Gathering Systems approximately 16.96 miles long across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T 1 S., R. 101 W.
Sec. 36: W½SW¼
T 2 S., R. 101 W.
Sec. 22: SW¼NW¼, NW¼SW¼
T 1 S., R. 103 W.
Sec. 8: SE¼NW¼, NE¼SW¼, NW¼SE¼, S½SE¼
Sec. 9: SW¼SW¼
Sec. 15: S½NW¼, NE¼SW¼, NW¼SE¼, S½SE¼
Sec. 16: NE¼, E½NW¼, NW¼SE¼
Sec. 22: NE¼NE¼, W½NE¼, SE¼SW¼, SE¼
Sec. 23: SW¼NE¼, SE¼NW¼, N½SE¼, SE¼SE¼
Sec. 24: SW¼SW¼
Sec. 25: W½NW¼
Sec. 26: SE¼NE¼, NE¼SE¼, S½SE¼
Sec. 27: E½NE¼, E½NW¼, SW¼
Sec. 34: SW¼NE¼, E½W½, N½SE¼, SW¼SE¼
Sec. 35: S½N½, NW¼SW¼, SE¼, NW¼NE¼
T 2 S., R. 103 W.
Sec. 1: SW¼SW¼
Sec. 2: SW¼NE¼, E½SW¼, W½SE¼, SE¼SE¼

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved, and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

*Leader, Craig Team Branch of Adjudication.*

[FR Doc. 80-5624 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

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**[Wyoming 27572]**

## Termination of Classification

February 13, 1980.

Notice of Classification Wyoming 27572, which published in the Federal Register on April 14, 1971 (FR 36, 7075), classified 4,112.83 acres in Natrona and Washakie Counties, Wyoming, for disposal through exchange under Section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272), as amended (formerly 43 U.S.C. 315g (1976)). The lands were segregated from all other forms of disposal under the public land laws including the mining laws. 3,160 acres of the lands so classified were exchanged and patented.

Section 8 of the Act of June 28, 1934, was repealed by the Federal Land Policy and Management Act of October 21, 1976. Accordingly, pursuant to 43 CFR 2400, Notice of Classification Wyoming 27572 is hereby terminated insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 36 N., R. 79 W.,
Sec 3, lots 3 and 4, S½NW¼, SW¼NE¼, N½SW¼, SE¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 4, lots 1 and 2, S½NE¼, NE¼SW¼, SW¼SW¼, and N½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, NW¼NW¼.
T. 37 N., R. 79 W.,
Sec. 23, W½NW¼ and NW¼SW¼.

The areas described aggregate 952.83 acres.

At 10:00 a.m. on April 1, 1980, the lands shall be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received, at or prior to 10:00 a.m., on April 1, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been, and will continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Paul D. Leonard,

*Acting State Director.*

[FR Doc. 80-5621 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

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**[N-4700]**

## Nevada; Amendment of Proposed Withdrawal and Opportunity for Public Hearing

February 14, 1980.

Notice of the Forest Service, U.S. Department of Agriculture, application N-4700 for withdrawal of land from settlement, sale or entry under the public land laws, but not the mining nor mineral leasing laws for the purpose of including the land in the Humboldt National Forest was published as F.R. Doc 79-4959 on page 9805 of the issue of February 15, 1979.

The applicant agency has amended its application to include the following described land:

Mount Diablo Meridian

T. 29 N., R. 58 E.,
Sec. 3, SE¼SW¼;
Sec. 10, E½NW¼, SW¼SW¼;
Sec. 21, E½W½NE¼.
T. 31 N., R. 59 E.,
Sec. 32, Lots 1 and 6.

Comprising 387.125 acres.

The applicant proposes to include the land within the Humboldt National Forest. The land is temporarily segregated from the operation of the public land laws to the extent that the withdrawal, if effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the land will not be affected by the temporary segregation. In accordance with section 204(b) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, the segregative effect of the withdrawal application will terminate 2 years from the date of this notice.

Pursuant to section 204(h) of the Federal Land Policy and Management Act, an opportunity for a public hearing is hereby afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the Bureau of Land Management at the address shown below within 30 days

from the date of publication of the notice. Upon determination by the State Director that a public hearing will be held, a notice will be published in the Federal Register, giving the time and place of such hearing.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within the 30-day period allowed.

The applicant agency has cancelled the application as to the following described land:

Mount Diablo Meridian

T. 26 N., R. 57 E.,
Sec. 1, Lot 8.
T. 30 N., R. 59 E.,
Sec. 18, E½SW¼NE¼, E½NW¼SE¼, SW¼SE¼.

Comprising 120.65 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such land will be relieved of the segregative effect of the withdrawal application at 10:00 a.m. on March 20, 1980.

This amendment increases the original proposed withdrawal by 166.475 acres. All correspondence in connection with this withdrawal should be directed to the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, 300 Booth Street, Reno, Nevada 89509.

Wm. J. Malencik,

*Chief, Division of Technical Services.*

[FR Doc. 80-5622 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-84-M

## INTERSTATE COMMERCE COMMISSION

**[Directed Service Order No. 1398; Authorization Order No. 23]**

### Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided February 14, 1980.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. *See* DSO No. 1398 (Sub-No. 1), 360 I.C.C. 478 (decided November 30, 1979, and served December 3, 1979) and 44 F.R. 70733 (December 10, 1979).

RI owns numerous locomotives which are in need of repairs. DSO No. 1398 requires the DRC to obtain prior Commission approval for all rehabilitation of locomotives which exceeds $3,000 per unit. *See* DSO No. 1398, 360 I.C.C. at 304. Accordingly, the DRC submitted a list of 53 locomotives requiring repairs costing more than $3,000 per locomotive. *See* "DRC Report No. 19," (dated January 10, 1980). The DRC submitted "DRC Report No. 21" dated January 30, 1980, requesting authority to perform substantial repairs to 25 locomotives. *See* "DRC Report No. 21," (dated January 30, 1980). On February 8, 1980, the DRC submitted "Supplement to DRC Report No. 19 and DRC Report No. 21," requesting further consideration of DRC's requests in DRC Reports 19 and 21. *See* "Supplement to DRC Report No. 19 and DRC Report No. 21."

The DRC seeks Commission authorization to repair these locomotives on the following grounds; (1) parts and manpower are available to do the work; (2) the DRC had 296 operational road locomotives while needing 375 locomotives for normal operations; (3) the shortage of locomotives is resulting in train delays and trains unable to be moved from terminals; (4) additional locomotives will be needed to complete the wind down operation at the designated time; and (5) the DRC is losing considerable revenues because of the shortage of locomotives.

The DRC advises in "Supplement and Amendment to DRC Report No. 19" and in "Supplement No. 2 to DRC Report No. 19" that 43 of the locomotives have already been repaired at a cost of $433,893. The actual cost to repair the 43 locomotives is shown in the table under column "Cost" while the 10 units yet to be repaired do not have an amount shown in the "Cost" column. The unauthorized repairs were allegedly made due to lack of communications, and KCT states there was no calculated plan to violate the Commission's orders. We are not persuaded on the present record that we should ratify the expenditures for the 43 locomotives which have been repaired without our authorization. However, we find good cause to authorize KCT to make repairs of the additional 10 locomotives at a cost of $87,336, as listed in DRC Report No. 19. We also authorize the expenditures for the repairs of the 25 locomotives listed on "DRC Report No. 21" at a cost of $243,584. The total cost of repairs is approximately $764,813.

The DRC shall be compensated for the expenditures authorized above, subject however to the condition that KCT offset the cost of such repairs against any rental payments it owes the RI Trustee for equipment when the cost of such repairs exceeds $3,000.

*We find:*

1. This will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

*It is ordered:*

(1) The Commission does not ratify the expenditure of $433,893 on repairs already made on the 43 locomotives. However, the DRC is authorized to make repairs on the other 10 locomotives at a cost of $87,336, as listed on "DRC Report No. 19"; and the DRC is authorized to make repairs on the 25 locomotives listed on "DRC Report No. 21" at a cost of $243,584, subject to the above described offset requirement for all of the locomotives.

All 78 locomotives are listed below:

DRC Report No. 19.—*Requested Locomotive Repairs*

| Description | RI locomotive No. | Labor | Material | Estimated cost | Cost |
|---|---|---|---|---|---|
| | | Exhibit "A" | | | |
| U25B-GE 2,500 HP | 232 | $1,030 | $8,500 | $9,530 | $9,028 |
| U28B-GE 2,800 HP | 269 | 1,971 | 48,440 | 50,411 | 58,802 |
| GP40-EMD 3,000 HP | 392 | 1,159 | 7,600 | 8,759 | |
| U33B-GE 3,300 HP | 292 | 322 | 8,690 | 9,012 | 9,012 |
| GP9-EMD 1,750 HP | 1321 | 1,932 | 16,000 | 17,932 | 12,781 |
| GP7-EMD 1,500 HP | 4436 | 322 | 8,240 | 8,562 | 8,562 |
| GP35-EMD 2,500 HP | 331 | 322 | 8,240 | 8,562 | 8,562 |
| GP38-2-EMD 2,000 HP | 4320 | 322 | 8,240 | 8,562 | 9,831 |
| GP40-EMD 3,000 HP | 4701 | 464 | 10,565 | 11,029 | 16,778 |
| U33B-GE 3,300 HP | 229 | 464 | 10,565 | 11,029 | 13,532 |
| Total | | 8,308 | 135,060 | 143,388 | 146,888 |
| 8 percent store expense | | | 10,806 | | |
| Total | | | 145,866 | | |

**DRC Report No. 19.**—*Requested Locomotive Repairs* —Continued

| Description | RI locomotive No. | Labor | Material | Estimated cost | Cost |
|---|---|---|---|---|---|
| **Exhibit "A"** | | | | | |
| Labor | | | 8,308 | | |
| Grand total | | | 154,194 | | |
| **Exhibit "B"** | | | | | |
| GP40-EMD 3,000 HP | 364 | $464 | $10,565 | $11,029 | $14,691 |
| SW-8-EMD 800 HP | 814 | 1,546 | 4,600 | 6,146 | |
| U28B-GE 2,800 HP | 270 | 927 | 3,800 | 4,727 | 4,423 |
| GP38-2-EMD 2,000 HP | 4302 | 1,546 | 4,600 | 6,146 | 6,146 |
| U30C-GE 3,000 HP | 4588 | 1,030 | 4,800 | 5,830 | 6,114 |
| SW-8-EMD 800 HP | 819 | 412 | 4,000 | 4,412 | 2,319 |
| U25B-GE 2,500 HP | 217 | 464 | 10,565 | 11,029 | 11,315 |
| GP-EMD 1,500 HP | 4540 | 618 | 4,000 | 4,618 | 4,618 |
| U28B-GE 2,800 HP | 259 | 322 | 8,690 | 9,012 | 10,080 |
| Slug-GE | 998 | 322 | 8,690 | 9,012 | 9,056 |
| GP40-EMD 3,000 HP | 4713 | 322 | 8,240 | 8,562 | 9,802 |
| SW-1500-EMD 1,500 HP | 947 | 322 | 8,240 | 8,562 | 10,433 |
| GP40-EMD 3,000 HP | 358 | 322 | 8,240 | 8,562 | 9,409 |
| SW 900-EMD 900 HP | 915 | 902 | 3,600 | 4,502 | 4,502 |
| GP40-EMD 3,000 HP | 4710 | 618 | 4,200 | 4,818 | 3,947 |
| U28B-GE 2,800 HP | 253 | 464 | 10,565 | 11,029 | 11,425 |
| Total | | 9,699 | 103,795 | 113,494 | 118,280 |
| 8 percent store expense | | | 8,304 | | |
| Total | | | 121,099 | | |
| Labor | | | 9,699 | | |
| Grand total | | | 121,798 | | |
| **Exhibit "C"** | | | | | |
| GP7-EMD 1,500 HP | 4464 | $322 | $8,240 | $8,240 | $10,521 |
| U2B-GE 2,500 HP | 226 | 464 | 10,565 | 11,029 | 11,347 |
| GP40-EMD 3,000 HP | 343 | 464 | 10,565 | 11,029 | 16,333 |
| U33B-GE 3,300 HP | 194 | 1,288 | 10,500 | 11,788 | |
| U28B-GE 2,800 HP | 265 | 618 | 4,000 | 4,618 | 3,714 |
| GP40-EMD 3,000 HP | 4714 | 464 | 10,565 | 11,029 | |
| GP35-EMD 2,500 HP | 303 | 464 | 10,565 | 11,029 | 11,029 |
| GP40-EMD 3,000 HP | 356 | 464 | 10,565 | 11,029 | |
| GP40-EMD 3,000 HP | 4702 | 464 | 10,565 | 11,019 | |
| GP40-EMD 3,000 HP | 4717 | 721 | 6,000 | 6,721 | |
| GP40-EMD 3,999 HP | 357 | 322 | 8,240 | 8,562 | |
| GP7-EMD 1,500 HP | 4433 | 322 | 8,240 | 8,562 | |
| U28B-GE 2,800 HP | 252 | 721 | 3,000 | 3,721 | |
| Total | | 7,098 | 111,610 | 118,708 | 52,944 |
| 8 percent store expense | | | 8,929 | | |
| Total | | | 120,539 | | |
| Labor | | | 7,098 | | |
| Grand total | | | 127,637 | | |
| **Exhibit "D"** | | | | | |
| GP35-EMD 2,500 HP | 323 | $721 | $4,200 | $4,921 | $4,809 |
| U33B-GE 3,300 HP | 295 | 412 | 3,500 | 3,912 | 3,912 |
| U25B-GE 2,500 HP | 215 | 1,005 | 3,800 | 4,805 | 3,648 |
| GP40-EMD 3,000 HP See footnote 1. | 388 | 322 | 8,240 | 8,562 | 8,562 |
| GP-9-EMD 1,750 HP | 4486 | 322 | 8,240 | 8,562 | 9,309 |
| GP-18-EMD 1,800 HP | 1351 | 618 | 4,100 | 4,718 | 4,718 |
| GP-7-EMD 1,500 HP | 1267 | 322 | 8,240 | 8,562 | 8,601 |
| GP40-EMD 3,000 HP | 4706 | 464 | 10,565 | 11,029 | 14,460 |
| U30-C-GE 3,000 HP | 4591 | 464 | 10,565 | 11,029 | 14,090 |
| SW-8-EMD 800 HP | 838 | 1,546 | 4,600 | 6,146 | 6,146 |
| GP35-2-EMD 2,500 HP | 4347 | 322 | 8,240 | 8,562 | 8,526 |
| GP35-EMD 2,500 HP | 313 | 464 | 10,565 | 11,029 | 12,746 |
| GP38-2-EMD 2,000 HP See footnote 1. | 4330 | 1,546 | 4,600 | 6,146 | 7,658 |
| GP7-EMD 1,500 HP | 4530 | 322 | 8,240 | 8,562 | 8,562 |
| Total | | 8,850 | 97,695 | 106,545 | 115,781 |
| 8 percent store expense | | | 7,816 | | |
| Total | | | 105,511 | | |
| Labor | | | 8,850 | | |
| Grand total | | | 114,361 | | |

[1] Unit 269 was listed three times in DRC Report No. 19. The request in Exhibit D is transferred to Exhibit A.

DRC Report No. 21.—*Requested Locomotive Repairs*

| Description | RI locomotive No. | Labor | Material | Estimated cost |
|---|---|---|---|---|
| U33B-GE 3,300 HP | 295 | $618 | $11,265 | $11,883 |
| GP35-EMD 2,500 HP | 315 | 464 | 10,565 | 11,029 |
| GP35-EMD 2,500 HP | 309 | 322 | 8,240 | 8,562 |
| GP7-EMD 1,500 HP | 4502 | 1,546 | 4,600 | 6,146 |
| U28B-GE 2,800 HP | 250 | 322 | 8,240 | 8,562 |
| GP18-EMD 1,800 HP | 1348 | 322 | 8,240 | 8,562 |
| U25B-GE 2,500 HP | 209 | 824 | 4,000 | 5,024 |
| U33B-GE 3,300 HP | 289 | 464 | 10,565 | 11,029 |
| U33B-GE 3,300 HP | 290 | 824 | 6,200 | 7,024 |
| GP40-EMD 3,000 HP | 350 | 464 | 10,565 | 11,029 |
| U33B-GE 3,000 HP | 195 | 464 | 10,565 | 11,029 |
| GP40-EMD 3,000 HP | 4709 | 464 | 10,565 | 11,029 |
| NW-2-EMD 1,000 HP | 765 | 1,932 | 9,000 | 10,932 |
| U25B-GE 2,500 HP | 219 | 322 | 8,240 | 8,562 |
| U28B-GE 2,800 HP | 276 | 927 | 3,800 | 4,727 |
| GP-7-EMD 1,500 HP | 4472 | 1,649 | 4,500 | 6,149 |
| SD40-2-EMD 3,000 HP | 4795 | 464 | 10,565 | 11,029 |
| RS-3-ALCO 1,500 HP | 454 | 322 | 8,240 | 8,562 |
| GP40-EMD 3,000 HP | 352 | 464 | 10,565 | 11,029 |
| GP40-EMD 3,000 HP | 347 | 322 | 8,240 | 8,562 |
| U28B-GE 2,800 HP | 264 | 322 | 8,240 | 8,562 |
| U28B-GE 2,800 HP | 273 | 412 | 9,140 | 9,552 |
| U28B-GE 2,800 HP | 281 | 464 | 10,565 | 11,029 |
| GP7-EMD 1,500 HP | 4518 | 1,546 | 4,600 | 6,146 |
| GP40-EMD 3,000 HP | 4705 | 464 | 10,565 | 11,029 |
| Total | | 16,708 | 210,070 | 226,778 |
| 8 percent store expense | | | 16,806 | |
| Total | | | 226,876 | |
| Labor | | | 16,708 | |
| Grand total | | | 243,584 | |

The grand total of authorized repairs is $330,920.

(2) The repairs authorized must be completed within the directed-service period.

(3) This decision shall be effective on its service date.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis. Commissioners Stafford and Clapp would authorize expenditures for those 35 locomotives not already repaired *and* for those 43 already repaired. Vice Chairman Gresham and Commissioner Trantum dissenting.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-5363 Filed 2-21-80; 8:45 am]

BILLING CODE 7035-01-M

**[Directed Service Order No. 1398; Authorization Order No. 21]**

## Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: February 13, 1980.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. *See* DSO No. 1398 (Sub-No. 1), 360 I.C.C. 478 (decided November 30, 1979, and served December 3, 1979) and 44 FR 70733 (December 10, 1979).

RI owns numerous locomotives which are in need of repairs. DSO No. 1398 requires the DRC to obtain prior Commission approval for all rehabilitation of locomotives which exceeds $3,000 per unit. *See* DSO No. 1398, 360 I.C.C. at 304 (44 FR 56348, 1st and 2nd columns). Accordingly, the DRC requested authority to rehabilitate 53

locomotives requiring repairs costing more than $3,000 per locomotive. *See* "DRC Report No. 19," (dated January 10, 1980), "Supplement and Amendment to DRC Report No. 19," and "Supplement No. 2 to DRC Report No. 19."

Notwithstanding these requests, we see no compelling reason why the DRC's petition should be granted on the present record. Particularly in view of the imminent expiration of directed service, we believe the DRC's petition must be denied.

*It is ordered:*

1. The DRC's petition in "DRC Report No. 19," "Supplement and Amendment to DRC Report No. 19," and "Supplement No. 2 to DRC Report No. 19," is denied.

2. This decision shall be effective on its service date.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis. Commissioners Stafford and Clapp dissenting.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-5535 Filed 2-21-80; 8:45 am]

BILLING CODE 7035-01-M

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[Volume No. 1]

## Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate; Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 109 (M1F), filed August 28, 1979. Petitioner: CAMPBELL'S AUTO EXPRESS, a corporation, Lambs Road and Laurel Drive, Pitman, NJ 08071. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Road and Cottman St., Jenkinstown, PA 19046. Petitioer holds motor *Common carrier* Certificate in MC-109, issued September 3, 1974, authorizing as pertinent the transportation over irregular routes, of *Phonograph records, phonograph record jackets, sleeves, labels, and label paper, phonographs, phonograph machinery parts, sound recording tapes,* and *printed matter* related to the foregoing commodities, between the plant site of CBS Records, a division of Columbia Broadcasting System, at Pitman, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, and DC. Restriction: No service under the irregular route above shall be provided in the transportation of articles weighing in the aggregate more than 12,000 pounds, from one consignor at one location, to one consignee at one location, on any one day. This petition seeks to modify to read between the plant sites of CBS Records, a division of CBS, Inc., at Pitman, NJ and of Polygram Distribution, Inc., at Edison, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, and DC.

MC 9269 (Sub-7 (M1F)), filed October 4, 1979. Petitioner: BEST WAY MOTOR FREIGHT, INC., 1765 6th Avenue South, Seattle, WA 98134. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Petitioner holds motor *common carrier* Certificate in MC-9269 Sub 7, issued October 24, 1958, authorizing transportation over regular routes, of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Ice Harbor Dam site near Pasco, WA, and Priest Rapids Dam site in Grant County, WA, as off-route points in connection with carrier's authorized regular route operations between Seattle, WA, and Spokane, WA, via Othello, WA. By the instant petiton, petitioner seeks to modify the certificate by deleting "Ice Harbor Dam site near" from the territorial description.

MC 21259 (Sub-2 (M1F)), (notice of filing of petition to modify certificate), filed November 16, 1979. Petitioner: GERTSEN CARTAGE CO., INC., 3000 Hirsch St., Melrose Park IL 60160. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Petitioner holds a motor *common carrier* certificate in No. MC 21259 Sub 2F, issued October 29, 1979, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value and Classes A and B explosives), in demountable containers, between Chicago, IL on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, NE, OH, TN, and WI. restricted to the transportation of traffic having an immediate prior or subsequent movement by rail or water. By the instant petition, petitioner seeks to modify the commodity description by deleting the phrase "in demountable containers", and adding in lieu thereof "in containers or trailers."

MC 35628 (Sub-302 (M1F)), petition to modify, filed April 5, 1979. Petitioner: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave. S.W., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address and applicant). Petitioner holds motor *common carrier* certificate in MC-35628 Sub 302, issued November 17, 1977, authorizing the transportation, over irregular routes, as pertinent (page 32

line 40), of *soap and soap products,* including *soap powder, lard substitutes or compounds, cooking oil, glycerine, coconut oil and coconut oil products, stearine, toilet preparations,* including premiums can advertising matters. This petition seeks to amend the commodity description to read *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and *equipment, materials and supplies* used in the conduct of such business (except commodities in bulk).

MC 42487 (Sub-872(M1F)) (notice of filing of petition to modify a certificate), filed July 20, 1979. Petitioner: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linwood Dr., Menlo Park, CA 94025. Representative: Mark J. Andrews, Suite 1100, 1660 L St. N.W., Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC–42487 Sub 872, issued January 11, 1980, authorizing transportation, as pertinent, over irregular routes, of (B) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Mobile, AL, on the one hand, and, on the other, points in AL. By the instant petitioner seeks to modify the above territorial description so as to read: "between Mobile and Birmingham, AL, on the one hand, and, on the other, points in AL.

MC 59098(M1F) and (Sub-1(M1F)) (notice of filing of petition to modify certificates), filed November 25, 1979. Petitioner: KNAPP'S EXPRESS, INC., 37 Emerson St., Ridgefield Park, NJ 07660. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds motor *common carrier* certificates in (1) No. MC 59098 issued August 3, 1959, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, livestock, machinery, agricultural commodities, alcoholic liquors, household goods as defined by the Commission, and commodities requiring special equipment), between points in Union, Hudson, Essex, Bergen, Passaic, Mercer, and Middlesex Counties, NJ, on the one hand, and, on the other, New York, NY; and in (2) No. MC 59098 Sub 1, issued November 4, 1964, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, liquors, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Morris and Somerset Counties, NJ. By the instant petition, petitioner seeks to delete the named New Jersey counties from the territorial description in each of the above certificates, and substitute in lieu thereof the state of NJ.

MC 97009 (Sub-23(M1F)), petition to modify, filed July 9, 1979. Petitioner: HERZOG TRUCKING COMPANY, INC., 200 Delaware Street, Honesdale, PA 18431. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds motor *common carrier* certificate in MC 97009 (Sub-23), issued March 11, 1977, authorizing, over irregular routes, the transportation of (1) *Toilet preparations, cosmetics, and personal care products,* and (2) *materials and supplies,* used in the manufacture, sale, and distribution of the above named commodities (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of House of Westmore at Newburgh and Rochester, NY, on the one hand, and, on the other, points in that part of PA on and west of the Susquehanna River, AR, IL, IN, IA, KS, KY, LA, MD, MI, MO, OH, OK, TN, TX, VA, WV, and WI. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. This petition seeks to modify by adding the facilities of Verla International Ltd.

MC 104149 (Sub-206(M1F)) (notice of filing of petition to modify certificate), filed October 18, 1979. Petitioner: OSBORNE TRUCK LINE, INC., P.O. Box 10727, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* certificate in No. MC 104149 (Sub-206F), issued October 2, 1979, authorizing the transportation over irregular routes, of *metal articles,* between the facilities of O'Neal Steel, Inc., at or near Birmingham and Mobile, AL, Little Rock, AR, Jacksonville and Tampa, FL, Atlanta, GA, Lafayette, Monroe, and Shreveport, LA, Jackson, MS, and Chattanooga and Knoxville, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MD, MO, MS, NC, OK, SC, TN, TX, VA, and WV. By the instant petition, petitioner seeks to modify the above authority by removing the plant site limitation with respect to service at the base points.

MC 108378 (M1F) (notice of filing of petition to remove restriction), filed August 28, 1979. Petitioner: SUN VALLEY BUS LINES, INC., 600 East Jefferson St., Phoenix, AZ 85004. Representative: E. R. Stent (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 108378 issued March 20, 1952, authorizing transportation, over regular routes, as pertinent, of *passengers and their baggage,* and *express, newspapers, and mail* in the same vehicle with passengers, between Needles, CA, and Phoenix, AZ: From Needles over U.S. Hwy 95 to junction unnumbered highway north of Vidal, CA, thence over unnumbered highway via Earp, CA, to Parker, AZ, thence over Arizona Hwy 72 to Hope, AZ, and thence over U.S. Hwy 60 to Phoenix, and return over the same route, serving all intermediate points, except that service at points between Hope and Phoenix, AZ is restricted to traffic moving to or from points north of Hope. By the instant petition, petitioner seeks to modify the above portion of its authority by deleting the restriction "except that service at points between Hope and Phoenix, AZ, is restricted to traffic moving to or from points north of Hope".

MC 110729 (Sub-5 M1F), filed October 31, 1979. Petitioner: MICHAEL ZALUZNY, Pond Rd., Vernon, VT 05354. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Petitioner holds motor *common* carrier certificate in MC 110729 (Sub-5), issued September 22, 1975, authorizing transportation over irregular routes, as pertinent, of *agricultural commodities, slate products, household goods, farm machinery, forest products, scrap iron, and phosphate,* between Fair Haven, VT, and points in NY and VT, within 30 miles of Fair Haven, on the one hand, and, on the other, points in CT, MA, NJ, NH, NY, RI, and VT. By the instant petition, Petitioner seeks to modify the territorial description by deleting "Fair Haven, VT" and "within 30 miles of Fair Haven" from the base of the territorial description.

MC 116859 (M1F) (Notice of filing of petition to modify certificate), filed November 29, 1979. Petitioner: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Washington, DC 20036. Petitioner holds a Corrected motor *common carrier* Certificate in MC 116859 issued February 21, 1958, authorizing transportation over irregular routes, as pertinent, of *theatrical equipment, materials and supplies* used in the operation and maintenance of itinerant theatrical productions or exhibitions when moved as a part of such theatrical productions or exhibitions, between points in the United States (except between points in NY, NJ, and CT within 75 miles of New

York, NY, including New York City). By the instant petition, petitioner seeks to modify the above commodity description by adding authority to transport "*performers and production personnel, and their baggage,* in charter operations."

MC 116519 (Sub-28 (M1F)), filed July 6, 1979. Petitioner: FREDERICK TRANSPORT LIMITED, Rural Route #6, Chatham, Ontario, Canada 7M5J6. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. Petitioner holds motor *common carrier* Certificate in MC 116519 (Sub-28), issued October 1, 1976 authorizing the transportation, over irregular routes, of *flat glass,* from Toledo, OH, and Laurinburg, and Clinton, NC, to the ports of entry on the United States-Canada Boundary line located in MI and NY, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments moving in foreign commerce and destined to Toronto, Ontario, Canada. This petition seeks to remove the Canadian destination restriction.

MC 119789 (Sub-32 (M1F)), filed August 24, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 225188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). Petitioner holds motor *common carrier* Certificate in MC 119789 (Sub-32), issued April 1, 1971, authorizing the transportation, over irregular routes, of *meats, meat products, and meat by-products as described in section* A of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the plant site of Texas Meat Packers at Burris, TX, and the plant site of Kain Cattle Co., at Lubbock, TX, to Panama City and Pensacola, FL, and points in AL, GA, NC, SC, and TN (except Memphis), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above-named plant sites and destined to the above-named destination points. This petition seeks to change the plant site of Texas Meat Packers at Burris, TX to the plant site of John Morrell & Company at Burris, TX.

MC 119789 (Sub-56 (M1F)), filed August 20, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 225188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). Petitioner holds motor *common carrier* Certificate in MC 119789 (Sub-56), issued August 25, 1972, transporting *meats, meat products, meat by-products,* and *articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk), from the facilities of Wilson Beef & Lamb Company, near Hereford, TX, to points in AL, GA, FL, NC, SC, VA, OH, PA, NY, NJ, MD, and MA, with no transportation for compensation of return except as otherwise authorized. This petition seeks to change the name of the facility to Armour & Company.

MC 119789 (Sub-380 (M1F)), petition to modify, filed July 13, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). Petitioner holds a motor *common carrier* certificate in MC 119789 (Sub-380), issued October 11, 1978, authorizing transportation, over irregular routes, of *plastic and rubber articles, aluminum kitchenware, candles, gloves, and pottery,* from Sandusdy, Jackson, Wapakoneta, Coshocton, Massillon, Leesburg, Mt. Sterling, and Roseville, OH to points in AZ, AR, CA, CO, ID, KS, LA, NV, NM, OK, OR, TX, UT, and WA. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named origins and destined to the above-named destination points. This petition seeks to provide a between service in lieu of the westbound service it is presently authorized to provide.

MC 119789 (Sub-479 (M1F)), (notice of filing of petition to modify certificate) filed November 16, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as petitoner). Petitioner holds a motor *common carrier* Certificate in MC 119789 (Sub-479F), issued March 27, 1979, authorizing transportation over irregular routes, of *such commodities* as are dealt in by electrical contractors and distributors (except commodities in bulk), from the facilities of Electrical Products Division, Midland-Ross Corporation, at Athens, TN, and Pittsburgh, PA, to Denver, CO, Dallas, TX, Seattle, WA, and Oakland and Cerritos, CA. By the instant petition, petitioner seeks to modify the Certificate by adding the additional destination of Houston, TX.

MC 123649 (Sub-1 (M1F)), (notice of filing of petition to modify certificate), filed August 19, 1979. Petitioner: MAGILL TRUCK LINES, INC., 211 West 53rd Street North, Wichita, KS 67204. Representative: Lavern R. Holdeman, 521 South 14th St., P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *common* carrier Certificate in MC 123649 (Sub-1), issued June 3, 1963, authorizing transportation over irregular routes, of *soybean meal and soybean pellets,* from Wichita, KS, to points in OK, restricted against service in hopper or tank-type vehicle. By the instant petition, petitioner seeks to modify the Certificate by deleting the phrase "restricted against service in hopper or tank-type vehicles".

MC 124619 (Sub-1 (M1F)) (Notice of filing of petition to remove restriciton), filed August 28, 1979. Petitioner: MURRAY RUDE SERVICES, INC., 494 Morgan Ave., Brooklyn, NY 11222. Representative: Murray Rude (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 124619 (Sub-1), issued September 18, 1974, authorizing transportation over irregulat routes, of *wrecked and disabled motor vehicles* and *replacement thereof, fork lift trucks, car and truck cranes,* and *house trailers,* by the use of wrecker equipment, between points in NY, VT, RI, MA, CT, NJ, PA, DE, MD, OH, VA, ME, and DC. By the instant petition, petitioner seeks to modify the above certificate by deleting the restriction "by the use of wrecker equipment".

MC 130049 (M1F) (notice of filing of petition to modify license), filed November 30, 1979. Petitioner: CINCINNATI AUTOMOBILE CLUB, d.b.a. WORLD WIDE TRAVEL AGENCY, Central Parkway at Race, Cincinnati, OH 45202. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Petitioner holds license No. MC 130049, issued September 23, 1968, authorizing operations as a *broker,* at Cincinnati, OH, of *passengers and their baggage,* in all-expense round trip tours, in special and charter operations, beginning and ending at points in Hamilton County, OH, and extending to points in the United States (including AK and HI). By the instant petition, petitioner seeks to modify the territorial description to read "between points in the United States (including AK and HI).

MC 125808 (Sub-1(M1F) (notice of filing of petition to remove restriction), filed October 16, 1979. Petitioner: AAACON AUTO TRANSPORT, INC., 230 W. 41st St., New York 10036. Representative: Ralph J. Zola, 228 W. 41st St., New York, NY 10036. Petitioner holds a motor *common carrier* Certificate in No. MC 125808 Sub 1, issued December 23, 1966, which authorized the transportation over irregular routes, of *used passenger*

*automobiles,* in driveaway service, in secondary movements, with or without baggage, personal effects, and sporting equipment, between points in the United States, including AK, but excluding HI, restricted against the transportation of traffic (1) having a prior movement by rail or water; (2) moving on government bills of lading; or (3) moving to automobile dealers. By the instant petition, petitioner seeks to modify the above authority by deleting the third restriction.

MC 130498 M1F (notice of filing of petition to modify license), filed November 16, 1979. Petitioner: THE AUTOMOBILE CLUB OF WESTERN NEW YORK, 976 Delaware Avenue, Buffalo, NY 14240. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave., and 13th St. NW., Washington, DC 20004. Petitioner holds a license in MC-130498 issued May 18, 1979, authorizing operations as a *broker,* at Buffalo, NY, of *passengers and their baggage,* in special and charter operations, beginning and ending at points in Erie County, NY, and extending to points in the United States, including Alaska but excluding Hawaii. By the instant petition, petitioner seeks to modify the territorial description to read "between points in the United States including Alaska but excluding Hawaii".

MC 134599 (Sub-162(M1F) (notice of filing of petition to add a contracting shipper), filed August 6, 1979. Petitioner: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th St., P.O. Box 81849, Lincoln, NE 68501. Petition holds a motor *contract carrier* permit in No. MC-134599 Sub No. 162F, issued July 18, 1979 authorizing transportation over irregular routes, of *such commodities* as are used, manufactured, or dealt in, by producers of rubber, plastic and chemicals, and rubber, plastic, and chemical products (except plastic pipe and commodities in bulk, in tank or hopper-type vehicles), between points in the United States (except AK and HI, and except from Detroit, MI, to points in IL, IN, and OH), under contract with Uniroyal, Inc., of Middlebury, CT. By the instant petition, petitioner seeks to modify the above authority by adding the Armstrong Rubber Company of New Haven, CT as an additional contracting shipper.

MC 134859 (Sub-11(M1F) (notice of filing of petition to modify permit), filed July 19, 1979. Petitioner: WILLIAM CARL RUSSELL AND JAMES FRANKLIN RUSSELL, d.b.a. FRANK RUSSELL & SON, 401 South Ida St., West Frankfort, IL 26896. Representative: William C. Russell (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC-134859 Sub 11 issued April 3, 1978, authorizing transportation over irregular routes, of *magnetite,* in bulk, in tank vehicles, from Bristol, TN, to points in Union County, KY, and IL, under continuing contract(s) with Reiss Viking Corporation. By the instant petition, petitioner seeks to delete "Bristol, TN" from the origin territory, and substitute "Tazewell, VA" in lieu thereof.

MC 135648 (Sub-1(M1F)) (notice of filing of petition to modify certificate), filed October 4, 1979. Petitioner: ACKERMAN MOTOR LINES, INC., P.O. Box 509, Hackettstown, NJ 07840. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds a motor *common* carrier Certificate in MC-135648 Sub 1, issued May 10, 1974, authorizing transportation over irregular routes, of *general commodities,* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, NY, and points in Essex, Union, Hudson, Bergen, Passaic, Morris, and Middlesex Counties, NJ, on the one hand, and, on the other, points in that part of Pennsylvania, on and north of a line beginning at the Pennsylvania-New Jersey State line at or near Yardley, PA, and extending west along Pennsylvania Highway 332 to Newton, PA, thence along Pennsylvania Highway 413 to junction U.S. Highway 202 at or near Buckingham, PA, thence southwest on U.S. Highway 202 to Montgomeryville, PA, thence northeast along Pennsylvania Highway 463 to Hatfield, PA, thence southwest along unnumbered highway to intersection with a line between Lansdale and Allentown, PA, thence north through Allentown, Martin's Creek, Stroudsburg, to Pennsylvania-New Jersey State line, near Portland, PA, including points on the indicated portions of the highway specified. By the instant petition, petitioner seeks to modify the Certificate to include Philadelphia, PA, as an additional radial point in the above territorial description.

MC 135988(M1F), filed September 5, 1979. Petitioner: BOB'S TOWING SERVICE, INC., 847 East 53d St., Brooklyn, NY 11203. Representative: Roberta Percia (same as petitioner). Petitioner holds motor *common carrier* Certificate issued in MC-135988, issued May 5, 1977, authorizing the transportation, over irregular routes, of *wrecked, disabled, stolen, repossessed, and abandoned motor vehicles,* and *replacement vehicles* therefor, by use of wrecker equipment, between points in NY and NJ, on the one hand, and, on the other, points in that part of the United States in and east of OH, KY, TN, and AL. This petition seeks to remove the restriction by use of wrecker equipment.

MC 136898M1F (notice of filing of petition to modify permit), filed August 17, 1979. Petitioner: BAKER TRANSPORT, INC., P.O. Box 870, Hartselle, AL 35640. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Petitioner holds motor *contract* carrier Permit in MC-136898 issued December 3, 1976, authorizing transportation over irregular routes, of (1) *reels,* from Hartselle and Decatur, AL, Temple, GA, Elkville, IL, and Jefferson, TX, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of reels (except commodities in bulk), from points in the United States (except AK and HI), to Hartselle and Decatur, AL, Temple, GA, Elkville, IL, and Jefferson, TX, under continuing contract(s) with Baker Industries, Inc., and its affiliates. By the instant petition, petitioner seeks to modify the Permit by adding "scales" to part (1) in the above commodity description.

MC 144128 (M1F) (notice of filing of petition to add a contracting shipper), filed October 5, 1979. Petitioner: ELLIOTT, INC., P.O. Box 342, Clarksville, VA 23927. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Petitioner holds a motor *contract carrier* permit in No. MC 144128, issued June 5, 1979, authorizing transportation over irregular routes, of *lumber, pallets, and particle board,* from points in VA (except the cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, Newport News, and Hampton, and the counties of Accomack and Northhampton), NC, and SC, to points in CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, under continuing contract(s) with Butler Lumber Co., Butler Land and Timber Co., Inc., McCoy Lumber Industries, Inc., Plunkett-Webster Lumber Co., Stanley Land & Lumber Corp., and R. S. Ponton Wood Products. By the instant petition, petitioner seeks to add Champion International Corporation of Hamilton, OH as an additional contracting shipper to the above authority.

**Motor Carrier Operating Rights Applications—Notice**

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 68860 (Sub-43F), filed August 15, 1979. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Dr., NW., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr., (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from points in MD, to points in NC, VA, and WV, (2) from points in VA, to points in GA, MD, NJ, NY, PA, and WV, (3) from points in NJ, to points in NC, VA, and WV, (4) from points in PA, to points in VA, and WV, (5) from points in WV, to points in GA, MD, NC, NJ, PA, and VA, (6) from points in SC, to points in MD, NJ, PA, and VA, (7) from points in NC, to points in MD, VA, and WV, and (8) from points in OH, to points in NC, and VA. (Hearing site: Roanoke, VA, or Washington, DC.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 69281 (Sub-52F), filed August 30, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) between Baltimore and Salisbury, MD, from Baltimore over MD Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Salisbury, and return over the same route, (2) between Baltimore, MD and Dover, DE, from Baltimore over MD Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction MD Hwy 404, then over MD Hwy 404 to junction MD Hwy 313, then over MD Hwy 313 to junction MD Hwy 317, then over MD Hwy 317 to the MD–DE State line, then over DE Hwy 14 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Dover, DE, and return over the same route, serving all points in MD and DE, east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, as intermediate and off-route points. NOTE: Applicant intends to tack with existing authority at Baltimore, MD and points in New Castle County, DE. The purpose of this application is to substitute single-line for joint-line operations. (Hearing site: Baltimore, MD.)

MC 129631 (Sub-69F), filed August 24, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* between Ogden, Salt Lake City, Provo, and Geneva, UT, on the one hand, and, on the other, points in ID, MT, OR, WA, and WY. (Hearing site: Salt Lake City, UT.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 136782 (Sub-21F), filed July 11, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between Pittsburgh, PA, points in Butler County, PA, on the one hand, and, on the other, points in NY, NJ, CT, MA, RI, MD and DC. (Hearing site: Pittsburgh, PA, or New York, NY.)

Note.—The sole purpose of this application is to substitute single line for joint-line operations.

MC 136782 (Sub-23F), filed August 3, 1979. Applicant: R.A.N. TRUCKING COMPANY, a corporation, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, Wilmington, DE, Williamsport, PA, and Trenton, Camden and Bridgeton, NJ, on the one hand, and, on the other, Pittsburgh, PA and points in Butler County, PA. (Hearing site: Chicago, IL.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 138960 (Sub-8F), filed August 13, 1979. Applicant: ROKO EXPRESS, INC., P.O. Box 169, 819 West Fifth Ave., Columbus, OH 43212. Representative: Daniel C. Sullivan, 10 South LaSalle St., Suite No. 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *such commodities* as are dealt in by

wholesale food business houses, and (b) *equipment, materials, and supplies* used by wholesale food business houses between points in IN, on the one hand, and, on the other, Chicago, IL, and points in AL, AR, GA, KY, LA, MS, OH, TN, and the lower peninsula of MI, and (2) *canned tomatoes, canned tomato juice, canned corn, and canned pumpkin*, from points in IN to points in AL, AR, GA, IL, KY, LA, MO, MS, OH, and TN (except from Flat Rock to Cincinnati, OH). (Hearing site: Columbus, OH, to Chicago, IL.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

## Office of Proceedings; Permanent Authority Decisions

*Decision-Notice*

Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: February 12, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

*Findings*

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher and Reed.

MC 11220 (Sub-174F), filed August 15, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: Phineas Stevens, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Fort Smith, AR, and Oklahoma City, OK, from Fort Smith, AR, over U.S. Hwy 64 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Oklahoma City, OK, and return over the same route, serving the junction Muskogee Turnpike and Interstate Hwy 40 for purpose of joinder only, (2) between Tulsa, OK, and the junction of Muskogee Turnpike and Interstate Hwy 40, from Tulsa, over OK Hwy 51 to junction Muskogee Turnpike near Broken Arrow, OK, then over the Muskogee Turnpike to its junction with Interstate Hwy 40, and return over the same route, serving no intermediate points, and serving the junction of the Muskogee Turnpike and Interstate Hwy 40 for purpose of joinder only, and (3) between Tulsa and Oklahoma City, OK, over Interstate Hwy 44, serving no intermediate points, as an alternate route for operating convenience only, restricted in (1), (2), and (3) above against the transportation of traffic originating at, destined to, or interlined with connecting carriers at Fort Smith and Little Rock, AR. (Hearing site: Memphis, TN.)

Note.—Applicant intends to tack the requested authority with its present authority at Fort Smith, AR. The purpose of this application is to substitute single-line for joint-line operations.

MC 116915 (Sub-93F), filed July 11, 1979. Applicant: ECK MILLER

TRANSPORTATION CORP., Rt. No. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *commodities,* transportation of which, because of size or weight require the use of special equipment or special handling, and, when moving in connection therewith, *related commodities,* the transportation of which, because of size or weight, does not require the use of special equipment or special handling, (1) between those points in the United States in and east of MN, IA, MO, KS, OK, and TX (except ME, VT, NH, MA, CT, and RI), and (2) between those points in the United States in and east of WI, IL, MO, TN, and MS (except ME, VT, NH, MA, CT, and RI), on the one hand, and, on the other, those points in the United States in and west of ND, SD, NE, KS, CO, and NM (except AK and HI). NOTE: The sole purpose of this application is to substitute single-line for joint-line operations. (Hearing Site: Louisville, KY.)

**Motor Carrier Alternate Route Deviations**

*Notice*

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

**Motor Carriers of Property**

MC 48958 (deviation No. 93), ILLINOIS-CALIFORNIA EXPRESS, INC., 601 Ross Street, Amarillo, TX 79189, filed January 23, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (1) From Dallas, TX over US Hwy 75 to Atoka, OK, then over US Hwy 69 to Junction Interstate Hwy 44, then over Interstate Hwy 44 to Miami, OK, then over US Hwy 66 to Baxter Springs, KS, then over KS Hwy 26 to Junction US Hwy 69, then over US Hwy 69 to Junction Interstate Hwy 35, then over Interstate Hwy 35 to Kansas City, MO, and return over the same route for operating convenience only, (2) From Dallas, TX, over US Hwy 75 to Atoka, OK, then over US Hwy 69 to Junction Indian Nation Turnpike, then over Indian Nation Turnpike (US Hwy 75) to Tulsa, OK, then over US Hwy 169 to Kansas City, MO, and return over the same route for operating convenience only, and (3) From Dallas, TX, over US Hwy 75 to Atoka, OK, then over US Hwy 69 to Junction Indian Nation Turnpike, then over Indian Nation Turnpike (US Hwy 75) to Tulsa, OK, then over US Hwy 169 to Junction US Hwy 59, then over US Hwy 59 to Junction Interstate Hwy 35, then over Interstate Hwy 35 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, TX over TX Hwy 114 to Rhome, TX, then over US Hwy 287 to Wichita Falls, TX, then over TX and OK Hwy 79 and US Hwy 70 to Junction OK Hwy 76, then over OK Hwy 76 to Junction US Hwy 277, then over US Hwy 277 to Oklahoma City, OK, then over Interstate Hwy 35 to Kansas City, MO.

MC 67646 (deviation No. 17), HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055, filed January 30, 1980. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions over a deviation route as follows: From Norfolk, VA over US Hwy 13 to Junction US Hwy 40, near Wilmington, DE, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Norfolk, VA over US Hwy 60 to Richmond, VA, then over US Hwy 1 to Washington, DC, then over US Hwy 1 to Baltimore, MD, then over US Hwy 40 to Junction US Hwy 13.

**Motor Carrier Intrastate Application(s)**

*Notice*

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Florida docket No. 790810-CCT, filed October 3, 1979. Applicant: ALLIED PARCEL DELIVERY, d.b.a. SANDS DELIVERY SERVICE, P.O. Box 520826, 5520 N.W. 55 Avenue, Miami, FL 33152. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Tallahassee, FL 32301. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Shipments not exceeding 1,000 pounds each from one consignor to one consignee on the same day, consisting of parcels not exceeding 125 pounds per package, to, from, and between all points and places in Dade, Broward, Palm Beach, and Monroe Counties, FL. Note: The weight limitation of packages and shipments shall not apply where the point of origin and the point of destination of a given shipment are less than 50 miles. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Bldg., 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Florida docket No. 800038-CCT, filed January 16, 1980. Applicant: DIXIE TRANSPORT, INC., 368 N.E. 58th Terrace, Hollywood, FL 33137. Representative: John T. Bond, Suite 410, Hollywood Federal Bldg., 909 South State Road 7, Hollywood, FL 33023. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Telephone equipment, materials, supplies and telephone related items, to, from and between all points and places in Dade, Broward, Palm Beach, Indian River, Martin and St. Lucie Counties, FL, over irregular routes and on irregular schedules. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Bldg., 101 East Gaines St., Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Florida docket No. 800076–CCT, filed January 29, 1980. Applicant: S & S TRANSFER & STORAGE, INC., d.b.a. ALL PRO DISTRIBUTION, 3501 East 11th Avenue, Hialeah, FL. Representative: John P. Bond, 2766 Douglas Road, Miami, FL. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities over regular route and on regular schedule, restricted against the transportation of said commodities, which because of size or weight, require special handling or equipment, Class A and B explosives, commodities in vehicles with mechanical refrigeration, household goods, livestock, cement, beer, and commodities in bulk. Said route is between points in Duval County on the one hand, and points in Dade, Broward, Palm Beach and Martin Counties on the other hand, over Interstate Hwy 95. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Bldg., 101 East Gaines St., Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Michigan docket No. C–160 Case No. 8, filed December 19, 1979. Applicant: ALVAN MOTOR FREIGHT, INC., 3600 Alvan Road, Kalamazoo, MI 49001. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between Grand Rapids, MI and Muskegon, MI, via Interstate Hwy 96 serving the off route points of Grand Haven, Coopersville, Ravenna, and Lowell, MI. The Applicant is also seeking to serve the off route point of Ravenna, MI in interstate commerce in conjunction with its presently existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: 9:30 a.m. on March 18, 1980, in the offices of the Commission, Mercantile Bldg., 6545 Mercantile Way, Lansing, MI 48910. Requests for procedural information should be addressed to Michigan Department of Commerce, Public Service Commission, P.O. Box 30221, Lansing, MI 48909, and should not be directed to the Interstate Commerce Commission.

New York docket No. T-1159, filed January 9, 1980. Applicant: GOOD'S TRANSPORTATION SERVICE, INC., 408 Niagara Street, Box 339, Lockport, NY 14094. Represenative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between all points in Erie, Niagara and Orleans Counties on the one hand, and, on the other, all points in the Counties of: Broome, Cattaraugus, Chemung, Chenango, Cortland, Erie, Herkimer, Jefferson, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Otsego, Steuben, and Tompkins. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York docket No. T-6869, filed February 1, 1980. Applicant: DE LUXE LINES, INC., P.O. Box 4921, Syracuse, NY 13221. Representative: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in a territory consisting of Cayuga, Erie, Franklin, Genesee, Jefferson, Lewis, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, St. Lawrence, Seneca and Wayne Counties, NY. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York docket No. T-9726, filed January 14, 1980. Applicant: CANOGA TRANSPORTATION CO., INC., R.D. 2, Box 2453, Seneca Falls, NY 13148. Representative: Roy D. Pinsky, 1020 State Tower Bldg., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Feed and feed supplements and ingredients between all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Oklahoma docket MC 37832 (Sub-6), filed January 18, 1980. Applicant: EDMOND MOTOR FREIGHT, INC., P.O. Box 922, Edmond, OK 73034. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, as follows: *General commodities* (except Classes A and B explosives, commodities in bulk, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment). (1) Between Oklahoma City, OK and Bramen, Ok serving the intermediate points of Tonkawa and Blackwell, OK. From Oklahoma City over U.S. Hwy 77 to Junction U.S. Hwy 177, then over U.S. Hwy 177 to Bramen, and return over the same route. (2) Between Newkirk, OK and Tonkawa, OK, serving all intermediate points, and serving the off-route points of Chilocco and Kildare: From Newkirk over U.S. Hwy 77 to Tonkawa, and return over the same route. (3) Between Blackwell, OK and Junction OK Hwy 11 and U.S. Hwy 77 serving Ponca City and all intermediate points: From Blackwell, OK over OK Hwy 11 to Junction U.S. Hwy 77, south to Ponca City, west on U.S. Hwy 77 to Tonkawa and return over the same route. (4) Between Oklahoma City, OK and Junction Interstate Hwy 35 and U.S. Hwy 177 serving no intermediate points, as an alternate route. From Oklahoma City over Interstate Hwy 35 to Junction U.S. Hwy 177, and return over the same route. (5) Between Kingfisher, OK and Woodward, OK serving no intermediate points, and serving Kingfisher as a point of joining only, as an alternate route, for operating convenience: From Kingfisher over U.S. Hwy 81 to Junction OK Hwy 15, then over Oklahoma Hwy 15 to Woodward, and return over the same route. (6) Between Watonga, OK and Okeene, OK, serving no intermediate points, as an alternate route: From Watonga over OK Hwy 8 to Okeene, and return over the same route. (7) Between Junction OK Hwy 58 and OK Hwy 8, and OK Hwy 58 and OK Hwy 15, serving no intermediate points, as an alternate route: From Junction OK 58 and OK Hwy 8 over OK Hwy 58 to Junction OK Hwy 58 and OK Hwy 15, and return over the same route. (8) Between Watonga, OK and Junction OK Hwy 58 and OK Hwy 51A, serving no intermediate points, as an alternate route. From Watonga over OK Hwy 51A

to Junction OK Hwy 58 and OK Hwy 51A, and return over the same route. (9) Between Tonkawa, OK and Junction U.S. Hwy 60 and OK Hwy 15, serving the intermediate points of Lamont, Pond Creek and Kremlin, and using Junction U.S. Hwy 81 and OK Hwy 15 as a point of interchange and joining only: From Tonkawa over U.S. Hwy 60 to Junction OK Hwy 15, and return over the same route. Intrastate, interstate, and foreign commerce authority requested. Hearing: March 11, 1980, 9:00 A.M., Referee's Court Room, Second Floor, Jim Thorpe Office Building, Oklahoma City, OK. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Building, Oklahoma City, Oklahoma 73105, and should not be directed to the Interstate Commerce Commission.

**Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices**

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 *within 10 days* from the date of this publication. 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.

MC 117574 (Sub-E76), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr., (same as above). *Agricultural implements, agricultural machinery, tractors* (other than truck tractors), *incidental machinery, attachments and parts* when moving with such implements, machinery or tractors, except commodities requiring special equipment, (1) between points in Davie, Surry, and Yatkin Counties, NC, on the one hand, and, on the other, points in CA, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, points in AZ on and west of a line commencing at the U.S.–MX border along AZ Hwy 85 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction AZ Hwy 87, then along AZ Hwy 87 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the AZ–NM state line; points in CO on and west of a line commencing at the NM–CO state line along U.S. Hwy 84 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction CO Hwy 291, then along CO Hwy 291 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Hwy 385, then along U.S. Hwy 385 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CO–NE state line; points in IA on and west of a line commencing at the NE–IA state line along U.S. Hwy 30 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction IA Hwy 175, then along IA Hwy 175 to junction IA Hwy 4, then along IA Hwy 4 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction IA Hwy 24, then along IA Hwy 24 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction IA Hwy 9, then along IA Hwy 9 to IA–WI state line; points in MI on and north of a line commencing at Ludington along U.S. Hwy 10 to junction MI Hwy 25, then along MI Hwy 25 to junction MI Hwy 142, then along MI Hwy 142 to Lake Huron; points in NE, on and north of a line commencing at the CO–NE state line along U.S. Hwy 6 to junction NE Hwy 61, then along NE Hwy 61 to junction NE Hwy 23, then along NE Hwy 2 to junction U.S. Hwy 283, then along U.S. Hwy 283 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the NE–IA state line; points in NM on and west of a line commencing at the AZ–NM state line along U.S. Hwy 666 to junction U.S. Hwy 550, then along U.S. Hwy 550 to junction NM Hwy 17, then along NM Hwy 17 to junction U.S. Hwy 84, then along U.S. Hwy 84, then along U.S. Hwy 84 to the NM–CO state line; points in OH on and east of a line commencing at Fairport Harbor along OH Hwy 44 to junction OH Hwy 43, then along OH Hwy 43 to junction U.S. Hwy 22, then along U.S. Hwy 22 to the OH–WV state line; points in WV on and north of U.S. Hwy 22; points in WI on and north of a line commencing at the IA–WI state line along WI Hwy 82 to junction WI Hwy 27, then along WI Hwy 27 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction WI Hwy 13, then along WI Hwy 13 to junction WI Hwy 64, then along WI Hwy 64 to Lake Michigan; (2) between points in Dare, Tyrell, and Washington Counties, NC, on the one hand, and on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI, WY, points in AR west and north of a line commencing at AR–TX state line along U.S. Hwy 71 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction AR Hwy 5, then along AR Hwy 5 to the AR–MO state line; points in IL north of a line commencing at IL–MO line along IL Hwy 3 to junction IL state Hwy 13, then along IL Hwy 13 to junction U.S. Hwy 45, then along U.S. Hwy 54 to junction U.S. Hwy 141, then along IL Hwy 141 to IL–IN state line; points in IN north of a line commencing at IN Hwy 62, to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 50, then along U.S. Hwy 50 to IN–OH state line; points in MO, west of a line commencing at AR–MO line along Hwy 5 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction MO Hwy 17, then along MO Hwy 17 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction MO Hwy 1, then along MO Hwy 51 to MO–IL state line; points in OH, north of a line commencing at IN–OH line along U.S. Hwy 50, to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction I Hwy 70, then along I Hwy 70 to the OH–WV state line; points in TX, west of a line commencing at Corpus Christi along U.S. Hwy 181 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction I Hwy 35, then along I Hwy 35 to junction I Hwy 30, then along I Hwy 30 to TX–AR state line; points in WV, north of a line commencing at OH–WV line along U.S. Hwy 250 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the WV–MD state line; (3) between points in Beaufort, Craven, Pamlico and Carteret Counties, NC, on the one hand, and on the other, points in AZ; CA; CO; ID; IA; KS; MI; MN; MT; NE; NV; ND; OR; SD; UT; WA; WI; WY; points in IL on and north and west of a line commencing at the MO–IL state line along U.S. Hwy 54 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction IL Hwy 78, then along IL Hwy 78 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IL–IN state line; points in IN on, north and west of U.S. Hwy 24; MO on, north and west of a line commencing at the OK-MD state line along U.S. Hwy 44 to junction with MO Hwy 17, then MO Hwy 17 to junction U.S. Hwy 54, then along U.S. Hwy 54 to

the MO–IL state line; NM on, north and west of a line commencing at the TX–NM state line along U.S. Hwy 80, to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 70, then to the NM–TX state line; OH on, north and west of a line commencing at the IN–OH state line along U.S. Hwy 30 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 36, then along U.S. Hwy 36 to junction U.S. Hwy 250, then along U.S. Hwy 250 to the OH–WV state line; TX on, north and west of a line commencing at U.S.–MX line along U.S. Hwy 67 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction U.S. Hwy 80, then along U.S. Hwy 80 to NM–TX state line, again starting at the NM–TX state line along U.S. Hwy 60 to the TX–OK state line; WV on, north and west of a line commencing at the OH–WV state line along U.S. Hwy 250 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the WV–MD state line; (4) between points in Edgecombe, Halifax, Nash, and Northhampton Counties, NC, on the one hand, and, on the other, points in AZ; CA; CO; ID; IA; MI; MN; MT; NE; NV; ND; OR; SD; UT; WA; WI; WY; points in IL north of a line commencing at the MO–IL line along IL Hwy 14 to junction I Hwy 70, then along I Hwy 70 to the IL–IN state line; points in IN north of U.S. Hwy 40; points in KS west and north of a line commencing at OK–KS line along KS Hwy 26 to junction U.S. Hwy 160, then along U.S. Hwy 160 to KS–MO state line; points in MO north and west of a line commencing at MO–KS line along U.S. Hwy 160 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction I Hwy 70 then along I Hwy 70 to junction MO Hwy 140, then along MO Hwy 140 to MO–IL state line; points in NM west and north of a line commencing at TX–NM line along U.S. 62–180 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the TX-NM state line; points in OH north of I Hwy 70; points in OK north and west of a line commencing at TX-OK line along I Hwy 40 to junction I Hwy 44, then along I Hwy 44 to junction U.S. Hwy 66, than along U.S. Hwy 66 to OK-KS state line; points in TX west and north of a line commencing at Presidio on the Mexican border along U.S. Hwy 67 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction TX Hwy 54, then along TX Hwy 54 to TX-NM line along U.S. Hwy 82, then along U.S. Hwy 82 to junction U.S. Hwy 385 to junction TX Hwy 86, then along TX Hwy 86 to junction TX Hwy 256, then along TX Hwy 256 to junction TX Hwy 70, then along TX Hwy 70 to junction I Hwy 40, then along I Hwy 40 to TX-OK state line; points in WV north of I Hwy 70; (5) between points in Anson, Stanley, and Union Counties, NC, on the one hand, and, on the other, points in ID; MT; ND; OR; WA; WY; points in AZ on and west of a line commencing at the NV–AZ state line along I Hwy 15 to junction U.S. Hwy 91, then along U.S. Hwy 91 to the AZ–WI state line and points on and north of a line commencing at the AZ–UT state line along AZ Hwy 389 to junction U.S. Alt. Hwy 89, then along U.S. Alt. Hwy 89 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 160, then along U.S. Hwy 160 to the AZ–CO state line; points in CA on and west of a line commencing at La Jolla along CA road S21 to junction I Hwy 15, then along I Hwy 15 to junction CA Hwy 127, then along CA Hwy 127 to the CA–NV state line; points in CO on and west of a line commencing at the AZ–CO state line along U.S. Hwy 160 to junction U.S. Hwy 666, then along U.S. Hwy 666 to junction CO Hwy 141, then along CO Hwy 141 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to junction CO Hwy 72, then along CO Hwy 72 to junction CO Hwy 7, then along CO Hwy 7, to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction CO Hwy 14, then along CO Hwy 14 to junction CO Hwy 71, then along CO Hwy 71 to the CO–NV state line; points in MI on and north of MI Hwy 55; points in MN on and west of a line commencing at the SD–MN state line along U.S. Hwy 16 to junction MN Hwy 60, then along MN Hwy 60 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 61, then along U.S. Hwy 61 to junction U.S. Hwy 8, then along U.S. Hwy 8 to the MN–WI state line; points in NE on and west of a line commencing at the CO–NE state line along NE Hwy 71 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction NE Hwy 70 then along NE Hwy 70 to junction NE Hwy 92, then along NE Hwy 92 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction NE Hwy 91, then along NE Hwy 91 to junction NE Hwy 70, then along NE Hwy 70 to junction NE Hwy 14, then along NE Hwy 14 to junction NE Hwy 12, then along NE Hwy 12 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the NE–SD state line; points in NV on and north of a line commencing at the CA–NV state line along NV Hwy 29 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction NV Hwy 25, then along NV Hwy 25 to junction U.S. Hwy 93, then along U.S. Hwy 93 to junction NV Hwy 7, then along NV Hwy 7 to junction I Hwy 15, then along I Hwy 15 to the NV–AZ state line; points in OH on and east of a line commencing at Fairfort Harbor along OH Hwy 44 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 45, then along OH Hwy 45 to junction OH Hwy 39, then along OH Hwy 39 to the OH–PA state line; points in SD on and west of a line commencing at the NE–SD state line along U.S. Hwy 81 to junction SD Hwy 50, then along SD Hwy 50 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction U.S. Hwy 16, then along U.S. Hwy 16 to the SD–MN state line; points in UT on and north of a line commencing at the AZ–UT state line along U.S. Hwy 91 to junction UT Hwy 59, then along UT Hwy 59 to the UT–AZ state line; points in WI on and north of a line commencing at the MN–WI state line along U.S. Hwy 8 to junction WI Hwy 35, then along WI Hwy 35 to junction WI Hwy 77, then along WI Hwy 77 to the MI–WI state line; (6) between points in Currituck, Camden, Chowan, Gates, Pasquotank, and Perquimans Counties, NC, on the one hand, and, on the other, points in AZ; CA; CO; ID; IA; KS; MI; MN; MT; NE; NV; NM; ND; OR; SD; UT; WA; WI; WY; points in AR north and west of a line beginning at the AR–OK state line extending along U.S. Hwy 62 to junction AR Hwy 5, then along AR Hwy 5 to the AR–MO state line; points in IL north of a line commencing at IL Hwy 146 to junction U.S. Hwy 45, then U.S. Hwy 45 to IL Hwy 1, thence along Hwy 1 to IL Hwy 15, then along IL Hwy 15 to IL–IN state line; points in IN north of a line commencing at IL–IN line along IN Hwy 64 to junction IN Hwy 57, then along IN Hwy 57 to junction U.S. Hwy 50, then to IN–OH state line; points in MO west and north of a line commencing at MO–AR line along MO Hwy 5 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction MO Hwy 99, then along MO Hwy 99 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction MO Hwy 34, then along MO Hwy 34 to junction U.S. Hwy 61, then along U.S. Hwy 61 to MO–IL state line; points in OK west of a line commencing at the TX–OK line along U.S. Hwy 75 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction Indian Nation Turnpike, then along Indian Nation Turnpike to junction U.S. Hwy 271, then along U.S. Hwy 271 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 62, then along U.S. Hwy 62 to OK–AR state line; points in OH north of

a line commencing at OH–IN line along U.S. Hwy 50 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction I Hwy 70, then along I Hwy 70 to the OH–WV state line; points in TX west of a line commencing at the Gulf of Mexico at Brownsville along U.S. Hwy 77 to junction TX Hwy 44, then along TX Hwy 44 to junction TX Hwy 16, then to junction TX Hwy 173, then along TX Hwy 173 to junction TX Hwy 16, then along TX Hwy 16 to junction U.S. Hwy 377, then along U.S. Hwy 377 to junction U.S. Hwy 380, then along U.S. Hwy 380 to junction U.S. Hwy 75, then along U.S. Hwy 75 to the TX–OK state line; points in WV north of a I Hwy 70; (7) between points in Avery, Mitchell, and Yancey Counties, NC, on the one hand, and, on the other, points in ID, MT, OR, WA, points in CA on and a north of a line beginning at the Pacific Ocean on CA Hwy 152 to junction U.S. Hwy 9, then along U.S. Hwy 99 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CA–NV state line; points in NV on and north of a line commencing at the CA–NV state line on U.S. Hwy 50, then in a southeasterly direction along the CA–NV state line to junction U.S. Hwy 6, then along U.S. Hwy 6 to its junction with the NV–UT state line, then along the NV–UT state line to I Hwy 80; points in UT on and north of I Hwy 80; points in WY on and north of a line commencing at the UT–WY state line along I 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 WY Hwy 789, then along WY Hwy 789 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction WY Hwy 59, then along WY Hwy 59 to WY–MT state line; points in ND on and north of U.S. Hwy 85; (8) between points in McDowell, Polk, and Rutherford Counties, NC, on the one hand, and, on the other, points in OR, WA, points in CA along CA Hwy 152 to junction Hwy 5, then along I Hwy 5 to junction I Hwy 80, thence along I Hwy 80 to the CA–NV state line; ID on and west of a line commencing at the NV–ID state line along U.S. Hwy 93 to junction U.S. Hwy 30, then along U.S. Hwy 30 U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 191, then along U.S. Hwy 191 to the ID–MT state line; MT on and north of a line commencing at the ID–MT state line along U.S. Hwy 89 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction MT Hwy 16, then along MT Hwy 16 to the U.S.–CA border; NV on and north of U.S. Hwy 40; OH on and north of a line commencing at Fair Harbor OH Hwy 86 to junction U.S. Hwy 322, then along U.S. Hwy 322 to the PA–OH state line; (9) between points in Jones and Onslaw Counties, NC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, UT, SD, WA, WI, WY, points in IL, north of a line commencing at IL–MO line along U.S. Hwy 54 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction IL Hwy 78, then along I Hwy 78 to junction U.S. Hwy 136, then along U.S. Hwy 136 to junction I Hwy 57, then along I Hwy 57 to junction U.S. Hwy 24, then along U.S. Hwy 24 to IL–IN state line; points in IN north of a line commencing at IL–IN line along U.S. Hwy 24 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the IN–OH state line; points in KS west of a line commencing at KS–OK line along U.S. Hwy 75 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 54, then along U.S. Hwy 54 to KS–MO state line; points in MO north and west of a line commencing at MO–KS line along U.S. Hwy 54 to junction MO Hwy 5, then along MO Hwy 5 to junction I Hwy 70, thence along I 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 MO Hwy 19, then along MO Hwy 19 to junction U.S. Hwy 54, then along U.S. Hwy 54 to MO–IL state line; points in NM north and west of a line commencing at Las Cruces along I Hwy 10 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the NM–TX state line; points in OH north of a line commencing at OH–IN line along U.S. Hwy 33 to junction OH Hwy 161, then along OH Hwy 161 to junction OH Hwy 13, then along OH Hwy 13 to junction I Hwy 70, then along I Hwy 70 to junction OH Hwy 60, then OH Hwy 60 to junction OH Hwy 78, then along OH Hwy 78 to OH–WV state line; points in OK west and north of a line commencing at OK–TX line along OK Hwy 51 in an easterly direction to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 75, then along U.S. Hwy 75 to OK–KS state line; points in TX on and north of U.S. Hwy 60; points in WV north of a line commencing at WV–OH line along WV Hwy 2 to junction WV Hwy 20, then along Hwy 20 to junction WV Hwy 7, then along WV Hwy 7 to junction WV Hwy 73, then along Hwy 73 to junction WV Hwy 26, then along WV Hwy 26 to WV–MD state line; (10) between points in Alexander, Iredell, and Catawba Counties, NC, on the one hand, and, on the other, points in ID; MT; OR; WA; points in CA on, north and west of I Hwy 15; points in CO, points on, north and west of a line commencing at the UT–CO state line along U.S. Hwy 6 to junction CO Hwy 13, then along CO Hwy 13 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction CO Hwy 14, then along CO Hwy 14 to junction CO Hwy 127, then along CO Hwy 127 to the CO–WY state line; NE on, north and west of a line commencing at the WY–NE state line along U.S. Hwy 26 to junction U.S. Hwy 385, then along U.S. Hwy 385 to junction NE Hwy 2, then along NE Hwy 2 to junction U.S. Hwy 83, then to the NE–SD state line; NV on, north and west of I Hwy 15; ND on, north and west of a line commencing at the SD–ND state line along ND Hwy 32 to junction ND Hwy 46, then along ND Hwy 46 to junction ND Hwy 18, then along ND Hwy 18 to junction I Hwy 29, then I Hwy 29 to the U.S.–CD border; SD on, north and west of a line commencing at the NE–SD state line along U.S. Hwy 18 to junction SD Hwy 47, then along SD Hwy 47 to junction I Hwy 90, then along I Hwy 90 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction SD Hwy 25, then along SD Hwy 25 to the SD–ND state line; UT on, north and west of a line commencing at the NE–UT state line along I Hwy 15 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction I Hwy 70, then along I Hwy 70 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the UT–CO state line; WY on, north and west of a line commencing at the CO–WY state line along WY Hwy 230 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction WY Hwy 34, then along WY Hwy 34 to junction I Hwy 25, then along I Hwy 25 to junction U.S. Hwy 26, then along U.S. Hwy 26 to the WY–NE state line; (11) between points in Alamance, Caswell, Chatham, and Orange Counties, NC, on the one hand, and, on the other, points in AZ; CA; CO; ID; MI; MN; MT; NE; NV; ND; OR; SD; UT; WA; WI; WY; points in IL, on and north of a line commencing at the IL–IA state line along IL Hwy 17 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IL Hwy 59, then along IL Hwy 59 to junction IL Hwy 64, then along IL Hwy 64 to Chicago; points in IA on and northwest of a line commencing at the MO–IA state line along U.S. Hwy 63 to junction U.S. Hwy 34, then along U.S. Hwy 34 to the IA–IL state line; points in KS on and north of a line commencing at the OK–KS state line along U.S. Hwy 54 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 156, then along U.S. Hwy 156 to junction KS Hwy 14, then along KS Hwy 14 to junction U.S. Hwy 36, then along U.S. Hwy 36 to the KS–MO state line; points in MO on and north of a line commencing at the KS–MO state line along U.S. Hwy 36 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 136, then along U.S. Hwy 136

to junction U.S. Hwy 63, then along U.S. Hwy 63 to MO–IA state line; points in NM on and north of a line commencing at the NM–AZ state line along U.S. Hwy 80 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction U.S. Hwy 56, then along U.S. Hwy 56 to the NM–OK state line; points in OH on and north of a line commencing at the MI-OH state line along OH Hwy 66 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 250, then along U.S. Hwy 250 to the OH-WV state line; points in OK on and west of U.S. Hwy 54; points in WV on and north of U.S. Hwy 40; (12) between points in Granville, Orange and Person Counties, NC, on the one hand, and, on the other, points in AZ, CA, CO, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY; points in IL on, north and west of IL Hwy 2; IA points on, north and west of a line commencing at the NE-IA state line along IA Hwy 2 to junction I Hwy 35, then along I Hwy 35 to junction with I Hwy 80, then along I Hwy 80 to the IA-IL state line; KS on, north and west of a line commencing at the OK-KS state line along U.S. Hwy 5 to junction U.S. Hwy 156, then along U.S. Hwy 156 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the KS-NE state line; MI on and north of a line commencing at Muskegon, along I Hwy 96 Detroit; NE on, north and west of a line commencing at the KS-NE state line along U.S. Hwy 81 to junction U.S. Hwy 136, then along U.S. Hwy 136 to junction U.S. Hwy 73, then along U.S. Hwy 73 to the NE-IA state line; NM on, north and west of a line commencing at the U.S.-MX Border along U.S. Hwy 80 to junction NM Hwy 90, then along NM Hwy 90 to junction I Hwy 25, then along I Hwy 25 to junction U.S. Hwy 56, then along U.S. Hwy 56 to the NM–OK state line; OK on and north and west of U.S. Hwy 56; OH on and east of a line commencing at Ashtabula along OH Hwy 45 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the OH–PA state line; WI on, north and west of a line commencing at the IL–WI state line along WI Hwy 15 to junction WU Hwy 50; then along WI Hwy 50 to Lake Michigan; (13) between points in Hyde County, NC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WI, WY; points in AR on and west of a line commencing at the AR–OK state line along U.S. Hwy 65 to junction AR Hwy 23, then along AR Hwy 23 to the AR–MO state line; points in IL on and north of a line commencing at the IL–MO state line along IL Hwy 32 to junction IL Hwy 3, then along IL Hwy 3 to junction IL Hwy 154, then along IL Hwy 154 to junction IL Hwy 148, then along IL Hwy 148 to junction IL Hwy 15, then along IL Hwy 15 to the IN–IL state line, then along the IN–IL state line to junction U.S. Hwy 50; points in IN on and north of U.S. Hwy 50; points in MO on and west of a line commencing at the AR–MO state line along MO Hwy 86 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction MO Hwy 32, then along MO Hwy 32 to the IL–MO state line; points in OH on and north of U.S. Hwy 50; points in OK on and west of a line commencing at the TX–OK state line along U.S. Hwy 277 to junction Hwy 19, then along OK Hwy 19 to junction OK Hwy 1, then along OK Hwy 1 to junction U.S. Hwy 75, then along U.S. Hwy 75 to junction I Hwy 40, then along I Hwy 40 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 62, then along U.S. Hwy 62 to the AR–OK state line; points in TX on and west of a line commencing in the southern part of Texas along Texas Hwy 163 to junction TX Hwy 29, then along TX Hwy 29 to junction U.S. Hwy 277, then along U.S. Hwy 277 to junction TX Hwy 70, then along TX Hwy 70 to junction TX Hwy 92, then along TX Hwy 92 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the OK–TX state line; points in WV on and north of U.S. Hwy 50; (14) between points in Duplin, New Hanover, and Pender Counties, NC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY; points in IL on and north of U.S. Hwy 36; points in IN north of a line commencing at the IL–IN state line along U.S. Hwy 136 to junction IN Hwy 32, then along IN Hwy 32 to junction IN Hwy 37, then along IN Hwy 37 to junction IN Hwy 26, then along IN Hwy 26 to the IN–OH state line; points in KS on, north and west of a line commencing at the KS–OK state line along U.S. Hwy 54 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction KS Hwy 2, then along KS Hwy 2 to junction U.S. Hwy 54, then along U.S. Hwy 54 to the KS–MO state line; points in MO on and north of a line commencing at the KS–MO state line along MO Hwy 2 to junction MO Hwy 13, then along MO Hwy 13 to junction I Hwy 40, then along I Hwy 40 to junction U.S. Hwy 54, then along U.S. Hwy 54 to the MO–IL state line; points in NM on, north and west of a line commencing at the U.S.–MX border along NM Hwy 11 to junction NM Hwy 26, then along NM Hwy 26 to junction I Hwy 25, then along I Hwy 25 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 54, then along U.S. Hwy 54 to NM–TX state line; points in OH north of a line commencing at the IN–OH state line along U.S. Hwy 30 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction OH Hwy 229, then along OH Hwy 229 to junction OH Hwy 13, then along OH Hwy 13 to junction OH Hwy 37, then along OH Hwy 37 to junction OH Hwy 67, then along OH Hwy 67 to the OH–WV state line; points in Ok on and west of U.S. Hwy 54; points in TX on, north and west of U.S. Hwy 54; points in WV on and north of a line commencing at the OH–WV state line along U.S. Hwy 250 to junction U.S. Hwy 50 then along U.S. Hwy 50 to the WV–MD state line, then along the state line in a clockwise direction to U.S. Hwy 50, then along U.S. Hwy 50 to the WV–VA state line. (Gateways eliminated: Carlisle, Shady Grove, and Waynesboro, PA.)

**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 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the 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 *within 30 days* of the date of its notice in the Federal Register, subject to its tariff publication effective date.

P–15–79 (Special Certificate-Waste Products) (amendment). Applicant: LEICHT TRANSFER & STORAGE CO., P.O. Box 2385, Green Bay, WI 54306. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Sponsor: Victor Associates, of Chicago, IL. Commodities: Waste Paper, the purpose of this amendment is to add the above-

named sponsor (inadvertently omitted on the publication of January 16, 1980).

By the Commission.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-5536 Filed 2-21-80; 8:45 am]

BILLING CODE 7035-01-M

## INTERNATIONAL TRADE COMMISSION

**[Inv. Nos. 701-TA-22 through 701-TA-51 (Final)]**

## Institution of Countervailing Duty Investigations and Scheduling of Hearings in Cases in Which Countervailing Duties Have Been Waived or Published After July 26, 1979

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of 30 countervailing duty investigations to determine whether with respect to the articles involved an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imported merchandise.

**EFFECTIVE DATE:** February 5, 1980.

**FOR FURTHER INFORMATION CONTACT:** The senior/supervisory investigator assigned by the Commission to the particular investigation for which the information is sought. The assignments of senior/supervisory investigators and their telephone numbers at the Commission are designated below.

**SUPPLEMENTARY INFORMATION:** The Trade Agreements Act of 1979, section 104(a), requires the Commission to conduct countervailing duty investigations in cases where the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act or on certain duties published after July 26, 1979. On February 5, 1980, the Commission received such information. Accordingly, the Commission hereby gives notice that it is instituting the following investigations pursuant to section 705 of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979. These investigations will be subject to the provisions of Part 207 of the Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457) and, particularly, Subpart C thereof, effective January 1, 1980.

*Written submissions.* Any person may submit to the Commission on or before the prehearing statement due date specified below for the relevant investigation a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

*Hearings.* The Commission has scheduled a hearing in each investigation on the date specified below. All hearings will be held in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, N.W., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. on the dates indicated in the attachment. A report containing preliminary findings of fact prepared by the Commission's professional staff will be make available to all interested persons prior to the hearing. Any person's prehearing statement must be filed on or before the indicated date. All parties that desire to appear at the hearing and make oral presentations must file prehearing statements. For further information consult the Commission's *Rules of Practice and Procedure,* Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

**Countervailing Duty Investigations in Cases in Which Countervailing Duties Have Been Waived or Published After July 26, 1979**

| Investigation No. | Product/country | Prehearing report to parties | Deadline for prehearing statements from parties | Hearing date | Hearing location | Contact person |
|---|---|---|---|---|---|---|
| 701-TA-22 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Belgium. | Mar. 21, 1980 | Apr. 7, 1980 | Apr. 9, 1980 | ITC Building, Washington, D.C. | John MacHatton, 523-0439. |
| 701-TA-23 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Denmark. | do | do | do | do | Do. |
| 701-TA-24 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Federal Republic of Germany. | do | do | do | do | Do |
| 701-TA-25 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/France. | do | do | do | do | Do |
| 701-TA-26 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Ireland. | do | do | do | do | Do. |
| 701-TA-27 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Italy. | do | do | do | do | Do. |
| 701-TA-28 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Luxembourg. | do | do | do | do | Do |
| 701-TA-29 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/Netherlands. | do | do | do | do | Do. |
| 701-TA-30 (Final)[1] | Dextrines and soluble or chemically treated starches derived from potato starch, provided for in TSUS item 493.30/United Kingdom. | do | do | do | do | Do. |
| 701-TA-31 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Belgium. | May 13, 1980 | May 28, 1980 | June 4, 1980 | do | Vera Libeau, 523-0368. |
| 701-TA-32 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Denmark. | do | do | do | do | Do. |

**Countervailing Duty Investigations in Cases in Which Countervailing Duties Have Been Waived or Published After July 26, 1979—Continued**

| Investigation No. | Product/country | Prehearing report to parties | Deadline for prehearing statements from parties | Hearing date | Hearing location | Contact person |
|---|---|---|---|---|---|---|
| 701-TA-33 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Federal Republic of Germany. | do | do | do | do | Do. |
| 701-TA-34 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/France | do | do | do | do | Do. |
| 701-TA-35 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Ireland. | do | do | do | do | Do. |
| 701-TA-36 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Italy | do | do | do | do | Do. |
| 701-TA-37 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Luxembourg | do | do | do | do | Do. |
| 701-TA-38 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/Netherlands | do | do | do | do | Do. |
| 701-TA-39 (Final) | Hams and pork shoulders, cooked and packed in airtight containers, provided for in TSUS items 107.30 and 107.35/United Kingdom | do | do | do | do | Do. |
| 701-TA-40 (Final) | Fish, fresh, chilled, or frozen, whether to not whole, but not otherwise prepared or preserved, provided for in TSUS items 110.35, 110.50, and 110.55/Canada. | Apr 1, 1980 | Apr 16, 1980 | Apr 21, 1980 | do | John MacHatton, 523-0439. |
| 701-TA-41 (Final) | Handbags of leather, provided for in TSUS items 706.07 and 706.09/Brazil. | Apr 8, 1980 | Apr. 23, 1980 | Apr 28, 1980 | do | Bruce Gates, 523-0368. |
| 701-TA-42 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Belgium. | Apr 17, 1980 | May 2, 1980 | May 9, 1980 | do | Robert Erdinger, 523-0312. |
| 701-TA-43 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Denmark. | do | do | do | do | Do. |
| 701-TA-44 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Federal Republic of Germany | do | do | do | do | Do. |
| 701-TA-45 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/France. | do | do | do | do | Do. |
| 701-TA-46 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Ireland. | do | do | do | do | Do. |
| 701-TA-47 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Italy. | do | do | do | do | Do. |
| 701-TA-48 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Luxembourg. | do | do | do | do | Do. |
| 701-TA-49 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/Netherlands. | do | do | do | do | Do. |
| 701-TA-50 (Final) | Tomatoes (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved, provided for in TSUS items 141.65 and 141.66/United Kingdom. | do | do | do | do | Do. |
| 701-TA-51 (Final) | Butter cookies provided for in TSUS item 182.20/ Denmark. | Apr 24, 1980 | May 9, 1980 | May 16, 1980 | do | Daniel Leahy, 523-1369. |

[1] This investigation is being consolidated for purposes of the hearing with the investigation involving corn starch from the same country

By order of the Commission.

Issued: February 14, 1980.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 80-5409 Filed 2-21-80; 8:45 am]

BILLING CODE 7020-02-M

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**[Investigation No. 731-TA-7 (Preliminary)]**

## Certain Electric Motors From Japan

On the basis of the information developed during the course of preliminary investigation No. 731-TA-7 (Preliminary), the Commission determines unanimously that there is a reasonable indication that an industry in the United States is materially injured [1] by reason of the importation of AC, polyphase electric motors, over 5 horsepower but not over 500 horsepower, provided for in items 682.41 through 682.50 of the Tariff Schedules of the United States, which are allegedly sold at less than fair value.

[1] Commissioners Moore and Stern determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury. Commissioner Calhoun did not participate.

Section 102 of the Trade Agreements Act of 1979 requires the Commission to conduct preliminary antidumping investigations in cases where, on January 1, 1980, the Administering Authority has begun an investigation, but not yet made a preliminary determination, under section 732 of the Tariff Act of 1930 to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at less than fair value. On January 7, 1980, the Commission received advice from the Department of Commerce (the Administering Authority effective January 1, 1980) that such an investigation had been instituted prior to January 1, 1980, with respect to imported certain electric motors from Japan. Accordingly, effective January 1, 1980, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930, as amended, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of AC, polyphase electric motors, over 5 horsepower but not over 500 horsepower from Japan.

Notice of the institution of the Commission's investigation and of the conference held in connection therewith was published in the Federal Register of January 14, 1980 (45 FR 2714). On January 30, 1980, a public conference was held in Washington, D.C., and all persons requesting the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to information provided by the Administering Authority, to all written submissions from interested parties, and information adduced at the conference and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of which have been placed on the administrative record of this preliminary investigation.

**Statement of Chairman Catherine Bedell in Support of the Determination in Investigation No. 731–TA–7 (Preliminary) Electric Motors From Japan**

On the basis of the best information available in this investigation No. 731–TA–7 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured, by reason of the importation from Japan of electric motors, provided for in items 682.41, 682.42, 682.45, 682.46, and 682.50 of the Tariff Schedules of the United States, which are allegedly sold at less than fair value.

The following findings and conclusions, based on the record in this investigation, support my determination.

*I. Reasonable Indication of Material Injury*

A. *Volume of imports.* 1. In terms of dutiable value, total U.S. imports of AC motors increased rapidly between 1976–78 rising from $6 million to $18 million. From January through September 1979, the dutiable value of imports reached $17 million and is likely to exceed $23 million by the end of 1979. In terms of quantity, imports were about 3.8 times as large in 1978 as in 1976.

2. Japanese producers accounted for the largest share of total imports followed by Polish and Taiwanese producers. In January–September 1979, Japanese producers accounted for largest percentage of the dutiable value of imports. Toshiba is substantially the largest Japanese importer.

3. In terms of quantity, the ratio of Japanese imports to apparent consumption increased from about 3 percent in 1976 to about 8 percent in 1978. During January–September 1979, the ratio of these imports to apparent consumption was somewhat lower.

B. *Effect of imports on U.S. Prices.* 4. The original Treasury Department notice issued on September 26, 1979 (44 FR 57001) based on information supplied by the petitioner and derived from Custom's summary investigation states that:

> * * * it appears that the margins of dumping for standardized models may range from 38 percent to 306 percent. For models requiring customization, the estimates of dumping range up to 382 percent.

5. According to price data supplied to the Commission by Toshiba and eight domestic manufacturers by type of motor and sales outlet, motors sold by Toshiba to distributors were in most instances priced substantially below the weighted average price of the comparable domestic model. Sales to distributors accounted for the bulk of the sales of electric motors by Toshiba. The prices of electric motors sold to original equipment manufacturers by Toshiba were not substantially below the weighted average of comparable domestic models.

C. *Impact on affected industry.* 6. U.S. production of polyphase AC electric motors increased from 485,479 units in 1976 to 644,572 units in 1978. During January–September 1979, production reached 525,695 units compared with 482,010 units during the same period in 1978. Motors rated over 5 horsepower, but not over 20 horsepower, were the largest product segment in terms of quantity and showed the greatest growth from January 1976 through September 1979 while production of motors rated over 200 horsepower remained stable during this period.

7. The value of U.S. shipments was reported at $372 million in 1978 compared with $317 million in 1976. In terms of quantity, shipments by U.S. producers while increasing annually between 1976 and 1978, remained, in 1978, at 9 percent below the level of shipments in 1974.

8. U.S. producers inventories increases from 91,563 units on December 31, 1976 to 109,605 units on September 30, 1979. As a percent of U.S. shipments, inventories fluctuated between 16 percent and 24 percent between 1976 and 1979. The largest domestic inventory levels have occurred as to motors rated over 5 horsepower, but not over 20 horsepower. The substantial share of increasing imports from Japan has been of this type.

9. Net sales by U.S. producers increased by 13 percent from $295 million in 1976 to $334 million in 1978. Net sales during January–September 1979 reached $265 million, an increase of 42 percent compared to net sales for the comparable 1978 period. However, the ratio of net operating profit to net sales declined from 15 percent in 1976 to 9 percent in 1978 and to 7 percent in January–September 1979. Ratios of net operating profit to investment in production facilities follow the same trend.

10. Capital expenditures by U.S. producers in the production of polyphase AC motors increased from $10.9 million in 1976 to $17 million in 1977, and then decreased to $16.7 million in 1978. Capital expenditures in January–September 1979 reached $8.7 million, a rate well below the investment rate in 1978.

**Views of Vice Chairman Bill Alberger**

On the basis of information developed during the course of investigation No. 731–TA–7 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of AC, polyphase electric motors, over 5 horsepower but not over 500 horsepower, provided for under item numbers 682.41, 682.42, 682.45, 682.46, and 682.50 of the Tariff Schedules of the United States, which are allegedly sold at less than fair value.

Although the report indicates several of the factors analyzed by the Commission (i.e., capacity utilization, production and employment)[2] show positive trends for the domestic industry, I believe, on balance, the record contains sufficient information to warrant an affirmative finding. In this regard, I adopt in full findings one through seven of the attached "Supporting Statement by the Director of Operations for an Affirmative Determination of Certain Electric Motors from Japan."

**Supporting Statement by the Director of Operations for an Affirmative Determination of Certain Electric Motors From Japan (No. 731-TA-7 (Preliminary))**

1. The dumping margins alleged by the petitioner in this investigation range from 38 to 382 percent.

2. The ratio of imports from Japan to U.S. consumption increased from * * * percent in 1976 to * * * percent in 1978.

3. Toshiba International Corp. is the largest importer of electric motors from Japan accounting for more than * * * percent of such imports based on quantity. Imports by that firm more than tripled between 1976 and 1978 (confidential material deleted).

4. Shipments by U.S. producers, although increasing annually between 1976 and 1978 remained, at 9 percent below the level of shipments in 1974.

5. U.S. producers' inventories increased from 92,000 units on December 31, 1976, to 109,000 units on September 30, 1979. As a percent of U.S. shipments, inventories fluctuated between 16 percent and 24 percent in the 1976 to September 1979 period. Importers' inventories as a percent of their U.S. shipments declined from 36 percent in 1976 to 24 percent in 1978.

6. Net sales by U.S. producers increased by 13 percent from $295 million in 1976 to $334 million in 1978. Net sales during January-September 1979 reached $265 million, an increase of 42 percent compared to net sales for the comparable 1978 period. However, the ratio of net operating profit to net sales declined from 15 percent in 1976 to 9 percent in 1978 and to 7 percent during January-September 1979. Ratios of net operating profit to investment followed the same trend.

7. Data obtained by questionnaire show that motors sold to Toshiba to distributors (about * * * percent of their total sales), in most instances were priced substantially below the weighted average price of the comparable domestic produced model. Toshiba's sales to OEM's (less than * * * percent of total sales) were priced above some U.S. producers but below others.

8. *Conclusion.*—On the basis of the above, I recommend an affirmative determination as to a reasonable indication of injury with respect to the electric motors from Japan which are alleged to be sold at less than fair value.

**Views of Commissioners Paula Stern and George Moore**

This preliminary investigation was instituted by the Commission on January 1, 1980, pursuant to Section 733(a) of the Tariff Act of 1930 to determine whether, with respect to electric motors from Japan, as provided for in TSUS items 682.41, 682.42, 682.45, 682.46 and 682.50, there is reasonable indication that an industry is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise allegedly sold or likely to be sold at less than fair value. In order for the Commission to make an affirmative determination under Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673(b)), it is necessary to find that information in the administrative record demonstrates the reasonable indication described above.

*Determination*

On the basis of the information obtained in this investigation, we determine that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports of electric motors from Japan which are allegedly being sold at less than fair value.

The Trade Act of 1979 (Sec. 733(a)) directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination * * *." The Act further specifies in Section 771(7) (B) and (C) that the Commission shall consider, among other factors—(i) the volume of imports of the merchandise which is the subject of this investigation, (ii) the effect of imports of such merchandise on domestic producers of like products, and (iii) the impact of such merchandise on producers of like products. In the light of these directives, we base our decision on the following preliminary findings of fact and conclusions of law:

1. On a quantity basis, the ratio of imports from Japan to U.S. consumption increased from about 3 percent in 1976 to about 8 percent in 1978.[3]

2. Toshiba International Corp. is the largest importer of electric motors from Japan accounting for the great bulk of such imports based on the value of imports entered January-September 1979. Imports by that firm more than tripled between 1976 and 1978.[4]

3. Shipments by U.S. producers, although increasing annually between 1976 and 1978 remained in 1978 at nine percent below the level of shipments in 1974.[5]

4. U.S. producers' inventories increased from 92,000 units on December 31, 1976, to 109,000 units on September 30, 1979. As a percent of U.S. shipments, inventories fluctuated between 16.5 percent and 23.5 percent in the 1976 to September 1979 period. Importers' inventories as a percent of their U.S. shipments declined from 36 percent in 1976 to 24 percent in 1978.[6]

5. Net sales by U.S. producers increased by 13 percent from $295 million in 1976 to $334 million in 1978. Net sales during January-September 1979 reached $265 million, an increase of 42 percent compared to net sales for the comparable 1978 period. However, the ratio of net operating profit to net sales declined from 15 percent in 1976 to nine percent in 1978 and to seven percent during January-September 1979. Ratios of net operating profit to investment followed the same trend.[7]

6. Data obtained by questionnaire show that motors sold by Toshiba to distributors, the bulk of their total sales, in most instances was priced substantially below the weighted average price of the comparable domestically produced model. Toshiba's sales to OEM's were priced above some U.S. producers but below others.[8]

**Conclusion**

Based on the information available to the Commission at this time, we believe that there is a reasonable indication of material injury or threat of material injury to the domestic industry and, therefore, that this proceeding should continue to completion.

Issued: February 19, 1980.

By Order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 80-5386 Filed 2-21-80; 8:45 am]

BILLING CODE 7020-02-M

[2] See report at pages A-4, A-8, and A-18, respectively.

[3] Staff Report, p. A-24.

[4] *Ibid.*, p. A-5 and p. A-6.

[5] Staff Report, p. A-10.

[6] Staff Report, pp. A-15 and A-17.

[7] *Ibid.*, p. A-21 and A-22.

[8] *Ibid.*, p. A-25.

[731-TA- 5 and 6 (Preliminary)]

## Rail Passenger Cars and Parts Thereof Intended for Use as Original Equipment in the United States From Italy and Japan; Determination of "No Reasonable Indication of Material Injury"

On the basis of information developed during the course of investigations Nos. 731–TA–5 (Preliminary) and 731–TA–6 (Preliminary) (rail passenger cars and parts thereof), the Commission determines that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation from Italy and Japan of rail passenger cars and parts thereof, however provided for in the Tariff Schedules of the United States (TSUS), intended for use as original equipment in the United States, which are allegedly sold at less than fair value.[1]

Section 102(b)(1) of the Trade Agreements Act of 1979 requires the Commission to conduct preliminary antidumping investigations in cases where, on January 1, 1980, the Administering Authority has begun an investigation, but not yet made a preliminary determination under the Antidumping Act, 1921, as to the question of less-than-fair-value sales. On January 7, 1980, the Commission received advice from the Department of Commerce (the Administering Authority effective January 1, 1980) that such an investigation had been instituted prior to January 1, 1980, with respect to imported rail passenger cars and parts thereof. Accordingly, effective January 1, 1980, the Commission instituted preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930.

Notice of the institution of the Commission's investigations and of the conference held in connection therewith was published in the Federal Register of January 14, 1980 (45 FR 2715). On January 29, 1980, a public conference was held in Washington, D.C., and all persons requesting the opportunity were permitted to appear in person or by counsel. In arriving at its determination, the Commission gave due consideration to information provided by the Administering Authority, to all written submissions from interested parties, and information adduced at the conference and obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[1] Vice Chairman Alberger and Commissioner Stern voted separately with respect to the imports from each country.

### Findings of Fact and Conclusions of Law of the Commission in Support of the Negative Determinations in Investigations 731–TA– 5 and 6

In order for the Commission to find in the affirmative in a preliminary antidumping injury determination under Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673(b)), it is necessary to find that sufficient information has been presented to show that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise which is the subject of the investigation allegedly sold or likely to be sold at less than fair value.

The following conclusion and findings, drawn from the record in this investigation, serve to support our determination.

*Conclusion of Law*

On the basis of the best information in the Commission's record in this investigation, we determine that there is no reasonable indication that an industry in the United States is materially injured, threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of importation of the merchandise which is the subject of this investigation.

*Findings of Fact*

A. Volume of Imports. 1. Rail passenger cars being furnished by foreign producers for contracts awarded since the enactment of the Surface Transportation Act of 1978 will rarely, if ever, be imported into the U.S. in finished form. The "Buy America" provision of that act requires that final assembly of rail passenger cars be made in the U.S. and that rail cars contain at least 50 percent U.S. components. Although these requirements may not apply under certain conditions (Pub. L. 95–599, section 401 (1978)), it is highly unlikely that an exemption will be obtained in any major rail passenger car contract. (Staff Report, pp. A–11, 12; Recommended Determination of the Director,[1] finding No. 2; Transcribed Staff Briefing at Commission meeting, Feb. 7, 1980; Conference transcript, pp. 76, 85).

[1] Vice Chairman Alberger included, for informational purposes, the Recommended Determination and Supporting Statement of the Director of Operations in these investigations. The Recommended Determination and Supporting Statement follow:

Recommended Determination

On the basis of information developed during the course of investigation Nos. 731–TA– 5 and 6, undertaken by the Commission under section 733(a) of the Tariff Act of 1930, I determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Italy and Japan of parts of rail passenger cars intended for use as original equipment in the United States. The imported parts are car body shells for rail passenger cars, truck assemblies for rail passenger cars, and parts for such assemblies, other than wheels and axles, provided for under item Nos. 690.35 and 690.40 of the Tariff Schedules of the United States.

Supporting Statement by the Director of Operations for an Affirmative Determination on Rail Passenger Cars and Parts Thereof From Italy and Japan (Nos. 731–TA– 5 and 6 (Preliminary))

The U.S. market for rail passengert cars is supplied by producers of components (parts) and final assemblers. The petitioner in this case, Budd Company, produces components—car body shells and truck assemblies and also assembles components into finished rail passenger cars.

Finished rail passenger cars are rarely imported into the United States. The "Buy America" provision of the Surface Transportation Act of 1978 requires final assembly of rail passenger cars in the United States. Foreign companies awarded contracts to produce rail passenger cars will provide imported components to U.S. assemblers for incorporation into finished cars.

The alleged less than fair value sales involve bids by Japanese and Italian firms on three contracts. In all three contracts the final assembly of rail passenger cars will be undertaken by U.S. assemblers. Major imported components will consist of car body shells, truck assemblies and parts for truck assemblies.

The petitioner has successfully bid on three contracts since the loss of the Cleveland, Washington and Philadelphia contracts. Undelivered orders amounted to 563 cars as of December 31, 1979. As work begins on these contracts employment, capacity utilization and revenues should increase. Therefore, there is no reasonable indication of material injury to an industry in the United States.

The contracts in question call for deliveries of rail passenger cars over the next two to three years. The importation of components to be used in the finished cars presents a reasonable indication of threat of material injury to the petitioner both as a component producer and as an assembler.

The Antidumping Act, 1921, did not contain any qualification as to the kind of industry or the number of industries that might be affected by allegedly dumped imports. Title VII of the Tariff Act of 1930, however, provides that a petitioner must be a manufacturer, producer, or wholesaler in the United States of "like product" which, in turn, is described as "a product like, or in the absence of like, most similar in characteristics and uses with, the article

Footnote continued on next page

2. Two of the three contracts cited by the petitioner which give rise to the petition will be subject to the "Buy America" provisions described in Finding No. 1. The third contract was not subject to these provisions. However, counsel for the primary contractor, Breda, testified that the cars would be assembled in the United States and would utilize about 45 percent American components. Therefore, no finished rail passenger cars will be imported into the United States on these contracts. (Transcribed Staff Briefing; Staff Report, pp. A–6, A–8; Conference transcript, pp. 91–92.)

3. The only items respondents presently intend to import for the three contracts (Greater Cleveland Regional Transit Authority, Southeastern Pennsylvania Transportation Administration and Washington Metropolitan Area Transit Authority) which are also alleged by petitioner to be at less than fair value are car body shells, parts for truck assemblies, and axles. (Staff Report, p. A–8; Conference transcript, pp. 77, 100.)

4. Although representatives of the respondents have stated that it is their intention to import some of the component parts listed in Finding No. 3, there is no requirement that the origin of the components to be used in the assembly of cars be specified prior to the award of the contract. It is even conceivable that because of the long lead times on delivery of finished rail cars (2 to 3 years from signing of contracts for initial deliveries) actual sourcing for nearly all of these parts could be domestic. (Staff Report, A–8; A–28.)

5. The Commission sought but neither the petitioner nor any domestic manufacturer of car body shells and parts for truck assemblies came forward with any specific information or even allegations concerning the quantity or value of imported components. The only specific information available to the Commission at this time is that there have been no imports of these components by either respondent. (Staff Report, p. A–8; Transcribed Staff Briefing, Conference transcript at 77, 100.)

6. Participation of foreign firms in the U.S. rail passenger car market was, until 1977, primarily limited to Canadian and French car builders. The only participation in the U.S. market by Italy (Breda) occurred in 1977 and 1979 when it won two contracts covering a total of 142 light rail vehicles and rapid transit cars valued at approximately $107.4 million. The only participation by Japan (Nissho–IWAI) is the recent contract award for 141 light rail vehicles valued at $57.5 million. Assembly of vehicles for the Philadelphia and Cleveland contracts will be performed in the U.S. by Boeing Vertol and General Electric. (Staff Report, p. A–28.)

B. Effect of Imports on Prices of U.S. Produced Rail Passenger Cars and Parts Thereof.

7. There is no data available on the prices at which rail passenger cars or any components thereof have been or will be when imported from Italy or Japan. As stated in earlier findings, the reason for this is that there have not been and will not be any imports of completed rail cars from these countries, and the future delivery of parts for such cars is still speculative as to sources and prices. (See Findings 2–5). Awarded bid prices are based on basic car assemblies without options. A contract price for a delivered car will be higher than a bid price. (Staff Report, p. A–8.)

C. Impact of Imports of Rail Passenger Cars and Parts Thereof on Domestic Producers of Like Products.

8. Budd's domestic competitors have withdrawn from active bidding on contracts as primary contractors, but their decisions to withdraw predate the arrival of significant competition from foreign railcar assemblers. (Department of Justice Statement, p. 12; Barber Report, pp. 72–73; 1979 GAO Study, pp. 5–7.)

9. Neither the petitioner nor any other manufacturer of rail passenger car components presented the Commission with any specific information with which to assess impact on this portion of the industry. (See Finding 5). However, a representative of the Budd Co. testified that domestic components manufacturers would get business from other primary contractors. (Conference transcript at p. 43.)

10. Budd's complaint against alleged less-than-fair-value imports from Italy concerns the Cleveland and Washington contracts. If the Italian contractor had not won the Washington bid, it is doubtful Budd could have. (Staff Report, A–32). If the Italian contractor had not won the Cleveland bid, it is conceiveable that Budd and a Canadian joint-venture partner could have won. (Staff Report, A–31–32.)

11. Budd's complaint against the alleged less-than-fair-value imports from Japan concern a Philadelphia contract. If the Japanese contractor, Nissho–IWAI, had not won the bid, it is doubtful that Budd could have won the contract. (Staff Report, at A–32). Although a Budd company representative alleged less-than-fair-value pricing by NIAC in a Philadelphia Broad Street Subway procurement bid at the Commission's conference (transcript, at 14–15), the next lowest bidder was Canadian (Post-Conference Statement of NIAC and Kawasaki, at p. 14).

12. As of December 31, 1979, petitioner had undelivered orders amounting to 563 cars. This substantial backlog should increase the petitioner's rail passenger car employment, capacity utilization, and revenues. (Staff Report, p. A–20, A–25–26; Recommended Determination of the Director, Finding No. 4). The Japanese home market is expanding and there is testimony on the record that there is no overcapacity (Staff Report at A–17; Conference transcript, at p. 69). There is an unrebutted submission to the effect that Breda has no significant productive capacity available for the U.S. market (Breda Submission, at p. 17). Thus, there is no imminent threat of material injury and any extrapolation of bid experiences to a threat of material injury as the Budd Co. backlog is being

Footnote continued from last page

subject to investigation." Similarly, Title VII defines an industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major portion of the total domestic production of that product." In a case in which an antidumping petition was filed with the Commission and the Department of Commerce under section 732 of Title VII, the agencies would screen the petition for an appropriate product description to control the scope of the investigation noticed by the Commerce Department in an affirmative determination under this section. The instant petition was filed under the old law and became subject to the transition provisions of section 102 of the Trade Agreements Act of 1979 which had the effect of establishing the scope of the investigation as that alleged in the petition. Information made a part of the Commission's record in this preliminary investigation indicates that the petitioner does not manufacture rail passenger cars but assembles them from components. The petitioner does manufacture certain components of rail passenger cars however. Among these are car body shells and truck assemblies (staff report, at A–19. Evans testimony, conference transcript at p.13). Car body shells and parts for the truck assembly are imported from both Japan (Gibson testimony, conference transcript at p. 77) and Italy (Bosco testimony, conference transcript at p. 85). Accordingly the scope of this recommended determination extends only to car body shells, truck assemblies and parts for truck assemblies other than wheels and axles, intended for use as original equipment in the United States, provided for under item nos. 690.35 and 690.40 of the Tariff Schedules of the United States. Wheels and axles, although imported, are not produced by the petitioner (MaGinn testimony, conference transcript at p. 35).

reduced would be completely speculative.

By order of the Commission.

Issued: February 15, 1980.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 80-5587 Filed 2-21-80; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 79-24]**

### Metro Substance Abatement Program, Inc., Detroit, Mich.; Rescheduling of Hearing

The hearing in this matter previously scheduled for January 24, 1980 (45 FR 4481) having been cancelled, notice is hereby given that this hearing has been rescheduled for March 11 and 12, 1980. The proceedings will commence at 9:30 a.m. on March 11, 1980, and will be held in Room 859, Federal Building, 231 W. Lafayette Street, Detroit, Michigan.

Dated: February 15, 1980.

Peter B. Bensinger,

*Administrator, Drug Enforcement Administration.*

[FR Doc. 80-5520 Filed 2-21-80; 8:45 am]

BILLING CODE 4410-09-M

### Law Enforcement Assistance Administration

### National Minority Advisory Council on Criminal Justice; Notice of Meeting

This is to provide notice of a Quarterly Meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), LEAA.

The National Minority Advisory Council on Criminal Justice will hold a quarterly meeting on March 7 and 8, 1980 in the Orange Bowl Room of the Columbus Hotel, located at Biscayne Boulevard and First Street, in Miami, Florida. The meeting is scheduled to run from 9:00 a.m. to 5:00 p.m. on both days. The meeting is open to the public.

Discussion at the meeting will focus on an LEAA–OJARS transition briefing, final report update, results conference, report on the resurgence of collective violence against minorities, and a presentation by the Director of OJJDP.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA–NMACCJ Coordinator at 633 Indiana Avenue, NW, Washington, DC 20531, (202) 724–5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, NW, Suite 200, Washington, DC 20036 (202) 862–9348.

Peggy E. Triplett,

*Project Monitor, National Minority Advisory Council on Criminal Justice.*

[FR Doc. 80-5502 Filed 2-21-80; 8:45 am]

BILLING CODE 4410-18-M

### Coordinating Council on Juvenile Justice and Delinquency Prevention Meeting; Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet Wednesday, February 27, 1980 at 633 Indiana Avenue, NW., Washington, D.C., 13th Floor Conference Room. The meeting will be open to the public.

The meeting will begin at 10:00 a.m. Agenda items include discussion of the status of contract support for the Council, discussion of the proposed joint meeting of the Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention, update on the Interagency Task Force on Youth, discussion of the OJJDP/Labor interagency agreement on Alternative Education, and a discussion of youth in the juvenile justice system with extremely serious mental health problems. Time will be available for updates from member agencies.

For further information, contact Mr. James C. Shine, Acting Deputy Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531.

Ira M. Schwartz,

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 80-5434 Filed 2-22-80; 8:45 am]

BILLING CODE 4410-18-M

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Weekly Seasonal Adjustment Factors To Be Used in Computation of 1980 Seasonally Adjusted Insured Unemployment Rates Under Regular State Unemployment Programs

The Bureau of Labor Statistics announces the 1980 weekly seasonal adjustment factors that will be applied to the unadjusted levels of claims for unemployment insurance benefits, under regular State programs, to derive seasonally adjusted levels. The seasonally adjusted level of insured unemployment under regular State programs is a major component in the calculation of the seasonally adjusted national insured unemployment rate, which triggers Federal-State extended unemployment compensation payments. The rate of insured unemployment for purposes of the national extended benefits trigger is computed and announced by U.S. Department of Labor's Employment and Training Administration, Unemployment Insurance Service.

| Week ending date: | *Seasonal factors* |
|---|---|
| Jan. 5 | 129.3 |
| Jan. 12 | 126.6 |
| Jan. 19 | 128.8 |
| Jan. 26 | 131.4 |
| Feb. 2 | 131.1 |
| Feb. 9 | 132.6 |
| Feb. 16 | 131.1 |
| Feb. 23 | 132.5 |
| Mar. 1 | 128.1 |
| Mar. 8 | 124.4 |
| Mar. 15 | 119.7 |
| Mar. 22 | 116.2 |
| Mar. 29 | 111.3 |
| Apr. 5 | 107.6 |
| Apr. 12 | 105.1 |
| Apr. 19 | 103.1 |
| Apr. 26 | 99.3 |
| May 3 | 95.2 |
| May 10 | 92.7 |
| May 17 | 90.9 |
| May 24 | 87.7 |
| May 31 | 85.9 |
| June 7 | 88.5 |
| June 14 | 86.1 |
| June 21 | 86.1 |
| June 28 | 83.6 |
| July 5 | 90.7 |
| July 12 | 96.8 |
| July 19 | 96.1 |
| July 26 | 95.4 |
| Aug. 2 | 95.4 |
| Aug. 9 | 94.1 |
| Aug. 16 | 91.9 |
| Aug. 23 | 89.8 |
| Aug. 30 | 84.9 |
| Sept. 6 | 83.9 |
| Sept. 13 | 82.8 |
| Sept. 20 | 80.5 |
| Sept. 27 | 79.2 |
| Oct. 4 | 77.8 |
| Oct. 11 | 79.3 |
| Oct. 18 | 82.0 |
| Oct. 25 | 82.1 |
| Nov. 1 | 82.9 |
| Nov. 8 | 83.9 |
| Nov. 15 | 86.8 |
| Nov. 22 | 87.5 |
| Nov. 29 | 98.7 |
| Dec. 6 | 100.8 |
| Dec. 13 | 103.5 |
| Dec. 20 | 102.4 |
| Dec. 27 | 114.2 |

Inquiries regarding the contents of this announcement and the methodology for seasonal adjustment of the series should be directed to: U.S. Department of Labor, Bureau of Labor Statistics, Room 2081, 441 G Street, N.W., Washington, D.C. 20212, Attn: Fred Cronkhite, Telephone (202) 523–1720.

Signed at Washington, D.C. this 13th day of February 1980.

Janet L. Norwood,

*Commissioner, Bureau of Labor Statistics.*

[FR Doc. 80-5612 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-24-M

## Employment and Training Administration

### Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 19th day of February 1980.

Earl T. Klein,

*Director, Office of Program Services.*

### Applications Received During the Week Ending February 16, 1980

*Name of Applicant and Location of Enterprise; and Principal Product or Activity*

Fort Pierce Care Center, Inc., Fort Pierce, St. Lucie, Florida; operation of a skilled nursing care facility.

Cartonera Antillana, Inc., Gurabo, Puerto Rico; manufacturer of corrugated board and linen.

[FR Doc. 80-5572 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-30-M

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### New Extended Benefit Period in the State of Idaho

This notice announces the beginning of a new Extended Benefit Period in the State of Idaho, effective on February 17, 1980.

#### Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Idaho unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12 (b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

#### Determination of "On" Indicator

The head of the employment security agency of the State of Idaho has determined that, for the period consisting of the week ending on February 2, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on February 17, 1980.

#### Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe thay may be entitled to Extended Benefits in the State of Idaho, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest local office of the Idaho Department of Employment in their locality.

Signed at Washington, D.C., on February 14, 1980.

Ernest G. Green,

*Assistant Secretary for Employment and Training.*

[FR Doc. 5611 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-30-M

## New Extended Benefit Period in the State of Ohio

This notice announces the beginning of a new Extended Benefit Period in the State of Ohio, effective on February 17, 1980.

### Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Ohio unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12 (b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

### Determination of "On" Indicator

The head of the employment security agency of the State of Ohio has determined that, for the period consisting of the week ending on February 2, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on February 17, 1980.

### Information for Claimants

The duration of Extended Benefits payable in the New Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Ohio, or who wish to inquire about the rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Ohio Bureau of Employment Services in their locality.

Signed at Washington, D.C., on February 14, 1980.

Ernest G. Green,

*Assistant Secretary for Employment and Training.*

[FR Doc. 80-5613 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-30-M

## Mine Safety and Health Administration

**[Docket No. M-79-188-C]**

## Ligon Preparation Co.; Petition for Modification of Application of Mandatory Safety Standard

Paul David Tackett, doing business as Ligon Preparation Company, I.D. #15-09312, Box 47, Drift, KY 41619, has filed a petition for modification of 30 CFR 75.1719 (illumination for the I-121 Mine located in Floyd County, Kentucky. This petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places while mobile equipment is in use.

2. The petitioner states that compliance with the standard would result in a diminution of safety of miners, due to height limitations in the mine.

3. The petitioner therefore requests a variance from application of the standard.

### Request for Comments

Persons interested in this petition may furnish written comments on or before March 24, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 14, 1980

Frank A. White,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 80 5614 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-43-M

## Occupational Safety and Health Administration

## Washington State Standards; Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the Federal Register (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of Federal standards as State standards after public hearing. Sections 1952.120-124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letter dated May 24, 1979 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1018, Exposure to Inorganic Arsenic; 29 CFR 1910.1046, Exposure to Cotton Dust in Cotton Gins; and 29 CFR 1910.1000, Air Contaminants (Benzene) Table Z-2.

The Inorganic Arsenic standard was published in the Federal Register (43 FR 19584) dated May 5, 1978; the Cotton Dust in Cotton Gins standard was

published in the Federal Register (43 FR 27434) dated June 23, 1978; and the Benzene standard was published in the Federal Register (43 FR 5963) dated February 10, 1978 and invalidated by the U.S. Court of Appeals for the Fifth Circuit on October 5, 1978. The Arsenic standard, which is contained in Chapter 296–62–0737 WAC, and the Cotton Dust in Cotton Gin standard, contained in Chapter 296–62–14531 WAC, were promulgated after a public hearing held in Olympia, Washington on November 14, 1978 pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, Chapter 42.30. As a result of the above invalidation, the State repealed their Benzene standard contained in Chapter 296–42–07335 WAC, and reinstated the original Benzene standard, which is contained in Chapter 296–62–07515 WAC, by adoption of Emergency Rules on May 31, 1979 pursuant to RCW 34.04.030, 34.04.040, and 49.17.050.

2. *Decision.* Having reviewed the State submissions in comparison with Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupation Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Technical Data Center, Room, N2349R, 200 Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective February 22, 1980. (Sec. 18, Pub L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 9th day of January 1980.

James W. Lake,

*Regional Administrator.*

[FR Doc. 80-5607 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-26-M

## Wyoming State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the Federal Register (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standards changes, the State has submitted by letter dated February 14, 1979, April 5, 1979, July 9, 1979, July 20, 1979 and October 24, 1979 from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, stating that the State of Wyoming will incorporate as part of the plan, State Standards comparable to 29 CFR 1910.1045 Occupational Exposure to Acrylonitrile (Vinyl Cyanide), which was published in Federal Register (43 FR 45762), Tuesday, October 3, 1978 and (44 FR 20942) Friday, April 6, 1979. These standards, which are continued in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, were promulgated after hearings held on March 16, 1979 and August 17, 1979 and by resolution adoption by the Wyoming Occupational Health and Safety Commission on August 17, 1979, and became effective on October 22, 1979, pursuant to Section 27–278 Wyoming Status 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. *Location of supplements for inspection and copying.* A copy of the letter, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and the Technical Data Center, Room N2439R, 200 Constitution Ave., N.W., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective February 22, 1980. (Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Denver, Colorado, this seventh day of December, 1979.

Curtis A. Foster,

*Regional Administrator.*

[FR Doc. 80-5606 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-26-M

## Office of the Secretary

[TA-W-6642]

## Acme Boot Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 20, 1979 in response to a worker petition received on December 3, 1979 which was filed on behalf of workers and former workers producing dingo boots, and paratroop boots at the Corcoran plant of Acme Boot Company, Incorporated, Stoughton, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Stoughton, Massachusetts plant is a producing plant of Acme Boot Company.

Total production of boots at the Stoughton, Massachusetts plant of Acme Boot did not decrease significantly from 1977 to 1978 or from 1978 to 1979. Any slight production declines that did occur resulted from inventory adjustments or changes in delivery schedules.

Total sales of domestically produced boots by Acme Boot Company increased from 1977 to 1978 and from 1978 to 1979.

### Conclusion

After careful review, I determine that all workers of the Stoughton, Massachusetts plant of Acme Boot Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5596 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W- 6606 and 6803]

## Amherst Coal Co., Amherst No. 5 Mine, Lundale, W. Va., and MacGregor No. 7 Mine, Slagle, W. Va.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 3, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Amherst #5 mine of Amherst Coal Company in Lundale, West Virginia (TA-W-6606).

A concurrent investigation was initiated on January 18, 1980 in response to a worker petition filed on January 7, 1980 on behalf of workers mining metallurgical coal at #7 mine of Amherst Coal Company in Slagle, West Virginia (TA-W—6803). The investigation revealed that the Amherst #5 mine is in the Buffalo Creek Division and the #7 mine is called MacGregor #7 mine of the Rum Creek Division. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petition was filed on behalf of workers mining metallurgical coal. In accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in the determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal are negligible. U.S imports of coke decreased absolutely and relative to domestic production in the January–September period of 1979 compared to the same period of 1978.

A Department survey of domestic customers of Amherst Coal Company indicated that customers decreased purchases of imported metallurgical coal and increased purchases of domestically-produced coke in 1979 compared with 1978.

### Conclusion

After careful review, I determine that all workers at the Amherst #5 mine in Lundale, West Virginia and the MacGregor #7 mine in Slagel, West Virginia of the Amherst Coal Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5604 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-2645]

## Avtex Fibers, Inc.; Amended Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 10, 1978, applicable to all workers at the Nitro, West Virginia, plant of Avtex Fibers, Inc. The Notice of Certification was published in the Federal Register on May 23, 1978, (43 FR 22090).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. This review revealed that several layoffs of workers occurred in January, 1980 at Central Engineering, Valley Forge, Pennsylvania; Corporate Accounting and Purchasing, Valley Forge, Pennsylvania; Sales Order Processing, Valley Forge, Pennsylvania; Research and Development, Front Royal, Virginia; Technical Service, Front Royal, Virginia; and Marketing in New York, New York, all as a result of the closing of the Nitro, West Virginia, plant of Avtex Fibers, Inc. A major share of their time was associated with the product produced at Nitro, West Virginia.

The intent of the certification is to cover all workers of Avtex Fibers, Inc., Nitro, West Virginia, who were affected by the decline in production of rayon staple fiber related to import competition. The certification, therefore, is amended to include all workers at Central Engineering, Corporate Accounting and Purchasing, and Sales Order Processing at Valley Forge, Pennsylvania; Research and Development and Technical Service at Front Royal, Virginia; and Marketing in New York, New York.

The amended certification applicable to TA-W-2645 is hereby issued as follows:

All workers at the Nitro, West Virginia, plant of Avtex Fibers, Inc., and all workers at

Central Engineering, Corporate Accounting and Purchasing, and Sales Order Processing at Valley Forge, Pennsylvania; Research and Development and Technical Service at Front Royal, Virginia; and Marketing in New York, New York, who became totally or partially separated from employment on or after August 26, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5594 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6685]

## Batino Fashions; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at Batino Fashions, Hoboken, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Batino Fashions is a sewing contractor and performed contract work for one manufacturer during the period under investigation. A Department survey revealed that this manufacturer, which accounted for 100 percent of the company's business, did not employ any foreign contractors, nor did the manufacturer import any coats during the past three years. The survey also revealed that the manufacturer's sales increased in 1979 compared to 1978.

Imports of women's, misses' and children's coats declined in the period January-September 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Batino Fashions, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5600 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6594]

## Bethlehem Steel Corp.; Negative Determiantion Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to aply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 11, 1979 in response to a worker petition received on December 4, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel, cold rolled galvanized sheet, plate, pipe, rods and rebars at Bethlehem Steel Corporation, Sparrows Point, Maryland. The investigation revealed that the Sparrows Point Plant is engaged in basic steelmaking plus the production of the following products: pipe and tubing, wire rods, wire and wire products, hot rolled sheet and strip, cold rolled sheet and strip, tin plate products, galvanized sheet, plate, and flanged and dished products (fabricated plate work). In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of pipe and tubing, wire rods, wire and wire products, hot rolled sheet and strip, cold rolled sheet and strip, tin plate products, galvanized sheet, plate, and flanged and dished products (fabricated platework) declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the first three quarters of 1978.

Conclusion

After careful review, I determine that all workers of Bethlehem Steel Corporation, Sparrows Point, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5589 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6557]

## Cohoes Fabrics Printers, Inc.; Negative Determination Regarding Eligibility To Apply for Worker adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determinantion and issue a certification of eligibility to apply for adjustment assistance, each of the group eligiblity requirements of section 222 of the Act must be met.

The investigation was initiated on December 10, 1979, in response to a worker petition received on December 4, 1979, which was filed by the Textile Workers' Union of America on behalf of workers and former workers printing textile fabrics at Cohoes Fabrics Printers, Inc., Cohoes, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

One manufacturer accounted for Cohoes' entire sales decline from 1978 to 1979 and did not import. The Department conducted a survey of this manufactuer's customers. The surveyed customers either did not import fabric or

their imports represented less than five percent of their sales and declined in 1979 compared to 1978.

U.S. imports of finished fabric decreased in the first nine months of 1979 compared to the same period in 1978 and represented only two percent of U.S. production in 1978.

**Conclusion**

After careful review, I determine that all workers at Cohoes Fabrics Printers, Inc., Cohoes, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Reserach.*

[FR Doc. 80-5582 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6608]

## Curlee Clothing Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing men's tailored coats and men's casual shirts at Curlee Clothing Company, Incorporated, Winchester, Kentucky. The investigation revealed that the plant produces primarily sportcoats and suitcoats. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Curlee Clothing sells suits, sportcoats and slacks. Suits and sportcoats together accounted for the major proportion of sales in 1978 and 1979.

U.S. imports of men's and boys' tailored suits declined absolutely and relative to domestic production in 1978 compared with 1977 and declined absolutely in the first nine months of 1979 compared with the same period of 1978. U.S. imports of men's and boys' tailored dress coats and sportcoats declined absolutely in the first nine months of 1979 compared with the same period of 1978.

The Department surveyed some of the customers of Curlee Clothing. None of the respondents reduced purchases from the company and increased purchases of imported suits or sportcoats in 1978 or 1979 compared with the preceding years.

**Conclusion**

After careful review, I determine that all workers of Curlee Clothing Company, Incorporated, Winchester, Kentucky are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5585 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6561]

## E Systems, Inc., Memcor Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers an former workers producing subassemblies for military radios, at E Systems, Incorporated, Memcor Division, Peru, Indiana. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of military two-way radios and military radio subassemblies are negligible. The provisions of the Defense Appropriations Act of the 92nd Congress and the Buy American Act of 1933 function as non-tariff barriers for imports of military radios and their subassemblies. A small amount of imports may enter the U.S. through a waiver of these Acts, but for the most part military radios and their subassemblies are U.S. produced.

The Memcor Division of E Systems, Incorporated sells military radios to foreign governments, to the U.S. Government, and to domestic defense contractors. A survey of defense contractors which purchase from Memcor was conducted by the Department. Survey results indicate that these firms do not purchase imports of military radios or radio parts.

**Conclusion**

After careful review, I determine that all workers of E Systems, Incorporated, Memcor Division, Peru, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5573 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6634]

## Eagle Pants Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 18, 1979 in response to a worker petition received on December 6, 1979 which was filed on behalf of workers and former workers producing men's pants at Eagle Pants Company, Brooklyn, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers of Eagle Pants Company (manufacturers) did not import men's slacks and did not use the services of foreign contractors to make slacks.

The Department conducted a survey of all of Eagle Pants Company's customers. None of the manufacturers used the services of foreign contractors or purchased imported men's slacks. Reduced orders to Eagle Pants in 1979 compared with 1978 were accompanied by increased orders to other domestic sources. In addition, all the manufacturers indicated that orders from their customers (retail outlets) increased in 1979 compared with 1978.

U.S. imports of men's and boys' dress and sport trousers and shorts decreased absolutely during the first three quarters of 1979 compared to the same period in 1978.

### Conclusion

After careful review, I determine that all workers of Eagle Pants Company, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5582 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6562]

## Edmos Corp., Tait Plant; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 5, 1979 which was filed on behalf of workers and former workers producing textured yarn for double knit knitting machines at the Edmos Corporation, Tait Plant, Lincolnton, North Carolina. The investigation revealed that the plant produces primarily double knit fabrics and does not produce yarn. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric declined absolutely in the January through September 1979 period when compared to the same period in 1978.

A Departmental survey was conducted with the major customers of Edmos Corporation. The survey revealed that, in aggregate, customers decreased their imports of finished fabric absolutely and relative to their total fabric demand in 1979 compared to 1978. One customer increased its dependence on imports in 1979 compared to 1978, but this firm's increase in purchases from domestic sources other than Edmos Corporation greatly exceeded the increase in imports.

### Conclusion

After careful review, I determine that all workers of Edmos Corporation, Tait Plant, Lincolnton, North Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5581 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6818]

## Femia Fashions, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 21, 1980 in response to a worker petition received on January 7, 1980 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing skirts and pants at Femia Fashions, Incorporated, Brooklyn, New York. The investigation revealed that the firm also produced women's blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's slacks and shorts, skirts, and blouses and shirts increased both absolutely and relative to domestic production in 1978 compared with 1977.

Femia Fashions, Incorporated was a garment contractor producing women's sportswear for manufacturers. A survey of the manufacturers of Femia Fashions revealed that the manufacturers increased purchases of imported women's sportswear and decreased purchases from domestic sources in 1979 compared with 1978.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's skirts, pants and blouses produced at Femia Fashions, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Femia Fashions, Incorporated of Brooklyn, New York who became totally or partially separated from employment on or after December 24, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5580 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6625]

## G & H Decoy Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 12, 1979 which was filed on behalf of workers and former workers producing hunting decoys at G & H Decoy Incorporated, Henryetta, Oklahoma. It is concluded that all of the requirements have been met.

U.S. imports of decoys for ducks and geese increased absolutely and relative to domestic production in 1978 compared with 1977. The ratio of imports to domestic production has exceeded 66 percent from 1974 through 1978.

The Department conducted a survey of G & H Decoy Incorporated's customers for their purchases of decoy ducks and geese. A significant proportion of the survey respondents indicated they had decreased purchases from the subject firm and increased purchases of imported decoys during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hunting decoys produced at G & H Decoy Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of G & H Decoy Incorporated, Henryetta, Oklahoma who became totally or partially separated from employment on or after May 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5584 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6671]

## The General Tire & Rubber Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 18, 1979 which was filed by the United Rubber Workers on behalf of workers and former workers producing fiberglass and foam parts at the Marion, Indiana plant of The General Tire and Rubber Company. The investigation revealed that the plant produces primarily polyurethane foam and fiberglass reinforced plastic parts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not be met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicate that imports of polyurethane foam are negligible. Industry sources indicate that imports of fiberglass reinforced plastic parts are negligible.

Imports of automobiles which incorporate polyurethane foam parts and/or fiberglass reinforced plastic parts are not like or directly competitive with foam and/or fiberglass parts within the meaning of section 222 of the Trade Act of 1974.

Conclusion

After careful review, I determine that all workers of the Marion, Indiana plant of The General Tire and Rubber Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5574 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6627]

## Genre, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determinantion and issue a certification of eligibility to apply for adjustment assistance, each of the group eligiblity requirements of section 222 of the Act must be met.

The investigation was initiated on December 13, 1979, in response to a worker petition received on October 30, 1979, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear and dresses at Genre, Incorporated, New York, New York. The investigation revealed that the plant produced primarily women's blouses, skirts, coats and dresses. It is concluded that all of the requirements have been met.

U.S. imports of the following products increased both absolutely and relative to domestic production in 1978 compared to 1977: women's, misses' and children's blouses and shirts; women's, misses' and children's skirts; women's, misses' and children's coats and jackets; women's, misses' and children's dresses.

The Office of Trade Adjustment Assistance conducted a survey of customers of Genre, Incorporated. Some of the customers who responded reported that they reduced purchases of women's sportswear and coats from domestic sources and increased purchases of imported women's sportswear and coats during the period of time that Genre was being closed. During the last year of its operation, Genre, itself, began importing blouses (a component of its sportswear line) in an effort to become more price competitive.

Conclusion

After careful review, of the facts obtained in the investigation, I conclude that increases of imports of articles like or direclty competitive with women's blouses, skirts, and coats produced at Genre, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Genre, Incorporated, New York, New York who became totally or partially separated from employment on or after January 1, 1979 and before October 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5583 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6520]

## Holliday Fashions; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Holliday Fashions, Bloomfield, New Jersey. The investigation revealed that the plant primarily produces women's dresses and skirts.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that customers did not increase import purchases while decreasing purchases from Holliday Fashions.

U.S. imports of women's, misses' and children's dresses and skirts decreased absolutely in the first nine months of 1979 compared to the same period in 1978. Holliday Fashions is a contractor who primarily sews higher-priced dresses and skirts for its manufacturers' customers. Industry studies indicate that the greatest penetration of imports have been in lower-cost, less fashion-sensitive garments rather than in the more expensive and fashionable markets.

The Department conducted a survey of Holliday Fashion's customers (manufacturers). None of the customers surveyed indicated increased import purchases of dresses or skirts while decreasing purchases from the subject firm. One major customer who purchased only skirts from Holliday Fashions experienced decreased sales in 1979 compared to the same period in 1978. A secondary survey of this firm's customers revealed that most of those customers either decreased their purchases of imports or increased their reliance on other domestic sources.

### Conclusion

After careful review, I determine that all workers of Holliday Fashions, Bloomfield, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5587 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6298]

## International Shoe Co.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's dress shoes at the Batesville, Arkansas plant of International Shoe Company. The investigation revealed that the Batesville plant produces both men's dress and work shoes. In the following determinations, without regard to whether any of the other criteria have been met for workers producing men's work shoes at the Batesville plant, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of men's work shoes at the Batesville plant increased in quantity and value in each quarter, from the fourth quarter of 1978 through the third quarter of 1979, compared with the same quarter of the previous year.

For workers producing men's dress shoes at the Batesville plant, all of the criteria have been met.

U.S. imports of men's dress and casual footwear, except athletic, remained relatively unchanged at high levels in 1978 compared with 1977 and increased relative to domestic production in the January-September period of 1979 compared with the same period of 1978.

The Department surveyed customers of the International Shoe Company who purchase men's dress shoes. The survey revealed that customers increased purchases of imported men's dress shoes and decreased purchases from International Shoe in 1978 compared with 1977 and in 1979 compared with 1978.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shoes produced at the Batesville, Arkansas plant of International Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Batesville, Arkansas plant of International Shoe Company engaged in employment related to the production of men's dress shoes who became totally or partially separated from employment on or after October 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5593 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6564]

## Kane Industries; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing windbreaker jackets and men's pants and vests at Kane Industries, Smith Grove, Kentucky. The investigation revealed that the plant primarily produces men's pants and vests. It is concluded that all of the requirements have been met.

Imports of men's and boys' dress and sport trousers and shorts increased absolutely and relative to domestic production in 1978 compared to 1977, before decreasing in the first three quarters of 1979 compared to 1978.

Imports of men's and boys' tailored suit vests increased absolutely in January–September 1979 compared to the like period in 1978.

Company sales of men's pants and vests produced at the Smith Grove, Kentucky plant of Kane Industries decreased in 1979 compared to 1978.

The average employment of production workers at the Smith Grove, Kentucky plant of Kane Industries decreased in 1979 compared to 1978.

The Department of Labor conducted a survey of some of the customers of the manufacturer that purchased Smith Grove's production of men's pants and vests. Some of the customers responding to the survey indicated a decrease in the purchases of men's pants and vests from the manufacturer, and increased purchases of imported men's pants and vests in 1979 compared to 1978.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's pants and vests produced at Kane Industries, Smith Grove, Kentucky contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kane Industries, Smith Grove, Kentucky who became totally or partially separated from employment on or after November 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5606 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6600]

## Magnavox Consumer Electronics Co., Electronics Division; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 11, 1979 in response to a worker petition received on December 5, 1979 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing radios, tuners, amplifiers, and speakers for console and component audio systems in the Electronics Division of the Jefferson City, Tennessee plant of Magnavox Consumer Electronics Company. The investigation revealed that electronic video games are also produced in the Electronics Division of the Jefferson City plant. It is concluded that all of the requirements have been met.

U.S. imports of radio-phonograph-tape combinations increased in unit volume and dollar value in 1978 from 1977 and rose in January–September 1979 compared to January–September 1978. U.S. imports of dedicated electronic video games increased in unit volume in 1979 from 1978.

In 1979 a major customer, for whom Magnavox produced audio systems, discontinued most of its orders with Magnavox and began importing audio systems.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with console and component audio systems and electronic video games produced in the Electronics Division of the Jefferson City, Tennessee plant of Magnavox Consumer Electronics Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers in the Electronics Division of the Jefferson City, Tennessee plant of Magnavox Consumer Electronics Company who became totally or partially separated from employment on or after November 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5577 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6619]

## Mutual Provision, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on October 22, 1979 which was filed on behalf of workers and former workers producing boned fresh meat at Mutual Provision, Inc., Bayonne, New Jersey.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers of Mutual Provision did not purchase imported fresh meats of the type produced by Mutual Provision.

The investigation further revealed that there were insufficient supplies of fresh meat available to supply customer needs. Industry studies indicate that the

practice by slaughterhouses of selling whole or partial cattle carcasses to meat processors who debone and provide meat cuts to their own customers is shifting back to the slaughterhouses from where sales are made directly to the wholesale or retail trade. This shift is due partly to the high cost of shipping meat carcasses to the processors, such as the subject firm, compared to the cost of slaughterhouses shipping the cut-up vacuum packed meats directly to the customers who use the meat.

The Department conducted a survey of Mutual Provision's customers. None of these customers purchased imported meats of the type produced by Mutual Provision.

### Conclusion

After careful review, I determine that all workers of Mutual Provision, Inc., Bayonne, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5595 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6155]

## Quality Mills, Inc.; Negative Determination Regarding Application for Reconsideration

By an application dated January 25, 1980, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing knit fabric at the York, South Carolina, plant of Quality Mills, Inc. The determination was published in the Federal Register on January 4, 1980 (45 FR 1173).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that insufficient consideration was given to the intent of the Trade Act of 1974 in the Department's negative determination relative to workers producing knit fabric at the York, South Carolina, plant of Quality Mills, Inc. The petitioner stated that the gray fabric workers should be certified since the company initially went into fabric production to compensate for the losses incurred in the production of full fashion garments which were under intense price competition from imports.

The Department's review indicated that workers producing knit fabrics at the York, South Carolina, plant of Quality Mills did not meet the "contributed importantly" test of Section 222 of the Act. The Department's survey of Quality Mills' customers indicated that they did not purchase imports of gray fabric in 1977, 1978 or 1979. All of the customers surveyed indicated that if they anticipated an increased need for gray fabric in the future, they would continue to buy it from domestic sources.

On reconsideration, the Department found very little competition from imports of gray fabric as U.S. imports of gray knit fabric were negligible in 1978 and 1979. Further, in discussing the term "like or directly competitive" as used in the Act, the Department already indicated in its previous denial that men's sportswear cannot be considered like or directly competitive with gray fabric. Only imports of gray fabric can be considered like or directly competitive with the gray fabric produced by the workers of the York, South Carolina, plant of Quality Mills, Inc., for purposes of the worker adjustment assistance program.

The Department sees little merit or validity in the petitioner's claim concerning Congressional intent. The three criteria enumerated in Section 222 of the Act reflect the action the Congress took, namely, that special benefits should be granted only where increased imports of articles like or directly competitive with the articles produced by the workers' firm contributed importantly to the workers' separations.

### Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 12th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5578 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6674]

## R.M. Knitting Mills, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 17, 1979 which was filed on behalf of workers and former workers producing knitted outerwear for men and women at R.M. Knitting Mills, Incorporated, Union City, New Jersey. The investigation revealed that the plant produces primarily men's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans, and pullovers increased absolutely and relative to domestic production from 1977 to 1978. The ratio of imports to domestic production was over 90 percent in 1978.

U.S. imports of women's, misses' and children' sweaters increased relative to domestic production from 1977 to 1978. The ratio of imports to domestic production was over 100 percent in each year of the 1974–1978 time period.

In a survey conducted by the Department of Commerce, customers accounting for a substantial proportion of R.M. Knitting Mills' sales declines indicated that they had decreased purchases from R.M. Knitting Mills, and had increased purchases of imported men's, women's and children's sweaters. On December 17, 1979, the Department of Commerce certified R.M. Knitting Mills, Incorporated eligible to apply for firm adjustment assistance.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's sweaters

produced at R.M. Knitting Mills, incorporated, Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of R.M. Knitting Mills, Incorporated, Union City, New Jersey who became totally or partially separated from employment on or after June 16, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5579 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6675]

## Reed & Prince Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 17, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing screws in Worcester, Massachusetts at the Reed and Prince Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of screws increased in 1978 compared with 1977.

Reed and Prince Manufacturing Company increased imports of screws in 1979 compared to 1978. The imported screws are replacing screws formerly produced domestically by the firm.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with screws produced in Worcester, Massachusetts by the Reed and Prince Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Reed and Prince Manufacturing Company in Worcester, Massachusetts who became totally or partially separated from employment on or after December 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5599 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6473]

## Republic Steel Corp., Union Drawn Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing cold finished carbon, alloy, and stainless steel bars, at Republic Steel Corporation, Union Drawn Division, Massillon, Ohio. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of cold finished carbon steel bars decreased absolutely and relative to domestic shipments during the period January through September 1979 compared with the same period in 1978.

U.S. imports of hot and cold rolled alloy steel bars, which include cold finished bars, decreased absolutely and relative to domestic shipments during the period January through September 1979 compared with the same period in 1978.

U.S imports of stainless steel hot and cold finished bars decreased absolutely and relative to domestic shipments during the period January through September 1979 compared with the same period in 1978.

Total plant shipments, including cold finished carbon, alloy and stainless steel bars and coiled rods, increased in terms of quantity from 1977 to 1978, and increased during the first eleven months of 1979 compared with the same period in 1978. Shipments increased in every quarter of 1978 and 1979 when compared to the like quarter of the previous year.

### Conclusion

After careful review, I determine that all workers of the Massillon, Ohio facility (including plants 1, 2, and 3) of the Union Drawn Division of Republic Steel Corporation, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5603 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6696]

## R.F. Products, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 21, 1979 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing communication systems equipment at R.F. Products, Camden, New Jersey. The investigation revealed that the plant produces primarily radio frequency filters and that the correct name of the firm is R.F. Products, Incorporated (formerly TRW R.F. Filter Products). In the following determination, without regard to

whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

R.F. Filter Products, Incorporated, is an independent, privately held corporation which acquired the business of TRW RF Filter Products on July 11, 1979. TRW RF Filter Products was a unit of TRW Incorporated. Prior to September 1978, two products were made at the plant; air variable capacitors and radio frequency filters. In 1978 TRW sold the machinery, equipment, drawings and other articles used in the production of air variable capacitors to another firm. The layoffs associated with this sale took place on or before September 11, 1978.

Since November 29, 1978 there has been one layoff at the plant. In recent months, the number of employees on active status at the plant has increased.

Conclusion

After careful review, I determine that all workers of R.F. Products, Incorporated, Camden, New Jersey (formerly TRW R.F. Filter Products) are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5601 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6621]

## Royal Park, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 7, 1979 which was filed on behalf of workers and former workers producing ladies' jackets and blouses at the Jacksboro, Texas plant of Royal Park, Incorporated. The investigation revealed that the plant produces primarily ladies' jackets. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production for women's, misses' and children's coats and jackets was 69.3 percent in 1978.

The Department conducted a survey of customers of Royal Park, Incorporated. A major customer, who accounted for a significant proportion of Royal Park's sales, decreased its purchases of ladies' sportswear from Royal Park and from other domestic sources and increased its imports of ladies' sportswear in 1979 compared to 1978. This customer increased imports of ladies' jackets absolutely in 1978 compared to 1977 and increased imports of ladies' jackets relative to domestic purchases in the first six months of 1979 compared to the first six months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' jackets produced at the Jacksboro, Texas plant of Royal Park, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Jacksboro, Texas plant of Royal Park, Incorporated who became totally or partially separated from employment on or after October 26, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of February 1980.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 80-5590 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6187]

## Santa Rosa Shoe Corp.; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 21, 1980, applicable to all workers of Santa Rosa Shoe Corporation, Santa Rosa, California. The Notice of Certification was published in the Federal Register on January 25, 1980, (45 FR 6216).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The additional information revealed that some layoffs occurred in January, 1980 and a few more will occur in February, 1980 as the plant is prepared for shutdown. These layoffs were not covered by the termination date of January 1, 1980. Under the circumstances, the original termination date of January 1, 1980, contained in the initial certification has been changed to March 15, 1980.

The intent of the certification is to cover all workers who were affected by the decline in production of men's work and outdoor footwear at Sant Rosa Shoe Corporation's plant at Santa Rosa, California, related to import competition. The certification, therefore, is revised to include a new termination date of March 15, 1980.

The revised certification applicable to TA-W-6187 is hereby issued as follows:

All workers of the Santa Rosa Shoe Corporation, Santa Rosa, California, who become totally or partially separated from employment on or after February 10, 1979, and before March 15, 1980, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after March 15, 1980, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 11th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5576 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W- 5497A-T, 5497B-T]

## Standard Sign & Signal Co. and Raccoon-Elkhorn Coal Co.; Revision of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-5497A-T and TA-W-5497B-T: investigations regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in Section 223(d) of the Act.

On July 19, 1979, workers engaged in employment related to the mining of coal at the Standard Sign and Signal Company and the cleaning of coal at the

Raccoon-Elkhorn Coal Company, Pikeville, Kentucky were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the Federal Register on July 27, 1979 (44 FR 44299).

The investigation regarding termination of certification was initiated on December 11, 1979 to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the Federal Register on December 18, 1979 (44 FR 74945). No public hearing was requested and none was held.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Whenever it becomes evident that any of the criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification. The investigation reveals that, without regard to whether any of the other criteria have been met, the following criterion is no longer being met with respect to worker at the Standard Sign and Signal Company and the Raccoon-Elkhorn Coal Company, Pikeville, Kentucky:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the termination investigation revealed that the preponderance of coal mined by the Standard Sign and Signal Company and cleaned by the Raccoon-Elkhorn Coal Company is sold in the export market. Therefore, increased imports of coal or coke into the United States would have a negligible effect on sales and production levels at these companies. These companies ceased operations in January 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in the mining and cleaning of coal at the Standard Sign and Signal Company and the Raccoon-Elkhorn Coal Company, Pikeville, Kentucky are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of July 19, 1979 to read as follows:

That all workers of the Standard Sign and Signal Company, Pikeville, Kentucky, who became or will become totally or partially separated on or after May 24, 1978 and before February 29, 1980, and all workers of Raccoon-Elkhorn Coal Company, Pikeville, Kentucky, who became or will become totally or partially separated on or after September 1, 1978 and before February 29, 1980, be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees of the Standard Sign and Signal Company and the Raccoon-Elkhorn Coal Company who became or will become totally or partially separated from employment on or after February 29, 1980, are denied certification of eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 15th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5605 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6452]

## Sting Bee, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 2, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's sportswear at Sting Bee, Long Island City, New York. The investigation revealed that Sting Bee, Incorporated produces primarily girls' sportswear, including skirts, pants, dresses, shorts, tops, blouses, blazers, vests, etc. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's skirts increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of women's, misses', and children's slacks and shorts increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of women's, misses', and children's blouses and skirts increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of women's misses', and children's coats and jackets increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of children's dresses increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of women's, misses', and children's suits, which include vests, increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department conducted a survey of Sting Bee's customers for their purchases of girls' sportswear. Some survey respondents reported decreased purchases from the subject firm and increased purchases of imported girls' sportswear during 1979 compared with 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' sportswear produced at Sting Bee, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sting Bee, Incorporated, Long Island City, New York who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5602 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6812]

## Summersville Mine Equipment Service Shop; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 18, 1980 in response to a worker petition received on January 17, 1980 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers servicing and repairing mine equipment at Summersville Mine Equipment Service Shop, Summersville, West Virginia.

Summersville Mine Equipment Service Shop is engaged in providing the service of repairing mine equipment.

Thus, workers of Summersville Mine Equipment Service Shop do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Summersville Mine Equipment Service Shop by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must relate to the product impacted by imports.

Summersville Mine Equipment Service Shop is corporately affiliated with the General Electric Company. The General Electric Company does not produce mining equipment. The General Electric Company and the customers of Summersville Mine Equipment Service Shop have no controlling interest in one another.

All workers at Summersville Mine Equipment Service Shop are employed by that firm. All personnel actions and payroll transactions are controlled by Summersville Mine Equipment Service Shop. All employee benefits are provided and maintained by Summersville Mine Equipment Service Shop. Workers are not, at any time, under employment or supervision by customers of Summersville Mine Equipment Service Shop. Thus, Summersville Mine Equipment Service Shop, and not any of its customers, must be considered to be the "worker's firm."

Conclusion

After careful review, I determine that all workers of Summersville Mine Equipment Service Shop, Summersville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5591 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5876]

## Terry Jane Coal Co., Inc.; Revised Determination on Reconsideration

On January 30, 1980, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Terry Jane Coal Company, Inc., Logan, West Virginia. The Notice was published in the Federal Register on February 8, 1980, (45 FR 8777).

The Department issued the Termination of Investigation with regard to the petition filed by the former workers of the Terry Jane Coal Company, Inc., on the basis of insufficient operating time on which to base a determination.

On further review, however, it was determined that the Terry Jane Coal Company was founded in June of 1978 and closed permanently in February of 1979. The firm was in operation for nine months. For workers engaged in the business of deep mining (i.e., not surface mining), where seasonal fluctuations in production and employment are minimal, the Department has found that an operating time of nine months is of sufficient duration to allow an estimation of the impact of increases in imports on the workers' employment and on the production and sales of the workers' firm.

Pursuant to this finding, the Department completed the investigation with regard to the former workers of the Terry Jane Coal Company, Inc., and herein presents the results.

U.S. imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. U.S. imports of coke increased in quantity and relative to domestic production from 1976 to 1977 and from 1977 to 1978. Imports of coke were higher in quantity in January and February, 1979, compared with the same months in 1978.

Production and employment of the Terry Jane Coal Company, Inc., decreased in February of 1979 when the company shut down permanently.

Terry Jane Coal Company, Inc., is a contracting firm that mines metallurgical coal. A survey of the sole company contracting mining services at Terry Jane Coal Company, Inc., revealed that that company's customers increased purchases of imported coke while decreasing their purchases of domestic metallurgical coal and coke.

Conclusion

In view of the above, it is concluded that increased imports of coke contributed importantly to the separation of workers and to the decline in sales and production at the Terry Jane Coal Company, Inc., Logan, West Virginia.

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

All workers of the Terry Jane Coal Company, Inc., Logan, West Virginia, who became totally or partially separated from employment on or after January 13, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of February 1980.

James F. Taylor,

*Director, Office of Management, Administration and Planning.*

[FR Doc. 80-5575 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6740]

## Underwood Electric Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 9, 1980 in response to a worker petition received on January 2, 1980 which was filed by company officials on behalf of workers and former workers producing compression mica trimmers (variable capacitors) at Underwood Electric Company, Jasonville, Indiana. It is concluded that all of the requirements have been met.

U.S. imports of variable capacitors increased absolutely and relative to

domestic production in 1978 compared to 1977.

Production levels at the Jasonville, Indiana plant of Underwood Electric Company declined from 1977 to 1978 and from 1978 to 1979. The plant was closed permanently and all workers were laid off in November 1979. Company imports of capacitors increased from 1977 to 1978 and increased from 1978 to 1979.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the mica trimmers (variable capacitors) produced at Underwood Electric Company, Jasonville, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Underwood Electric Company, Jasonville, Indiana who become totally or partially separated from employment on or after December 7, 1978 and before December 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-5598 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-28-M

## All Items Consumer Price Index for All Urban Consumers; U.S. City Average

Pursuant to the requirements of Public Law 95-602, the Consumer Price Index for All Urban Consumers rose by 12.2 percent between October 1978 and October 1979 from a level of 200.9 in October to a level of 225.4 in October 1979.

Signed at Washington, D.C., on the 15th day of February 1980.

Ray Marshall,

*Secretary of Labor.*

[FR Doc. 80-5610 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-24-M

## Pension and Welfare Benefit Programs

**[Application No. D-1757]**

## Certain Transactions Involving the Eagle Metals Co. Profit Sharing Plan, Seattle, Wash.; Proposed Exemption

**AGENCY:** Department of Labor.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of certain real property in Portland, Oregon by the Eagle Metals Company Profit Sharing Plan (the Plan) to Alcan Aluminum Corp (Alcan) a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and other persons participating in the transaction.

**DATES:** Written comments and requests for a public hearing must be received by the Department of Labor on or before April 4, 1980.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1757. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by J. B. Hissong, P. C. Holden, and R. A. Petti (the Trustees), the Trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

### Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined contribution profit sharing plan with 33 participants. Eagle Metals Company (Eagle), the employer which established the Plan, was acquired by Alcan on May 17, 1978. The Plan was terminated by Eagle immediately prior to such acquisition. By reason of this termination, it has become necessary to liquidate promptly all of the assets of the Plan in order to permit the distribution of Plan accounts to the former Plan participants. The Trustees, who are designated by Alcan, are responsible for managing the liquidation.

2. Included in the assets of the Plan is certain real property located at 1211 North Loring Street in Portland, Oregon (the Property). Most of the Property was acquired in 1966, with a small additional parcel acquired in 1975. All of the Property was acquired from a party who was unrelated to the Plan. The Property is carried on the books of the Plan at a cost value of $152,476. The Property is located in the industrial zone of Portland, Oregon and the immediate neighborhood is a mixture of heavy industrial and general industrial businesses. By lease dated November 2, 1965 the Plan leased the Property to the Eagle Metals Company, Inc. of Oregon (Eagle Oregon) for a term of 10 years commencing April 1, 1966 and ending March 31, 1976. By agreement of said parties dated November 28, 1975 the lease was extended to March 31, 1981 under the original terms and conditions thereof, adding however the additional parcel acquired in 1975, and increasing the rental thereunder, effective January 1, 1976. The Trustees represent that while the Property was leased to Eagle Oregon, which was related to Eagle by certain common stock ownership, the ownership does not appear to give rise to a party in interest relationship.

3. The Trustees of the Plan are proposing to sell the Property without paying a real estate commission for $380,000 cash to Alcan. The sales price for the Property was determined by an independent appraisal on July 3, 1979 by HR Wacker & Associates in Portland, Oregon.

4. The Trustees represent that the proposed sale of the Property will satisfy section 408(a) of the Act as follows: (1) the Trustees represent that the proposed sale is in the best interests of the Plan; (2) it will allow the Plan to liquidate its assets in order to permit the distribution of Plan accounts to the former participants; (3) it will be a one-time transaction for cash; (4) it will allow the Plan to sell the Property at a substantial profit based upon a price which was established by an independent appraisal; and (5) it will allow the Plan to sell the Property without paying a real estate sales commission.

Notice to Interested Persons

Notice to interested persons will be provided within ten days of the publication of the notice of pendency in the Federal Register. Notification of interested persons will include a copy of the notice of pendency and will be delivered by certified mail. Interested persons to whom notice will be provided will be all Plan participants on the termination date of the Plan and all former Plan participants for whom an account balance was maintained under the Plan on the termination date of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in the ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan of certain real property located at 1211 North Loring Street in Portland, Oregon for $380,000 to Alcan provided that this amount is at least the fair market value of the property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of February, 1980.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 80-5566 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-29-M

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[Application No. D-385]

## Certain Transaction Involving the Save Mart of Modesto, Inc., Profit Sharing Plan, Modesto, Calif.; Proposed Exemption

**AGENCY:** Department of Labor.

**ACTION:** Notice of Proposed Exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor [the Department] of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $220,000 from the Save Mart of Modesto, Inc. Profit Sharing Plan (the Plan) to Save Mart of Modesto, Inc. (the Employer), which was entered into before the effective date of the Act, but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act. The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Plan.

**DATES:** Written comments and requests for a public hearing must be received by the Department of Labor on or before April 4, 1980.

**EFFECTIVE DATE:** If the proposed exemption is granted, the exemption will be effective January 1, 1975.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-385. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz, of the Department of Labor, telephone (202) 357-0040. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

**Summary of Facts and Representations**

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan which as of December 22, 1975 had 222 participants. Investment decisions for the Plan are made by its Profit Sharing Committee. The trustee for the Plan is the Bank of America National Trust and Savings Association (the Trustee).

2. Since June 1, 1961, the Plan has engaged in 17 loan transactions with the Employer. Sixteen of those loans were secured by chattel mortgages or financing statements on equipment. The other loan was secured by a first deed of trust on real estate. These loans have historically provided a satisfactory investment of funds with a high yield to the Plan, coupled with an accelerated cash flow to the Plan by reason of the monthly installment on principal and interest. There has never been a default in the payment of any installment of interest and principal when due.

3. On July 2, 1974, the Plan loaned $220,000 to the Employer. The Employer borrowed the money for the purpose of defraying, in part, the acquisition cost of fixtures and equipment to be installed in the Employer's retail market in Sonora, California. Collateral for the loan was provided by a security interest in the fixtures and equipment to be installed in the Sonora store. A financing statement evidencing this security interest was filed with the California Secretary of State on July 12, 1974. The equipment listed in the financing statement was installed at a cost of $275,890.95.

4. The loan was to be for a period of 7 years, payable in 84 equal monthly installments through July 1, 1981. As in all previous loan transactions, the note and security were first offered to the general banking department of the Trustee, and a written commitment was obtained as to what interest the bank would require in such financing. The bank would have required 10.58% simple interest for the subject loan. The interest rate for the subject loan was then fixed at 10%, as such rate was the maximum legal rate the Plan could charge under the laws of the State of California.

5. At the time of the loan, the principal amount of $220,000 constituted approximately 8% of the Plan's assets.

6. All payments on the loan were made in a timely fashion according to the schedule of payments in the loan agreement. As of September 28, 1979, the loan had been repaid in full by the Employer to the Plan.

7. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) the interest rate paid to the Plan was as high as permitted under California's usury laws, (2) the loan was adequately secured by collateral having a higher value than the principal amount of the loan, and (3) all payments on the loan were made on schedule, and the loan has been repaid in full to the Plan.

Finally, the applicant represents that the loan was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicant realized that the loan had become a prohibited transaction, the applicant submitted a good faith request for an exemption instead of terminating the loan transaction.

**Notice to Interested Persons**

Within 10 days after the notice of proposed exemption is published in the Federal Register, notification will be provided in writing and personally delivered or mailed to each Plan participant. Such notification will be supplemented by a copy of this notice of proposed exemption, and will inform Plan participants of their right to comment on the proposed exemption.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

**Written Comments and Hearing Requests**

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

**Proposed Exemption**

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section

408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective January 1, 1975, to the transaction entered into on July 2, 1974, in which the Plan loaned $220,000 to the Employer.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this proposed exemption.

Signed at Washington, D.C., this 15th day of February, 1980.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc 80-5567 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-29-M

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**[Prohibited Transaction Exemption 80-10; Exemption Application No. D-911]**

## Exemption From the Prohibitions for a Certain Transaction Involving the Operating Engineers, Local 12 Pension Trust, Los Angeles, Calif.

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) the sale of a certain parcel of real property by the Operating Engineers Pension Trust (the Plan) to the International Union of Operating Engineers, Local 12 (Local 12), a party in interest with respect to the Plan.

**FOR FURTHER INFORMATION CONTACT:** Charles Humphrey of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8973. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On April 20, 1979, notice was published in the Federal Register (44 FR 23596) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D), and (E) of the Code, for the sale of a parcel of real property (the Cordova proverty) by the Plan to Local 12, provided that the Plan would receive the higher of $450,000 or the fair market value of the property. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C., the Department's Los Angeles Office and in the offices of the Operating Engineers Pension Trust. A public hearing relating to the application was convened in Washington, D.C., on Friday, July 13, 1979. No testimony was presented, however, since no members of the public including the applicants or any of the commentators attended. Pursuant to the invitation to comment contained in the notice, and by further notice of the extension of the period in which to comment, published in the Federal Register on June 5, 1979 (44 FR 32307), interested parties submitted written comments on the proposed exemption. In response to the expressed concern of the commentators that the offer of $450,000 did not represent the true market value of the property, the applicants advised the Department that Local 12 had made a new, higher offer of $622,065 to the Plan. The offer, and other related representations of the applicants were recited in a notice published in the Federal Register on December 7, 1979 (44 FR 70601) which provided for a further extension of the comment period until February 1, 1980. The Department received one letter of comment during the period which, however, was not directed to issues which bear on the Department's consideraton of the merits of the proposed transaction under section 408(a) of ERISA.

The notice of pendency and related notices were issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary reponsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under sections 406(a)(1) (B), (C), and (E), 406(b)(3), and 407 of the Act and section 4975(c)(1) (B), (C), and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

### Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The restrictions of section 406(a)(1)(A) and (D) and 406 (b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A), (D), and (E) of the Code shall not apply to the sale of the Cordova property by the Plan to Local 12 provided that the Plan receives the higher of either the purchase price currently offered

($622,065) or the fair market value of the property at time of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 19th day of February, 1980.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 80-5568 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-29-M

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**[Prohibited Transaction Exemption 80-9; Exemption Application No. D-604]**

## Exemption From the Prohibitions for Certain Transactions Involving Westdale Company Retirement Plan and Trust Located in Grand Rapids, Mich.

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the sale for cash of real property by the Westdale Company Retirement Plan and Trust (the Plan) to the Westdale Company (the Employer), a party in interest.

**FOR FURTHER INFORMATION CONTACT:** Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8196. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On December 28, 1979, notice was published in the Federal Register (44 FR 76881) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(E) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

### Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Plan to the Employer of 3.34 acres of unimproved real property located on the east side of East Beltline Avenue, N.E. in Grand Rapids, Michigan, for the sum of $62,314, provided that the price is not less than the fair market value of the property, reduced by the unpaid balance of the special sewer and water assessments, on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of February, 1980.

Ian D. Lanoff,

*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 80-5569 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-29-M

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## MINIMUM WAGE STUDY COMMISSION

### Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: March 11, 1980.
Time: 10:30 a.m.
Place: 1430 K St. NW, Suite 1102, Washington, DC.

Proposed Agenda:

1. Pending Business
2. Staff reports on inflation and demographics
3. New Business

Original notification of this meeting appeared in the Federal Register January 25, 1980.

Next meeting of the Commission will be Tuesday, April 8, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Washington, DC 20005, telephone (202) 376–2450.

Louis E. McConnell,

*Executive Director.*

[FR Doc. 80-5609 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-23-M

## NATIONAL ALCOHOL FUELS COMMISSION

### Opening Meeting

**AGENCY:** National Alcohol Fuels Commission.

**DATE:** March 4, 1980.

**TIME:** 10:00 a.m.–4:00 p.m.

**PLACE:** Room 5110, Dirksen Senate Office Building, Constitution & 1st St., S.E., Washington, D.C.

**TYPE OF MEETING:** Open.

**CONTACT PERSON:** Marilyn Herman, Deputy Executive Director, 202–426–6490.

**WRITTEN STATEMENTS:** National Alcohol Fuels Commission, 412 First St., S.E., Washington, D.C. 20003.

**PURPOSE OF THE COMMISSION:** The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (P.L 95–599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass and coal to contribute to meeting the nation's energy needs.

**TENTATIVE AGENDA:** Review of study's key policy issues and questions to be addressed in final report; selection of dates and places for 1980 on-site visits; review of current Federal agency programs dealing with alcohol fuels.

John May,

*Chief of Administration.*

February 14, 1980.

[FR Doc. 80-5561 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-AN-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Humanities Panel; Meetings

February 19, 1980.

Pursuant to the provisions of the Federal Advisory Commitee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1.

Date: March 10, 1980
Time: 8:30 a.m. to 5:30 p.m.
Room: 807
Purpose: To review state humanities committee applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

2.

Date: March 13 and 14, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 911
Purpose: To review applications for the development of humanities Special Program formats submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

3.

Date: March 13 and 14, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Purpose: To review the applications submitted to the Research Editions Program of the National Endowment for the Humanities, for projects in American Editing beginning June 1, 1980.

4.

Date: March 17, 18, and 19, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Purpose: To review NEH Museums and Historical Organizations Humanities Projects applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

5.

Date: March 20 and 21, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Purpose: To review NEH Libraries Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

6.

Date: March 24, 25, and 26, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Purpose: To review NEH Museums and Historical Organizations Humanities Projects applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

7.

Date: March 26, 27, and 28, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023–25
Purpose: To review NEH Media Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

8.

Date: April 4, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Purpose: To review applications in literature submitted to the General Research Program of the National Endowment for the Humanities for projects beginning after June 1, 1980.

9.

Date: April 7, 8, and 9, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023–25
Purpose: To review NEH Media Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

10.

Date: April 10 and 11, 1980
Time: 8:30 a.m. to 5:30 p.m.
Room: 807
Purpose: To review state humanities committee applications in all fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

11.

Date: April 18, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1025
Purpose: To review NEH Libraries Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

12.

Date: April 25, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Purpose: To review NEH Media Humanities Projects Program applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street,

N.W., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,
*Advisory Committee Management Officer.*

[FR Doc. 80-5559 Filed 2-21-80; 8:45 am]
BILLING CODE 7536-01-M.

## FOUNDATION ON THE ARTS AND THE HUMANITIES

### Partnership Coordination Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a meeting of the Partnership Coordination Advisory Panel to the National Council on the Arts will be held March 24, 1980, from 9:00 a.m.–5:00 p.m., and March 25, 1980, from 9:00 a.m.–5:00 p.m., at the National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. The topics for discussion will be the Five Year Plan, Partnership consultations, leadership training.

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.

John H. Clark,
*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 80-5550 Filed 2-21-80; 8:45 am]
BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 22, 1980 (45 FR 4486). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., est.

#### Subcommittee and Working Group Meetings

**General Electric Test Reactor (GETR),* February 22, 1980, San Francisco, CA Area. RESCHEDULED for April 18–19, 1980 Sunol, CA.

**Three Mile Island, Unit 2 Accident Bulletins and Orders,* RESCHEDULED from March 3 to March 4, 1980, Washington, DC. An Ad Hoc Subcommittee will continue its consideration of the NRC Office of Inspection and Enforcement Bulletins and NRC Orders pertaining to the TMI-2 Accident. Notice of this meeting was published February 15.

**Babcock and Wilcox Water Reactors,* March 4, 1980, Washington, DC. POSTPONED INDEFINITELY. Notice of this meeting was published February 15.

**Regulatory Activities,* March 5, 1980, Washington, DC. CANCELLED.

**Three Mile Island, Unit 2 Accident Implications,* March 5, 1980, Washington, DC. An Ad Hoc Subcommittee will consider the potential installation of molten core crucibles under the Indian Point 2 & 3 and the Zion 1 & 2 Reactors. Notice of this meeting was published February 19.

**Three Mile Island, Unit 2 Accident Action Plan,* March 5, 1980, Washington, DC. An Ad Hoc Subcommittee will consider Draft 3 of the NRC "Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the Three Mile Island, Unit 2 Accident." Notice of this meeting was published February 19.

**Natural Circulation Heat Removal,* March 25, 1980, Washington, DC. An Ad Hoc Subcommittee will review information presently available on natural circulation and bleed and feed systems. Also, areas where inadequate information is available will be examined, and planned NRC research programs and tests at the Sequoyah and North Anna Reactors will be reviewed to determine their ability to meet the information needs.

**Concrete and Concrete Structures,* March 25–26, 1980, Washington, DC. The Subcommittee will review "user needs" in structural engineering and the way in which these needs have been and are being met.

*Anticipated Transients Without Scram (ATWS),* March 26, 1980, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff to continue discussion of the proposed resolution of ATWS.

**General Electric Test Reactor (GETR),* April 18–19, 1980, Sunol, CA. RESCHEDULED from February 22, 1980. The Subcommittee will continue its review of the geologic and seismologic aspects of the GETR plant site. Also, other matters related to the NRC Order to Show Cause may be discussed.

**Site Evaluation,* April 22, 1980, Washington, DC. The Subcommittee will review the proposed Emergency Planning Rule (10 CFR, Part 50) which was published in the Federal Register December 19, 1979.

#### ACRS Full Committee Meetings

*March 6–8, 1980*

A. *NRC "Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the Three Mile Island, Unit 2 Accident."

B. *10 CFR, Part 50, Appendix K, model changes re clad performance during LOCA transients.

C. *Clarification of ACRS report to the Nuclear Regulatory Commission, dated December 11, 1979, regarding the pause in licensing of nuclear facilities.

D. *Floating Nuclear Plant engineered safety features.

E. *NRC Bulletins and Orders resulting from the TMI-2 Accident.

F. *Proposed safety features for the Zion Nuclear Station and the Indian Point Nuclear Generating Station.

*April 10–12, 1980*

Agenda to be announced.

*May 1–3, 1980*

Agenda to be announced.

Dated: February 19, 1980.

John C. Hoyle,
*Advisory Committee Management Officer.*

[FR Doc. 80-5505 Filed 2-21-80; 8:45 am]
BILLING CODE 7590-01-M

## Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on March 6–8, 1980, in Room 1046, 1717 H Street, NW., Washington, D.C. This meeting was previously announced in the Federal Register of January 22, 1980.

The agenda for the subject meeting will be as follows:

*Thursday, March 6, 1980*

*8:30 A.M.–9:30 A.M.: Executive Session (Open)*—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will hear and discuss the report of its Subcommittee on the proposed NRC "Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the TMI–2 Accident" (NUREG–0660).

*9:30 A.M.–11:30 A.M.: Meeting with NRC Staff (Open)*—The Committee will hear and discuss proposed NRC plans for implementation of the NRC "Action Plans for Recommendations of the President's Commission and Other Studies of the TMI–2 Accident".

*11:30 A.M.–1:00 P.M.: Meeting with NRC Chairman (Open)*—The Committee will meet with the NRC Chairman and other NRC Commissioners who may be present to discuss NRC plans for implementing the NRC Action Plans.

*2:00 P.M.–3:30 P.M.: Meeting with NRC Staff (Open)*—The Committee will hear and discuss proposed NRC plans for implementation of the NRC "Action Plans for Recommendations of the President's Commission and Other Studies of the TMI–2 Accident".

*3:30 P.M.–5:30 P.M.: Meeting with NRC Staff (Open)*—The Committee will hear and discuss presentations from members of the NRC Staff and consultants who may be present regarding proposed changes to 10 CFR Part 50, Appendix K regarding nuclear fuel cladding performance during LOCA transients.

*5:30 P.M.–7:00 P.M.: Executive Session (Open)*—The Committee will discuss a proposed letter to an NRC Commissioner to clarify its report of December 11, 1979 regarding the pause in licensing of nuclear facilities.

*Friday, March 7, 1980*

*8:30 A.M.–12:30 P.M.: Meeting with NRC Staff (Open)*—The Committee will hear reports regarding and will discuss proposed plans for implementation of NRC Bulletins and Orders resulting from lessons learned as a result of the TMI–2 accident.

*1:30 P.M.–2:00 P.M.: Meeting with NRC Staff (Open)*—The Committee will discuss future Committee activities with representatives of the NRC Staff.

*2:00 P.M.–4:00 P.M.: Floating Nuclear Plant (Open)*—The Committee will hear and discuss reports from representatives of the NRC Staff and the Applicant regarding the need for and design of a core ladle in the floating nuclear plant.

*4:00 P.M.–6:00 P.M.: Meeting with NRC Staff (Open)*—The Committee will hear and discuss reports from representatives of the NRC Staff and the licensees as appropriate regarding the need for and design of additional engineered safety features in the Zion Station nuclear plants and the Indian Point Generating Station nuclear plants.

*Saturday, February 9, 1980*

*8:30 A.M.–4:00 P.M.: Executive Session (Open)*—The Committee will continue its discussion of proposed ACRS reports and recommendations regarding matters discussed during this meeting including the NRC Action Plans; NRC Bulletins and Orders; the pause in licensing of nuclear facilities; the FNP core ladle; and additional Engineered Safety Features for the Zion Nuclear Station Units 1 and 2 and the Indian Nuclear Generating Station, Units 2 and 3.

The Committee will discuss matters related to the activities of its Subcommittees on Resolution of Generic Items Applicable to Light Water Reactors, and seismic design of nuclear power plants.

The Committee will discuss recommendations of the NRC Special Inquiry Group on Three Mile Island regarding ACRS activities.

The Committee will complete discussion of other miscellaneous matters discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to matters being considered and to protect information the premature disclosure of which would frustrate the Committee in the performance of its statutory function.

Precedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1979 (44 FR 56408). In accordance with the procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during the those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. est.

Dated: February 19, 1980.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 80-5507 Filed 2-21-80; 8:45 am]

BILLING CODE 7590-01-M

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## Advisory Committee on Reactor Safeguards, Subcommittee Meetings Scheduled for March 3–4, 1980; Change

The March 3, 1980 meeting of the ACRS Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident Bulletins and Orders has been rescheduled to be held on March 4, 1980. Notice of this meeting was published in the Federal Register on February 15, 1980 and all other items regarding the meeting remain the same as published at that time.

The March 4, 1980 meeting of the ACRS Subcommittee on Babcock and Wilcox Water Reactors scheduled to be held on March 4, 1980 has been postponed indefinitely. Notice of this meeting was published in the Federal Register on February 15, 1980.

Dated: February 19, 1980.
John C. Hoyle,
*Advisory Committee Management Officer.*
[FR Doc. 80-5506 Filed 2-21-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

## Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications by deleting one isolation device and adding certain others to provide post-accident containment atmosphere sampling capability in order to meet Item 2.1.8.a, in this regard, of NUREG-0578, Short-Term Lessons Learned Recommendations.

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) application for amendment dated February 14, 1980, (2) Amendment No. 28 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. 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 15th day of February, 1980.

For the Nuclear Regulatory Commission.
Robert W. Reid,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*
[FR Doc. 80-5509 Filed 2-21-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-335]

## Florida Power & Light Co., St. Lucie, Unit No. 1; Order Modifying January 2, 1980, Show Cause Order

I

On January 2, 1980, Florida Power & Light Company (the licensee) was issued an Order to Show Cause (45 FR 2434, January 11, 1980) why it should not, by February 15, 1980, implement all "Category A" Lessons Learned requirements (excluding 2.1.7.a) or shut down St. Lucie, Unit No. 1 (the plant) unless among other things, a shutdown would severely impact the power reliability of the Florida subregion of the Southeastern Electric Reliability Council. the Order provided that it was temporarily effective pending further order.

II

The licensee answered the Order on January 22, and February 11, 1980, stating that all "Category A" requirements would be implemented by February 15, 1980, except the valve position indication requirements of Item 2.1.3.a. Information on power reliability was provided by the licensee on January 15, 1980. Completion of the in-containment work associated with this item necessitates a plant shutdown which the licensee has requested by deferred until the March 15, 1980 refueling outage. The bases for this request are power reliability, existing position indication for the subject relief valves and compensatory measures consisting of a dedicated man to minitor the relief valves in the control room until the outstanding requirements are met.

The Department of Energy (DOE) has reviewed the power reliability for Southeastern Florida and concluded that there is a risk of severe system reliability impacts if one of the licensee's three units (St. Lucie 1 and Turkey Point 3 and 4) is shut down during February 1980 or if two of these units are shut down during March 1980. Currently, Turkey Point 4 is required by its license to shut down on February 26, 1980, for steam generator tube inspections which will extend into the first half of March.

III

In view of the power reliability analysis conducted by DOE and the compensatory measures which the licensee could take, I find good cause shown to modify the January 2, 1980 Order. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that the January 2, 1980 Order is modified as follows:

(a) St. Lucie, Unit No. 1, shall be shut down for implementation of the "Category A" Lessons Learned requirements (excluding 2.1.7.a) on or before March 15, 1980, and

(b) Until implementation of "Category A" Item 2.1.3.a is complete, unless St. Lucie, Unit No. 1 is shut down, the licensee shall provide a dedicated, qualified person in the control room to monitor the power operated relief valve and the safety valve positions and to notify the control room operators if any out-of-normal indications are noted.

For the reasons given in the January 2, 1980 Order, I find that the public health, safety, and interest require that this Modification Order be temporarily effective as of this date.

IV

The licensee may file a written answer to this Order under oath or affirmation within twenty (20) days of the date of the Order. The licensee or any other person whose interest may be affected by this Order may request a hearing within twenty (20) days of the date of the Order. Any request for a hearing will not stay the temporary effectiveness of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. If a hearing is requested by a person whose interest may be affected by this Order, the Commission will issue an Order designating the time and place of any such hearing. In the event a hearing is requested, the issue to be considered at such hearing shall be:

Whether the remaining "Category A" requirements and the compensatory

measures should implemented in accordance with the schedule prescribed by this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Dated at Bethesda, Maryland, this 14th day of February, 1980.

For the Nuclear Regulatory Commission.

Edson G. Case,

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-5510 Filed 2-21-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-331]

## Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of the date of its issuance.

The amendment changes the Technical Specifications to allow the count rate in the Source Range Monitor channels to drop below 3 counts per second when the entire reactor core is being removed or replaced.

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 Section 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 2, 1980, (2) Amendment No. 57 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. 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 15th day of February 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch Number 3, Division of Operating Reactors.*

[FR Doc. 80-5511 Filed 2-21-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-331]

## Iowa Electric Light & Power Co., et al.; Issuance of Director's Decision Under 10 CFR 2.206

On July 6, 1979, notice was published in the Federal Register (44 FR 39648) that Citizens United for Responsible Energy (CURE), Community Action Research Group, and Iowa Public Interest Research Group had requested that the Director of Nuclear Reactor Regulation order suspension of License Amendment No. 46 to License No. DPR-49 for the Duane Arnold Energy Center. The Director has treated this petition as a request for action under 10 CFR 2.206. After a review of the relevant information, the Director has determined that there is no basis for suspending Amendment No. 46 to License No. DPR-49. Accordingly, the request by CURE, et al. has been *denied.*

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of this decision will also be filed with the Secretary of the Commission for review by the Commission in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes a review of this decision within that time.

Dated at Bethesda, Maryland this 13th day of February, 1980.

Harold R. Denton,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 80-5512 Filed 2-21-80; 8:45 am]

BILLING CODE 7590-01-M

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[Dockets Nos. 50-3, 50-247, and 50-286]

## Consolidated Edison Co. of New York (Indian Point, Units Nos. 1 and 2) and Power Authority of the State of New York (Indian Point, Unit No. 3); Solicitation of Comment on Director's Decision Under 10 CFR 2.206

On February 6, 1980, the Nuclear Regulatory Commission authorized the Director of its Office of Nuclear Reactor Regulation (NRR) to issue orders relating to the Indian Point nuclear facility (Units 1, 2 and 3) in Buchanan, New York. These orders constitute a partial grant and a partial denial of a petition to the Commission, filed by the Union of Concerned Scientists in September 1979. The petition was treated as a petition under 10 CFR 2.206 of the Commission's rules, under which persons may request the Director of NRR to institute a proceeding to modify, suspend, revoke, or take such other action as may be proper with regard to a specific license.

One order directs the licensee to show cause why Unit 1 should not be decommissioned. A second order directs the licensees (Consolidated Edison of New York and the Power Authority of the State of New York) to take a number of short-term actions designed to increase the safety of Units 2 and 3. The orders with respect to Units 2 and 3 were "confirmatory orders", meaning that they gave legal force to commitments already agreed to by the licensees. The Director's decision denies the UCS petition with regard to Units 2 and 3.

In authorizing the Director of NRR to issue these orders, the Commission made clear that it had not made a final judgment as to the merits of the orders, nor as to the form further Commission consideration of the matter should take. The Commission expressed its intent to seek the views of the interested public and parties before deciding which of several possible forms its further consideration of the Director's actions will take. The Commission decided against prohibiting operation of Units 2 and 3 pending further consideration of this matter. This determination was without prejudice to re-examining the continued acceptability of operation of these facilities in future consideration of this matter. The purpose of this Notice is

to solicit views both on the merits of the Director's decision and on the form that further Commission consideration should take.

Under the Commission's rules, a Director's partial or complete denial of a petition under 10 CFR 2.206 is reviewable by the Commission on its own initiative, if the Commission decides within 20 days of the Director's action to exercise that authority. The 20-day period may be extended. In addition, as 10 CFR 2.206(c) states explicitly, the Commission's power to review staff actions under this provision of the rules does not limit in any way the Commission's supervisory authority over delegated staff actions. The Commission also retains the authority to initiate rulemaking actions which may affect these and other nuclear power plants.

The Commission's options include those listed below. This list is not exhaustive, and some of the options are not mutually exclusive.

1. *Review Director's denial.* Under this option, the Commission would review the Director's denial on its merits.

2. *Decline to review Director's denial.* Under this option, the Commission would continue to exercise its supervisory power over the staff, and could step in if it saw the need for additional action.

3. *Initiate rulemaking proceeding to consider societal risks at nuclear power plants in high-density population areas.* Under this approach, the generic issues common to facilities located in high-density population areas would be considered in a rulemaking proceeding. This proceeding would explore issues such as the safety measures appropriate for nuclear power reactors in high population density areas.

4. *Refer Director's denial to a licensing board or to the Commission itself for adjudication.* Under this approach, the acceptability of the Director's denial would be tested in a formal adjudicatory hearing. If the decision were referred to a licensing board, the Commission would have the opportunity to review the decision reached by that board.

5. *Conduct an informal proceeding before the Commission.* Under this approach, designated parties would present their views on the correctness and sufficiency of the Director's decision in an informal format. Such a proceeding could either precede or follow a Commission decision on whether to review the Director's denial.

The Commission welcomes the views of interested parties and the public on these and other options, and on the merits of the Director's denial. The Commission requests that these comments be filed no later than February 29, 1980. In order to permit thorough consideration of the Director's denial in light of the comments that may be filed, the period within which the Commission may exercise its authority to review the Director's denial has been extended until March 7, 1980.

Dated at Washington, D.C., the 15th day of February 1980.

For the Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

Separate Views of Commissioner Gilinsky

I agree that the Director's orders dealing with safety improvements at the Indian Point and Zion power plants should be immediately effective. However, in continuing to deal with this matter as a review of the Director's response to a petition under part 2.206 of the Commission's regulations, the standard for which is whether the Director abused his discretion, the Commission is tip-toeing around its responsibilities when it should be confronting them directly.

The importance of the questions facing the Commission cannot be doubted. The far reach of the Director's orders underlines this point. The NRC staff estimates that operation of the Indian Point and Zion plants contributes approximately 40 percent of the total accident risk attributable to nuclear power generation in the United States.

The Commission must come to grips, as soon as possible, with three questions: whether it should adopt the safety policy and objective for existing reactors near high concentrations of population implicit in the Director's approach, or whether it should adopt another safety objective; whether the measures prescribed by the Director meet the safety standard approved by the Commission; and whether the plants may continue to operate while the first two questions are being resolved.

The Commission should now obtain public comment to help it formulate the safety policy and objective that should guide remedial action at Indian Point and Zion. After such a policy has been adopted, and this should take no more than 90 days, the Commission should appoint Atomic Safety and Licensing Boards to adjudicate the adequacy of the safety measures prescribed by the Director in terms of the safety objective adopted by the Commission. In view of the significance of the issues to be decided by the Licensing Board, the Commission should now decide that it will review the Board's determination. Finally, the Commission should decide at the outset, on the basis of a fuller record than it has before it, whether to permit continued operation of the plants during the foregoing hearings. That record should cover not only the safety state-of-affairs at the Indian Point and Zion plants and the degree of public protection possible, but also the present need for the electricity generated by these plants.

Separate Views of Commissioner Bradford

I agree that this Federal Register Notice states the decision reached by the Commission, and I therefore concur in issuing it. However, I would have preferred to have taken the Director's decision as advisory to the Commission and put it out for comment on that basis. The Commission itself would then have spoken with some finality at the outset in charting the procedural course to deal with the questions raised by Indian Point.

In the present Federal Register Notice, I think it a mistake to list Options 1 and 2 (review and no review). It is inconceivable that the Commission will not review some aspects of the Indian Point question, and potential commenters should not have been asked to waste their time preparing comments on "options" not really before us. Additionally, the Federal Register Notice should have expressly noted that the Commission's decision in this matter could affect other nuclear power plants in densely populated areas besides Indian Point 2 and 3. For example, the Director will shortly issue confirmatory orders for Zion Units 1 and 2 which will be similar to the orders for Indian Point Units 2 and 3.

Based on the staff assessment that the public health and safety is adequately protected, it is my view that Indian Point 2 and 3 may be permitted to continue in operation at least pending Commission review of the comments solicited here. Nevertheless, there seems to be wide agreement that the Indian Point site would not be acceptable by today's standards. Consequently, the long run acceptability of these two units, even with the proposed changes, remains an open question in my view. It is a question that requires a maximum of informed assessment of the risks and the benefits and the alternatives by citizens in the area and by the government of the state of New York as well as by this agency. Future proceedings will need to be structured with this need in mind.

[FR Doc. 80-5508 Filed 2-21-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 80N-0063]

## Potassium Iodide for Thyroid Blocking in a Radiation Emergency Only; Approval and Availability

Cross Reference: For a document issued by the Food and Drug Administration that announces approval and availability of potassium iodide for thyroid blocking in a radiation emergency, see FR Doc. No. 80-5644 appearing elsewhere in the "notices" section of this issue of the Federal Register.

BILLING CODE 4110-03-M

## PRESIDENTIAL COMMISSION ON WORLD HUNGER

### Meetings

The Public Participation and Communication Subcommittee of the Presidential Commission on World Hunger will meet on February 26, 1979 in room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

The agenda for the meeting will include discussion on the Commission's public education program.

The full Presidential Commission on World Hunger will hold its eleventh meeting on February 29, 1979 in Room 2168 of the Rayburn House Office Building at Independence and S. Capitol St. S.W., Washington, D.C. The meeting will begin at 9:30 a.m.

The agenda for the meeting will include discussion of draft portions of the Commission's Report.

These meetings are open to observation by the public. Persons interested in attending the meetings should address a letter to the Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. Admission of observers will be on the basis of the earliest postmark and to the extent space is available.

The agenda for the meeting will include discussion of draft portions of the Commission's Report.

Donald B. Harper,

*Administrative Officer, Presidential Commission on World Hunger.*

[FR Doc. 80-5513 Filed 2-21-80; 8:45 am]

BILLING CODE 6820-97-M

## DEPARTMENT OF STATE

[Public Notice CM-8/273]

### Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on bulk chemicals of the Subcommittee on Safety of Life at Sea, will conduct an open meeting at 9:30 on March 13, 1980 in Room 1303 of the Department of Transportation's Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of the meeting will be to discuss the following topics:

Procedures and arrangements for the discharge of noxious liquid substances;

Carriage of Annex I and Annex II substances simultaneously on a ship;

Extension of the Bulk Chemical Code to cover pollution aspects;

Review and updating of the Gas Carrier Code;

Handling in ports of liquid chemicals and liquified gases in bulk, and

Inert gas requirements for chemical tankers and gas carriers.

Requests for further information should be directed to Mr. Frits Wybenga, U.S. Coast Guard (G-MHM-1/TP14), Washington, D.C. 20593, telephone: (202) 426-1217.

Dated: February 14, 1980.

John Todd Stewart,

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 80-5503 Filed 2-21-80; 8:45 am]

BILLING CODE 4710-07-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### Importation of Tuna and Tuna Products From Peru Prohibited

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** General Notice.

**SUMMARY:** This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that eight United States fishing vessels, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, were seized by Peru as a consequence of a claim of jurisdiction which is not recognized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

**EFFECTIVE DATE:** This prohibition is effective as to tuna and tuna products from Peru imported on or after February 22, 1980. Such importations shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

**FOR FURTHER INFORMATION CONTACT:**

Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8651).

**SUPPLEMENTARY INFORMATION:**

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On November 13, 1979, the *Stacey Antoinette, Jeanne Lou, Gina Karen, Jeanine, American Eagle, Connecticut Yankee, Sea Encounter,* and *Osprey,* fishing vessels of the United States, were seized by authorities of the government of Peru approximately 72 to 100 miles off the shore of Peru for fishing tuna without Peruvian authorization. Peru claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to Section 205(a) of the Act, on February 7, 1980, the Assistant Secretary of State certified the seizure of these eight vessels as meeting the requirements of section 205(a)(4)(C) of the Act.

Determination

Under the authority of sections 205 (b) and (c) of the Fishery Conservation and Management Act of 1976, on February 8, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

### Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: February 14, 1980.

John Simpson,

*Acting Assistant Secretary of the Treasury.*

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## Internal Revenue Service

**[Delegation Order No. 57 (Rev. 4)]**

## Delegation of Authority to Service Center Directors

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Delegation of Authority.

**SUMMARY:** This revision to Delegation Order No. 57 (Rev. 3), dated August 18, 1972, grants Service Center Directors the authority to sign the notice to taxpayers as required by IRC Section 7605(b), that an additional inspection of their books of account is necessary. At present, only District Directors and the Director of International Operations have this authority. The text of the Delegation Order appears below.

**EFFECTIVE DATE:** February 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** John L. Wedick, Jr., CP:E, 1111 Constitution Avenue, NW., Room 2501, Washington, D.C. 20224, Telephone (202) 566-4046.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

John L. Wedick, Jr.,

*Director, Examination Division.*

[Order No. 57 (Rev. 4)]

Date of issue: February 20, 1980.
Effective Date: February 20, 1980.

### Notice of Additional Inspection of Taxpayer's Books of Account Under Section 7605(b), Internal Revenue Code 1954

Pursuant to the provisions of Section 7851(b)(3) of the Internal Revenue Code of 1954, there is hereby delegated to each District Director, Service Center Director, and to the Director of International Operations, the authority to sign in his/her name, after investigation, on the notice to a taxpayer, required by Section 7605(b) of the Internal Revenue Code of 1954, that an additional inspection of such taxpayer's books of account is necessary.

This authority may not be redelegated.

This order supersedes Delegation Order No. 57 (Rev. 3) issued August 18, 1972.

Jerome Kurtz,

*Commissioner.*

[FR Doc. 80-5563 Filed 2-21-80; 8:45 am]
BILLING CODE 4830-01-M

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**[Delegation Order No. 97 (Rev. 17)]**

## Delegation of Authority to Assistant Commissioner (Technical) et al.

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Delegation of authority.

**SUMMARY:** As a result of the enactment of Internal Revenue Code sections 6110, 7428, 7476, 7477 and 7478, and delegations of authority in Commissioner's Delegation Order No. 60 (Chief Counsel's Order No. 1031.1A), the Assistant Commissioner (Technical) and the Assistant Commissioner (Employee Plans and Exempt Organizations) may have joint jurisdiction with the Chief Counsel in some United States Tax Court cases and may desire to enter into closing agreements under Code section 7121 in such cases. Delegation Order No. 97 has been revised to give them such authority. The text of the delegation order appears below.

**EFFECTIVE DATE:** February 19, 1980.

**FOR FURTHER INFORMATION CONTACT:** Roland Ford, Office of the Assistant Commissioner (Technical), 1111 Constitution Avenue, NW., Room 3508, Washington, D.C. 20224, (202) 566-4066 (Not toll free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Gerald G. Portney,

*Assistant Commissioner (Technical).*

[Order No. 97 (Rev. 17)]

**DATE OF ISSUE:** February 19, 1980.

**EFFECTIVE DATE:** February 19, 1980.

### Closing Agreements Concerning Internal Revenue Tax Liability

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32; Treasury Department Order No. 150-36; and Treasury Department Order No. 150-83, subject to the transfer of authority covered in Treasury Department Order No. 221, as modified by Treasury Department Order No. 221-3 (Rev. 2), as revised, this authority is hereinafter delegated.

1. The Assistant Commissioner (Technical) is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions if the request to the Assistant Commissioner (Technical) for determination or ruling was made before any affected returns have been filed.

2. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Assistant Commissioner (Compliance) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) with respect to the performance of his/her functions as the competent authority in the administration of the operating provisions of the tax conventions of the United States.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction, that is, in respect of any transaction concerning employee plans or exempt organizations.

4. Regional Commissioners; Regional Directors of Appeals; Assistant Regional Commissioners (Examination); District Directors; Director of International Operations; Chiefs and Associate Chiefs of Appeals Offices, are hereby authorized in cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. The Assistant Commissioner (Technical); the Assistant Commissioner (Employee Plans and Exempt

Organizations); Regional Commissioners; Regional Directors of Appeals; Chiefs and Associate Chiefs of Appeals Offices are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

6. The Director of International Operations is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64–54, C.B. 1964–2, 1008, under Revenue Procedure 72–22, C.B. 1972–1, 747, and under Revenue Procedure 69–13, C.B. 1969–1, 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65–17, C.B. 1965–1, 833.

7. The authority delegated herein does not include the authority to set aside any closing agreement.

8. Authority delegated in this Order may not be redelegated, except that the Assistant Commissioner (Technical) may redelegate the authority contained in paragraph 1 to the Deputy Assistant Commissioner (Technical) and to the Technical Advisors on the Staff of the Assistant Commissioner (Technical) for cases that do not involve precedent issues, the Assistant Commissioner (Compliance) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioner (Compliance), and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the Staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues.

9. Delegation Order No. 97 (Rev. 16), issued October 1, 1978, is hereby superseded.

Jerome Kurtz,

*Commissioner.*

[FR Doc. 80-5564 Filed 2-21-80; 8:45 am]

BILLING CODE 4830-01-M

## Office of Industrial Economics

### Class Life Asset Depreciation Range System; Study of Assets Used to Manufacture Food and Tobacco Products

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated a study of guidelines depreciation periods and repair allowance percentages for assets used in the manufacture of food and kindred products and tobacco products currently included in asset guideline classes 20.1, 20.2, 20.3, 20.4, 20.5 and 21.0 (Revenue Procedure 77–10, 1977–1 C.B. 548), under the Class Life Asset Depreciation Range System (Secs. 167(m) and 263(e), Internal Revenue Code of 1954).

All persons interested in this study may submit comments in writing to OIE. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on March 18, 1980, at which time the requirements and procedures for obtaining and analyzing the requisite information will be discussed. The agenda for the meeting and exact time and place may be obtained by writing to OIE.

All communications concerning this study should be addressed to: Office of Industrial Economics, Project 20 and 21, P.O. Box 28018, Washington, D.C. 20005.

Dated: February 15, 1980.

Approved by:

Karl Ruhe,

*Director, Office of Industrial Economics.*

[FR Doc. 80-5412 Filed 2-21-80; 8:45 am]

BILLING CODE 4810-25-M

## VETERANS ADMINISTRATION

### Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC on March 14, 1980, at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202–389–2864), prior to March 10, 1980.

Dated: February 14, 1980.

By direction of the Administrator.

John J. Leffler,

*Associate Deputy Administration.*

[FR Doc. 80-5432 Filed 2-21-80; 8:45 am]

BILLING CODE 8320-01-M

### Availability of Summary Report of 38 U.S.C. 219 Program Evaluation; Prosthetic Treatment Program

Notice is hereby given that the program evaluation of the Veterans Administration's Prosthetic Treatment Program has been completed.

Single copies of the Prosthetic Treatment evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: February 11, 1980.

By direction of the Administrator.

Rufus H. Wilson,

*Deputy Administrator.*

[FR Doc. 80-5433 Filed 2-21-80; 8:45 am]

BILLING CODE 8320-01-M

## Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on March 17, 1980, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Claiborne County Board of Education Farm Cooperative Training Program, Tazewell, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: February 13, 1980.

R. S. Bielak,

*Director, 110 Ninth Avenue, South, Nashville, Tennessee.*

[FR Doc. 80–5504 Filed 2–21–80; 8:45 am]

BILLING CODE 8320–01–M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 37
Friday, February 22, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS


| | Items |
|---|---|
| Civil Aeronautics Board | 1 |
| Federal Election Commission | 2 |
| Federal Energy Regulatory Commission | 3, 4 |
| Federal Home Loan Bank Board | 5 |
| Federal Labor Relations Authority | 6 |
| Federal Mine Safety and Health Review Commission | 7 |
| Federal Reserve System | 8 |
| Foreign Claims Settlement Commission | 9 |
| National Transportation Safety Board | 10 |
| Nuclear Transportation Safety Board | 11 |
| Postal Service | 12 |
| United States Railway Association | 13 |


### 1

**[M-270, Amdt. 1; Feb. 19, 1980]**

**CIVIL AERONAUTICS BOARD:** Notice of addition of item to the February 21, 1980 meeting agenda

**TIME AND DATE:** 9:30 a.m., February 21, 1980.

**PLACE:** room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 10. Docket 37611, Investigation of capacity controlled fares offered by Eastern Air Lines, Inc. (Memo 9489, BCP, OGC).

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** Item 10 is being added to the February 21, 1980 aganda because the staff has just completed the necessary work on this item and the Board should take action as soon as possible because delay will interfere with the completion of an ongoing investigation. Accordingly, the following Members have voted that Item 10 be added to the February 21, 1980 aganda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-358-80 Filed 2-20-80; 3:50 pm]

BILLING CODE 6320-01-M

### 2

**FEDERAL ELECTION COMMISSION.**

**FEDERAL REGISTER NO. 306.**

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Wednesday, February 20, 1980 at 10 a.m.

**CHANGE IN MEETING:** The following has been added to this closed meeting: audit matter.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Thursday, February 21, 1980 at 10 a.m.

**CHANGE IN MEETING:** The following matters have been added to this open meeting:

Committee for Jimmy Carter—Statements of net outstanding campaign obligations (continued from February 14 meeting).
Final audit report on the College Republican Committee.
Reason to believe findings.
Contributions to and expenditures by delegates to national nominating conventions.
Public Law 96-187—Proposed draft regulations.

**DATE AND TIME:** Tuesday, February 26, 1980 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:** Compliance. Personnel.

**DATE AND TIME:** Thursday, February 28, 1980 at 10 a.m.

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions:
Draft AO 1979-80—J. Curtis Herge, National Conservative Political Action Committee.
Draft AO 1980-3—Jeff Faux, Citizens Committee.
Draft AO 1980-6—David R. Cassidy, Louisiana Farm Bureau Federation, Inc.
Draft AO 1980-7—Michael Roster, California Saving & Loan League, Central Capital Corporation.
Nonfiler procedures (continued from February 7).
1980 election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.
Public Law 96-187, Proposed draft regulations; Proposed draft forms.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, public information officer, telephone: 202-523-4065.

Marjorie W. Emmons,
*Secretary to the Commission.*

[S-347-80 Filed 2-13-80; 4:13 pm]

BILLING CODE 6715-01-M

### 3

February 19, 1980.

**FEDERAL ENERGY REGULATORY COMMISSION.**

**TIME AND DATE:** 2:30 p.m., February 19, 1980.

**PLACE:** 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Docket No. CP77-71, Natural Gas Pipeline Co., Docket No. CP77-118, Columbia Gas Transmission Co., and Columbia Gulf Transmission Co., Docket No. CP77-125, Texas Gas Transmission Corp.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

Kenneth F. Plumb,
*Secretary.*

[S-353-80 Filed 2-20-80; 2:08 p.m.]

BILLING CODE 6450-85-M

### 4

**FEDERAL ENERGY REGULATORY COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** To be published February 20, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 10 a.m., February 20, 1980.

**CHANGE IN THE MEETING:** The following items have been added:

*Item No., Docket No., and Company*

CAM-5—Opinion Letters regarding Section 311(a)(1) of NGPA and Part 284.
M-10(A)—RM80-24, Rule Required by Section 206(a) Defining Small Boiler Fuel Users.
M-10(B)—RM80-25, Exemption from the Rule Required by Section 206(a) Defining Small Boiler Fuel Users.
M-11—RM80-, Delegation of the Commission's Authority to the Director of Office of Pipeline and Producer Regulation.

Kenneth F. Plumb,
*Secretary.*

[S-80-354-80 Filed 2-23-80; 2:08 pm]

BILLING CODE 6450-85-M

5

**FEDERAL HOME LOAN BANK BOARD:**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** Vol. 44, FR Page 11000, February 19, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 9:30 a.m., February 21, 1980.

**PLACE:** 1700 G Street NW., Sixth Floor, Washington, D.C.

**STATUS:** Open Meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Marshall (202–377–6677).

**CHANGES IN THE MEETING:** The following item has been added to the agenda for the open meeting: Regulation on "Reserve Requirements."

Announcement is being made at the earliest practicable time.

No. 318, February 20, 1980.

[S–357–80 Filed 2–20–80; 3:12 pm]

BILLING CODE 6720–01–M

6

**FEDERAL LABOR RELATIONS AUTHORITY.**

**TIME AND DATE:** 10 a.m., Tuesday, March 4, 1980.

**PLACE:** U.S. Court House, Court Room 10, Constitution Avenue and John Marshall Place NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Oral argument on the issue: Whether and to what extent performance appraisal systems required by section 4302 of the Civil Service Reform Act of 1978 (92 Stat. 1132), including performance standards for employees or positions and the critical elements of positions under such systems, are negotiable under section 7117 of the Federal Service Labor-Management Relations Statute (92 Stat. 1205).

This oral argument will continue on Wednesday, March 5, 1980, if deemed necessary by the Authority.

**CONTACT PERSON FOR MORE INFORMATION:** Jerry P. Hardiman, Director, Office of Operations, Telephone (202) 254–7362.

Samuel A. Chaitovitz,

*Executive Director.*

February 19, 1980, Washington, D.C.

[S–349–80 Filed 2–20–80; 10:22 am]

BILLING CODE 6325–19–M

7

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

**TIME AND DATE:** 10 a.m., Thursday, February 21, 1980.

**PLACE:** Room 600, 1730 K Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Discussion of Commission procedural rule 2700.30 (Published at 44 FR 38230, June 29, 1979).

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202–653–5632.

[S–348–80 Filed 2–20–80; 9:23 am]

BILLING CODE 6820–12–M

8

**FEDERAL RESERVE SYSTEM.** Board of Governors.

**TIME AND DATE:** 10 a.m., Wednesday, February 27, 1980.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Proposed uniform policy for the classification of delinquent consumer instalment loans. (Proposed earlier for public comment; docket no. R–0217)

2. Proposed delayed effective date of the revocation of the amendment to Regulation 2 (Truth in Lending) concerning the cooling-off period for consumers who pledge their homes as security for open-end credit arrangements.

3. Proposed amendments to Regulation L (Management Official Interlocks) prescribing, among other things, certain exceptions for interlocking relationships that would otherwise be prohibited by Title II of the Financial Institutions Regulatory and Interest Rate Control Act. (Proposed earlier for public comment; docket no. R–0198)

4. Proposed amendments to Regulation T (Credit by Brokers and Dealers) regarding the time period within which margin deposits must be obtained, and the handling of requests for extensions of time for payment received from any broker-dealer. (Docket no. R–0245)

5. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

February 19, 1980.

[S–346–80 Filed 2–19–80; 4:12 p.m.]

BILLING CODE 6210–01–M

9

[F.C.S.C. Meeting Notice No. 2–80]

**FOREIGN CLAIMS SETTLEMENT COMMISSION.**

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

*Date, Time, and Subject Matter*

Wednesday, March 5, 1980, at 10:30 a.m.—Canceled.
Wednesday, March 12, 1980, at 10:30 a.m.—Canceled.
Wednesday, March 19, 1980, at 10:30 a.m.—Canceled.
Wednesday, March 26, 1980, at 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111–20th Street, N.W.; Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111–20th Street, N.W., Washington, D.C. 20579. Telephone: (202) 653–6155

Dated at Washington, D.C. on February 19, 1980.

Francis T. Masterson,

*Executive Director.*

[S–355–80 Filed 2–20–80; 3:12 pm]

BILLING CODE 6770–01–M

10

**NATIONAL TRANSPORTATION SAFETY BOARD.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 45 FR 10112, February 14, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** Thursday, February 21, 1980, 9 a.m. [NM–80–9].

**CHANGE IN MEETING:** A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

**STATUS:** The first nine items are open to the public; the last three items are closed under Exemption 10 of the Government in the Sunshine Act.

**MATTERS TO BE CONSIDERED:**

1. *Aircraft Accident Report*—Puerto Rico International Airlines, Inc., deHavilland Heron, DH-114, N575PR, Alexander Hamilton Airport, Chritiansted, St. Croix, U.S. Virgin Island, July 24, 1979.

2. *Pipeline Accident Report*—Southern Natural Gas Company, rupture and fire of a 14-inch gas transmission pipeline, southeast of New Orleans, Louisiana (offshore), July 15, 1979, and *Recommendations* to the American Gas Association, the American Petroleum Institute, the Offshore Operator's Committee, the International Association of Drilling Contractors, Shell Oil Company, the U.S. Department of the Interior, and the U.S. Coast Guard.

3. *Recommendation*—To American Gas Association and Northwestern Public Service Co. re Grand Island, Nebraska, pipeline accident, August 28, 1978.

4. *Special Study*—Fatal Highway Accidents on Wet Pavement—The Magnitude, Location, and Characteristics.

5. *Safety Objective Program Plan*—Pipeline Data System.

6. *Special Investigation Report*—The Accident Performance of Tank Car Safeguards.

7. *Safety Objective Program Plan*—Increased Shippers' Involvement in Hazardous Materials Transportation Activities.

8. *Safety Objective Program Plan*—Performance Standards for Bridge Barrier Systems.

9. *Safety Objective Program Plan*—Collisions in Restricted Waters (VTS).

10 *Opinion and Order—Petition of Harrington, Dkt. SM-2453; disposition of petitioner's appeal.*

11. *Opinion and Order*—Administrator v. Weis, Dkt. SE-4011; Administrator v. Hurrelbrink, Dkt. SE-4008; disposition of the appeals of each party.

12. *Opinion and Order*—Petition of Dodson, Dkt. SM-2366; disposition of Administrator's appeal.

**CONTACT PERSONS FOR MORE INFORMATION:** Sharon Flemming 202-472-6022.

February 20, 1980.

[S-356-80 Filed 2-20-80; 3:12 pm]

BILLING CODE 4910-58-M

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11

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** February 19, 22, and 25, 1980.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open/Closed.

**MATTERS TO BE CONSIDERED:**

*Tuesday, February 19, 2 p.m.*

Discussion of Reorganization Plan (Approximately 1 hour—closed, exemptions 2, 6, 9).

*Friday, February 22, 3 p.m.*

Discussion of Siting Policy Issues (Approximately 1½ hours—rescheduled from February 19—public meeting).

*Monday, February 25, 2 p.m.*

Continuation of Briefing on Sequoyah (Approximately 2 hours—continued from February 15—public meeting).

**CONTACT PERSON FOR MORE INFORMATION:** Walter Magee, (202) 634-1410.

Roger M. Tweed,

*Office of the Secretary.*

[S-351-80 Filed 2-20-80; 12:37 pm]

BILLING CODE 7590-01-M

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12

**POSTAL SERVICE.** Board of Governors.

*Notice of Vote To Close Meeting.*

On February 6, 1980, the Board of Governors of the United States Postal Service voted to close to public observation portions of its meeting scheduled for March 4, 1980. Each of the members of the Board (except Mr. Allen, who was absent) voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

A portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking, which was commenced at the Board's December meeting and continued at its January and February meetings.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

The other portion of the meeting to be closed is to involve a discussion concerning adjustments in the compensation of certain officers of the Postal Service. The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, not only in regard to the privacy of the officials immediately affected, but also in regard to the privacy of others whose comparative performance might be discussed.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(6) of title 5, United States Code, and section 7.3(f) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board has also determined that the public interest does not require that the Board's discussion of these compensation adjustments be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that, in his opinion, the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of title 5, United States Code and section 7.3(f) of title 39, Code of Federal Regulations.

Louis A. Cox,

*Secretary.*

[S-350-80 Filed 2-20-80; 12:37 pm]

BILLING CODE 7710-12-M

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13

**UNITED STATES RAILWAY ASSOCIATION.**

**TIMES AND DATES:** 5 p.m., February 28, 1980., 9 a.m., February 29, 1980.

**PLACE:** 955 L'Enfant Plaza North, S.W. Board Room, Room 2-500, Fifth Floor, Washington, D.C.

**STATUS:** Portions of the meetings will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:** Portions closed to the public (5 p.m., February 28, 1980).

1. Consideration of internal personnel matters.
2. Litigation report.

Portions closed to the public (9 a.m., February 29, 1980).

1. Review of Conrail proprietary and financial information for monitoring and investment purposes.

Portions open to the public (10:30 a.m., February 29, 1980).

2. Approval of minutes of the February 7, 1980 Board of Directors meeting.
3. Report on Conrail monitoring.
4. Consideration of Conrail Second Quarter Investment Commitment Request.
5. Consideration of Conrail Drawdown Request for March.
6. Consideration of Shortfall in 211(h) Loan Program.

**CONTACT PERSON FOR MORE INFORMATION:** Alex Bilanow, (202) 426-4250.

[S-352-80 Filed 2-20-80; 12:37 pm]

BILLING CODE 8240-01-M

Federal Register

Friday
February 22, 1980

Part II

# Department of Health, Education, and Welfare

## Office of Human Development Services

## Guidelines for the Development of State Child Welfare Services Plans

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Human Development Services

### Guidelines for the Development of State Child Welfare Services Plans

**AGENCY:** Office of Human Development Services, Department of Health, Education, and Welfare.

**ACTION:** Notice of Proposed Guidelines for the Development of State Child Welfare Services Plans.

**SUMMARY:** This Notice contains the proposed Guidelines for the Development of State Child Welfare Services Plans, under the authority of sections 420–425 of the Social Security Act (title IV–B), and the current regulations (45 CFR Part 220). The Guidelines describe the elements of the State Plan and the revised process by which the Administration for Children, Youth and Families/Children's Bureau and each State agency will jointly develop its State Plan. The required elements of the State Plan and the processes are revised in part. They are based on the current regulations. This Notice is being published to enable the Department to receive comments from the public on the Guidelines so that they may be strengthened, revised and clarified, if necessary, before they are finalized.

New State Plans will be developed during 1980, to be effective no later than October 1, 1980. The first year plans will be effective for approximately one year. These Plans will be developed using the new guidelines.

**DATE:** In order to be considered, comments must be in writing and received no later than March 21, 1980.

**ADDRESS:** Comments should be sent to—Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Beatrice D. Moore, Director, Child Welfare Services, State Grant Division, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–8888.

**SUPPLEMENTARY INFORMATION:**

#### A. Introduction

The Administration for Children, Youth and Families/Children's Bureau (ACYF/CB), is undertaking two major activities during 1980 in the title IV–B (Child Welfare Services States Grant) Program: (1) Under the authority of the regulation at 45 CFR 220.71, instructions on the form and subject matter of the State Plan are being revised; and (2) States are being required to jointly develop new State Plans with ACYF/CB, to be effective no later than October 1, 1980.

This Notice contains in proposed form the new instructions, entitled Guidelines for the Development of State Child Welfare Services Plans, and provides for public comment. The regulations do not require that these instructions be published. This Notice is being published, however, for the reasons stated below.

First, we hope that comments we receive will enable us to clarify and otherwise improve the Guidelines. Second, over the past year, ACYF/CB has been discussing with States the revision of the regulations, and new State Plans under them. ACYF/CB is committed to involving States in the process of revising requirements.

However, the regulatory revision process is so lengthy that new State Plans could not be developed for FY 1981. Further, the Congress has before it proposed amendments to the title IV–B program. If the bill (H.R. 3434) is enacted into law, the regulations will have to be revised. Therefore, revision of the regulations has been delayed pending enactment of the proposed amendments.

Federal leadership and joint State-Federal planning under the Program have been lacking for several years. During that time, child welfare services have declined in quality and have had limited relevance to the needs of children and their families. New, more effective plans are needed to improve child welfare services beginning with FY 1981.

These Guidelines are also being sent to the Office of Management and Budget (OMB) at this same time for preliminary review. The final revised Guidelines will be submitted to OMB for formal reports review.

#### B. Background

The purpose of State grants for child welfare services under title IV–B is to assist State agencies:

(1) To develop a greater capability to provide child welfare services;

(2) To foster development of comprehensive and coordinated services;

(3) To better serve those children and their families in need of these services by:

(a) Extending the scope and resources of the services;

(b) Improving the quality of the services through qualified staff and innovative methods; and

(c) Extending community planning and participation in the provision of services.

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. The Program is conducted under title IV–B (Sections 420–425) of the Act (42 USC 620–625). Historically, the Program has provided Federal grants to establish, extend, and strengthen child welfare services in the States. Grants are made to State agencies on the basis of a plan developed jointly by the Children's Bureau and the State agency. A partnership was firmly established between the Federal and State governments for the provision of child welfare services by the State.

Under title IV–B, formula grants are allocated to the States for providing and improving child welfare services to children and their families in need of services without regard to income.

In most States, the primary use of the funds in recent years has been for foster care. Other services provided with the IV–B funds include adoption, day care and protective services to abused and neglected children.

State Plans currently in force are those which were developed in 1969. Since that time States have submitted some amendments (the last in 1975) and an annual budget, which has been the basis for awarding the grants.

Wide recognition of the problems in the child welfare services system has led the Administration and the Congress to propose amendments to title IV–B (and to the closely related areas of AFDC-Foster Care Maintenance and adoption subsidies). These Amendments would strengthen the title IV–B program. If the Amendments are enacted, however, substantial progress in strengthening families and improving children's lives will depend on active Federal leadership and increased joint planning.

Therefore, ACYF/CB and the States will jointly develop new State Plans during 1980, to be effective by October 1, 1980. These new State Plans will be developed in accordance with the procedures described in these Guidelines.

#### C. Changes in the Format of State Plans

Currently, the State Plan consists of two parts, the Basic Plan and the Annual Budget. The current Basic Plans are detailed, narrative descriptions of how the State agency meets each of the requirements of 45 CFR Part 220. Most of these descriptive Plans have not been updated for several years. They do not provide a picture of the child welfare services system within the State. Thus, the current Basic Plans are ineffective vehicles for improving the child welfare services system.

The Annual Budget is primarily a mechanism for awarding funds to States. It provides minimal information about service provision. It is generally completed by a fiscal official and is rarely reviewed by a program official. It is not linked to planning for the improvement of child welfare services.

The current State Plan format also requires State agencies to complete a request for funds each quarter. Thus, States must complete five fiscal documents, none of which are aids to improved plans for the next year.

In order to make the State Plan and the planning process more useful for improving services, the instructions for State Plan development are being revised. New State Plans will be developed under the new instructions.

The proposed Guidelines, published in this Notice, describe the revised instructions for State Plans. The regulation provides clear authority for these changes under paragraphs (a), (b), and (d) of 45 CFR 220.71, which states, in part, "The basic plan * * * shall be developed in accordance with instructions as to form and subject matter issued by the Social and Rehabilitation Service". (The Office of Human Development Services (OHDS) is the successor agency to the Social and Rehabilitation Service.) OHDS has delegated the authority to administer the title IV–B program, and therefore to issue instructions as to the form and content of the "basic plan", to the Administration for Children, Youth and Families.

The new format requires the State agency to make changes necessary to meet the ongoing specific requirements stated in the regulation. It also requires development of goal-oriented plans for future years that specify how the goals will be reached.

The regulations, at 45 CFR 220.71(b), make clear that the Plan will include "the total State program of child welfare services." Thus, the State Plan will include all child welfare services in the State under the administration or supervision of the State agency designated to carry out the State's responsibilities. This will include the child welfare services reimbursed under title XX of the Social Security Act as well as under title IV–B.

The title IV–B legislation, regulations, and State Plan Guidelines are directed toward development of a plan to improve all child welfare services, not only those supported by one funding source. However, no funds other than title IV–B funds would be at issue where the State and ACYF/CB are unable to jointly develop a Plan or where the State fails to adhere to the Plan.

States will have the latitude to coordinate their planning processes for title IV–B and XX (the Comprehensive Annual Services Plan or CASP) to avoid unnecessary duplication of effort. These processes may include development and submission of the Plans at the same time and use of information for determining needs for both programs.

Under the new State Plan Guidelines, the CWSP will include: (1) the Assurances, (2) the Long Range Strategy, (3) the Annual Operating Plan, and (4) the Annual Budget Request.

(1) *The Assurances:* The Assurances constitute the State agency's commitment to meet the basic requirements of the Act in its child welfare services program. The Assurances are basically a series of requirements concerning the organization and administration of the child welfare services system within the State, the provision of certain basic services, and the need to establish and adhere to certain standards when providing services. The Assurances also provide commitments related to the structure and procedures for State operation of the child welfare services program. They are expressed in the language of the regulations, except where organizational or legislative changes or proper phrasing require rewording.

The Assurances do not alter the substantive requirements that States must meet. The requirements continue to be based on the act and regulations.

ACYF is, however, changing the format by which the State agency must indicate it meets the Assurances. Under the current State Plan, the documentation that the State agency provides to demonstrate that it is meeting the requirements constitutes the major portion of the Plan. Under the new format, the State agency will be required to submit a preprinted form signed by the State Administrator, to assure its commitment to meeting these requirements. The State will not need to submit supporting documentation of its adherence to the Assurances. However, the State agency will continue to be responsible for having this documentation available for monitoring purposes and for actually providing the required services.

Commentary on the Assurances has also been developed, to clarify meaning and to provide the basis for a common understanding.

(2) *The Long Range Strategy:* The Long Range Strategy expresses the State agency's goals for establishing, strengthening, extending, and otherwise improving child welfare services over the two or three year period of the CWSP. The State agency jointly develops the Strategy with the ACYF/CB. The Long Range Strategy consists of two sections, the needs analysis and long range goals and objectives.

The needs analysis is a critical element in the development of an effective strategy for strengthening and extending child welfare services. The analysis is a review and comparison of the services needs of children and families and of the program requirements in relation to the nature, scope and availability of services in the State. In this process, deficiencies or duplications and barriers to improved services delivery are identified. It also will ensure that plans are not made in the absence of critical information.

Identification and analysis of the deficiencies in the State's capability to provide the basic child welfare services required in the Assurances must be a major consideration in an analysis of program and services needs. Assurances that the State cannot meet must be addressed in the goals of the Long Range Strategy.

States must establish priorities among the program and services needs identified in the analysis and establish goals and objectives for meeting priority needs in the Long Range Strategy. The rationale for not including other unmet needs must be briefly discussed.

The goals of the Long Range Strategy express the expected outcomes of the State's efforts to improve child welfare services. They must reflect the priorities, based on the needs analysis. The Strategy must include a brief justification of the goal and a description of the approach to be used in goal achievement. A resource statement is also required. This statement should estimate the costs of accomplishing the goal, including funds and staff resources.

Measurable objectives must be developed for each goal. Each objective should reflect a specific accomplishment related to the State child welfare program. Each objective must include a statement of the objective indicating in measureable terms a target related to overall goal attainment and specifying a time for completion of the activity.

(3) *The Annual Operating Plan:* The Annual Operating Plan provides a status report on the goals of the Long Range Strategy, and includes an Annual Summary of Child Welfare Services.

The status report reviews the State's activities and progress in meeting the goals and objectives during the previous year. It includes accomplishments and identification of problems and efforts to resolve them. This report must include

any changes or amendments to the Long Range Strategy.

The Annual Summary of Child Welfare Services gives estimates of State child welfare services expenditures and clients to be served during the next State planning year, by source of funds and by service. It provides an overview of the State child welfare services program for the coming year. It should be developed jointly by the State agency and ACY/CB as part of the planning process.

(4) *The Annual Budget Request:* The Annual Budget Request is a request for title IV–B funds. It replaces the four Quarterly Requests for Funds (CWS–10) with a single, simplified form.

In summary, the Basic Plan is being changed from a single descriptive document with attachments to a tri-partite plan consisting of a preprinted commitment to meet the regulatory requirements (Assurances), a Long Range Strategy, and an Annual Operating Plan, all of which emphasize the joint Federal-State planning process. The fourth component of the State Plan, the Annual Budget Request, simplifies the paperwork and eliminates delays in making payments of title IV–B funds.

### E. Fiscal Year 1980 Supplemental Appropriation

If the proposed Child Welfare Amendments are enacted into law and if the Congress appropriate additional funds for FY 1980, special instructions governing State eligibility for the funds will be sent to all States.

### F. Fiscal Year 1981 State Plans

The Guidelines, in their final form, will serve as the basis for the development of new State Plans to be effective no later than October 1, 1980 (the beginning of Federal FY 1981), for a period of approximately one year. The State may have the Plan begin either July 1 or October 1, 1980 and end June 30 or September 30, 1981. This first Plan will not, of course, include a status report of last year's activities. The Long Range Strategy for this Plan may cover two or three years, or it may be limited to one year.

The more limited duration of this first Plan is necessary so that Plans can be developed to be effective no later than October 1, 1980, and so that the State agencies and ACYF/CB may further perfect the joint planning process. This limited Plan also will allow the requirements of the proposed Child Welfare Amendments if enacted, to be incorporated more readily and quickly into State Plans.

As a part of the development of these Guidelines, field tests using the revised State plan format discussed in this Notice are underway in three States. In addition, meetings will be held with representatives of States and private organizations to receive their comments. Written comments sent to the Children's Bureau/ACYF at the address listed above will also provide a basis for revision of these Guidelines.

Dated: February 6, 1980.

Herschel Saucier,

*Acting Commissioner for Children, Youth, and Families.*

Approved: February 8, 1980.

Manuel Carballo,

*Assistant Secretary for Human Development Services.*

## Guidelines For Development of the State Child Welfare Services Plan

Contents

Introduction
Relationship of the CWSP to Other Planning Processes
Plan Submittal
I. Assurances
The Preprint
Documentation
Program Deficiencies
II. The Long Range Strategy
Needs Analysis
Long Range Goals and Objectives
III. Annual Operating Plan
Status Report
Annual Summary of State Child Welfare Services
IV. Annual Budget Request
Governor's Review
The FY 1981 Plan
Appendix A: Form and Instructions for Preparation of Annual Summary
Appendix B: Procedures for Development of FY 1981 State Child Welfare Services Plan

### *Introduction*

Title IV–B of the Social Security Act (Sec. 421) requires that a State submit a Child Welfare Services Plan (CWSP) jointly developed by the State Agency and the Administration for Children, Youth and Families (ACYF) in order to receive its allotted share of Federal funds for child welfare services.

Joint planning for child welfare services is the process of Federal-State review and analysis of the State child welfare program in relation to the service needs of children and their families and the development of measurable goals and objectives to assure the State's ability to meet these needs. Joint planning may be described as continuous in that the data gathering and problem identification process which later becomes the basis of formal planning (the needs analysis, priority setting and barrier identification) is continuous.

The CWSP describes the State Agency's total child welfare services program—the basic services, program deficiencies and plans for improvement, and resource allocation by type of service. The CWSP must include all child welfare services provided by the State Agency without regard to their funding sources. The CWSP contains the following components:

I. Assurances—The Assurances constitute the State Agency's commitment to meet the basic requirements of the law and regulation. It is submitted only once, unless otherwise required by the Commissioner of ACYF.

II. Long Range Strategy—The Strategy incorporates the priorities, goals and objectives developed through the joint planning process; these become the State's focus for program improvement. The Strategy will be in effect for two or three years at the discretion of the State Agency.

III. Annual Operating Plan—The Operating Plan provides a status report, updating and reporting on progress in the Long Range Strategy, and an Annual Summary of Child Welfare Services. It is submitted annually; and,

IV. Annual Budget Request—The Budget Request will be the basis for disbursing title IV–B funds. It is submitted annually, replacing existing quarterly budget requests.

### *Relationship of the CWSP to Other Planning Processes*

Since the CWSP must include all child welfare services provided by the State Agency without regard to their funding sources, the CWSP requirements are sufficiently flexible to permit the State Agency to coordinate all its planning activities for child welfare services. Thus, a State may, if it chooses, develop the plan for Child Welfare Services while developing the title XX Comprehensive Annual Services Plan (CASP). Concurrent development of plans may enable a State to coordinate needs analyses, program evaluations and analyses, and planning cycles for the two plans. Whatever planning procedures the State chooses, the CWSP must provide accurate and reliable information and should not be considered a general statement of intention. The State also has the option with the CWSP, as with the CASP, of determining whether its planning year will coincide with the Federal fiscal year or the State fiscal year.

### *CWSP Plan Submittal*

The Child Welfare Services Plan must be a clear, free standing document and must be submitted to ACYF apart from the CASP. After the first plan is submitted, only the Annual Operating

Plan (Part III) and the Annual Budget Request (Part IV) will be submitted annually. The Long Range Strategy (Part II) will be submitted in two or three year cycles; and the Assurances (Part I) will be submitted only once, unless otherwise required by the Commissioner of ACYF. The Plan must be certified by the Administrator of the State agency and submitted to the ACYF Regional Office for review and concurrence before a grant can be awarded. The ACYF Regional Program Director must review the material to determine that the CWSP requirements are met and that the document accurately represents the agreements reached through the joint planning process.

The CWSP must be submitted to the ACYF Regional Office 45 days before its effective date. However, if the State chooses to develop the CWSP concurrently with the development of the CASP, a proposed CWSP must be submitted to the ACYF Regional Office 90 days before the effective date, and the final CWSP submitted 20 days before the effective date. Only 20 days will be needed for final Plan review and grant award because of prior review of the proposed Plan.

## I. Assurances

The Assurances specify the basic child welfare services requirements which the state must meet under the Act. These requirements concern the organization and administration of the child welfare services system within the State, the provision of basic services, and the need to establish and adhere to certain standards in the provision of those services. The Assurances also contain commitments related to the structure and procedures for State operation of the child welfare services program.

### *The Preprint*

The Assurances are drawn from the Social Security Act, the program regulations, and policy interpretations. They set forth the specific requirements to which States must adhere. The Assurances are contained in the first section of the Child Welfare Services Plan in a preprinted format. The preprint is to be signed by the Administrator of the designated State Agency, committing that Agency to adhere to the specified requirements. This preprint will be submitted only once, with the submission of the first State Plan, and will not be resubmitted unless otherwise deemed necessary by the Commissioner of ACYF. It will remain in effect until revoked, amended, or superseded by other requirements.

### *Documentation*

The State Agency must maintain documentation of the arrangements and services required in the Assurances. The documentation supporting the State's commitments made in the Assurances will be subject to Federal review to assure that the State is meeting the requirements as specified in the Assurances. Federal staff will also conduct reviews at the service level to assure that the services in the State's Plan are actually provided to children and families in need of services and are provided in the manner and using the criteria prescribed by the State.

### *Program Deficiencies*

If the State is not meeting all of the requirements specified in the Assurances or if its services are not sufficient to meet the needs of families and children throughout the State, the State must develop goals in its Long Range Strategy for correcting these deficiencies.

## II. Long Range Strategy

In the Long Range Strategy, the State develops the goals for establishing, strengthening, extending, and otherwise improving its child welfare services program over a period of two or three years. The Strategy is jointly developed by the State agency and the Children's Bureau. It must be submitted by the State agency to the ACYF Regional Office every two or three years at the State's option.

The Long Range Strategy consists of two discrete sections, the needs analysis and the long range goals and objectives. These two processes are interdependent. The needs analysis includes identification of needs and setting priorities among needs. Meeting the more important of these needs is a fundamental consideration in establishing the State's long range goals. The objectives are specific, measurable, short range activities necessary to achieve the goals. The needs analysis and the long range goals and objectives are discussed in greater detail below.

### *Needs Analysis*

The needs analysis is a critical component in program analysis and improvement. The needs analysis is a review and comparison of the services needs of children and families and of the requirements of the Assurances in relation to the nature, scope and statewide availability of services. The purpose is to relate State child welfare services information (gathered in needs assessments and through other relevant methods and documents) to the availability or potential availability of services and the current allocation of resources.

### *Description of the Process*

The needs analysis process is the base from which the State develops the Long Range Strategy for delivering effective, appropriate services.

In summary, the process involves identifying the service needs of children and their families; developing an accurate profile of current services (description and location of services, of clients served, and of resources utilized), particularly those required under the regulations; identifying gaps between needs and current services; identifying deficiencies in services; and establishing and ranking priorities for the child welfare services system. In this process, problems in the delivery of services and the sources of the delivery problems (client, delivery system, operations, resources) should become apparent. In addition, a comprehensive needs analysis ensures that plans are not made in the absence of critical information. That information may also serve as a baseline against which to evaluate the effectiveness of changes in the system.

This needs analysis process is based upon the availability of current information and studies related to unmet needs, gaps in the service delivery system, the quality and quantity of available services, and problems and deficiencies in the provision and management of child welfare services throughout the State. A significant absence of such information may be the basis for establishing as a long range goal the conduct of an assessment of both the needs of children and families in the State and the adequacy of the services being provided. Information gathered in the course of a self-assessment using the *State Child Welfare Program Self-Assessment Manual* [1] is an example of the kind of data that could be valuable in the needs analysis.

Identification and analysis of the deficiencies or gaps in the State's ability to comply with the Assurances is an integral part of the needs analysis. That information, as well as information regarding the services needs of children and their families in the State, serve as primary bases for establishing the long range goals and objectives. Assurances

[1] Copies of this Manual, published by the Children's Bureau, have been made available to each State Social Service Agency. Additional copies may be obtained from the Children's Bureau.

that the States cannot meet must be translated into goals.

*Establishing Priorities Among Needs*

Numerous needs will be identified as a result of the needs analysis process. To limit the focus of the CWSP to a manageable level, the more important needs must be separated from those of less significance and given priority status. Generally, the State will develop a plan for meeting these priority needs through the long range goals and objectives; otherwise, it must provide the rationale for not setting a long range goal for that priority need.

Establishing priorities among needs is a complex weighting of numerous variables. At a minimum, the following factors should be considered: gaps or deficiencies in the State's ability to meet the Assurances; significant gaps or deficiencies in current services; important needs requiring the addition of services; and lack of availability of statewide services. In addition to these service functions, the State should consider needs relating to administrative and management functions such as information flow and retrieval, case management and staff development and training.

*Long Range Goals and Objectives*

The long range goals express the expected results of efforts to improve child welfare services within the State. They should reflect specific priorities for action evolving from the comprehensive analysis and ranking of needs and an analysis of current and potentially available resources. Each goal should generate multiple objectives, to be accomplished within the duration of the plan.

*Goals*

Each goal should include a brief justification and approach, indicating why and how the goal has been established and how meeting the objectives will achieve the goal. Barriers to goal attainment must be identified, with brief descriptions of methods to overcome them. The goal section must also include a resource statement which estimates the total cost of accomplishing the goal both in dollars and person years and which indicates what activities will be supported by Federal, State and local IV-B funds.

*Objectives*

Objectives are necessary to document what is involved in goal attainment and to provide a framework for assessing progress. Each objective must include a statement indicating in measurable terms the major focus of State child welfare services program activities for the period specified. The objective must reflect the specific accomplishment necessary to achieve a part of the goal. Each goal should have two or more objectives designed to achieve the goal within the designated period. Objectives may, as circumstances require, be for one or several years.

Each objective statement should relate to a single issue, specify a time for completion, be quantifiable and specify a target related to overall goal attainment. Under each objective there must be a narrative description of how the objective will be achieved and what criteria will be used to determine whether an objective has been achieved.

**III. Annual Operating Plan**

The Annual Operating Plan is the yearly update of the State Child Welfare Services Plan. It will report the current status of the long range goals and objectives, indicate change and new initiatives, and present an Annual Summary of Child Welfare Services.

*Status Report*

The status report in the Annual Operating Plan summarizes and reviews the goals and objectives of the previous year, including accomplishments and descriptions of slippage or problems and efforts to resolve them. It will briefly indicate the progress toward achievement of objectives scheduled for completion at a later date. Anticipated problems and their proposed solutions should be identified. The report must also identify changes or amendments to the Long Range Strategy of the State Child Welfare Services Plan. Changes may be new goals, objectives or strategies related to funding, legislative mandates, court orders or changes in State or national policy.

*Annual Summary of State Child Welfare Services*

The Annual Summary of State Child Welfare Services (Annual Summary) estimates the State Child Welfare Services expenditures for the State planning year according to funding sources and the anticipated number of clients to be served. This form replaces the current Annual Budget for Child Welfare Services (CWS-2). [The form appears at Appendix A].

**IV. Annual Budget Request**

The Annual Budget Request replaces the Quarterly Estimate of Expenditures and Request for Grant Award Form (CWS-10) and the CWS-2 with a simplified form. The Budget Request will be prepared by the State agency and signed by the Administrator of the State agency and the Director of the designated Single Organizational Unit. It must be submitted with the Annual Operating Plan to the designated ACYF/CB Regional Representative.

Quarterly disbursement of funds will be based on requests made and approved on the form. These requests may be modified by the State through submission of a revised form with a brief explanation for the requested change at least thirty (30) days before the beginning of the affected quarter. Quarterly payments will be made without submission of additional forms.

**Governor's Review**

Each year the State Agency Administrator must submit a document with the State Plan, certifying that the Plan being submitted (90 or 45 days before its effective date) has simultaneously been submitted to the Governor's office or the designated agency for review, in accordance with OMB Circular A-95. If a draft or proposed Plan was submitted 90 days before the effective date, comments or approval by the Governor or his designated agency shall be attached to the final submittal. If the final Plan was submitted 45 days before its effective date, the results of the Governor's review shall be forwarded to the ACYF Regional Office before the Plan's effective date. The final submittal should so indicate if no comments were received from the Governor or his designated agency.

It will be assumed that the intent of the A-95 process was met if the Governor signs the State Plan submittal.

**The Fiscal Year 1981 Plan**

The format of the FY '81 CWSP will be an abbreviated version of the standard CWSP format. The abbreviated version will be used in FY '81 only. The modification is necessary in FY '81 because of the impending enactment of the Child Welfare Services Amendments. The Amendments will require revision of the regulations and may impose some new Plan requirements which cannot be addressed by regulation in time for FY '81 Plans.

Phasing in the modified State Plan format and initiating joint planning for the FY 1981 Plan will lessen the burden at all levels of government of any new requirements added under the Amendments. This approach will allow States and the Federal Government to incorporate a limited number of changes in the first year: the Plan requirements and those provisions of the new legislation which must be implemented to obtain supplemental FY '80 and FY

'81 funding, if such funds are appropriated.

The FY '81 Plan will cover a period of 9–15 months. The shortened period is the major variation from the standard format and process. If the State chooses, the FY '81 Plan may address only goals which can be accomplished within that Plan year. States may also choose to develop goals which require two or three years to implement and address only the first year's objectives in the FY '81 Plan. All subsequent Plans must be fully developed 2 or 3 year plans. Parts of the FY '81 Plan may, if appropriate, be incorporated into FY '82 plans. For example, many elements in the needs analysis and most services required in the Assurances are likely to remain relevant in FY '82.

The differences between the FY '81 Plan and the standard format are more fully discussed in Appendix B.

BILLING CODE 4110-92-M

# APPENDIX A

ANNUAL SUMMARY OF CHILD WELFARE SERVICES



STATE OF _____ FOR FISCAL YEAR _____ 19___ TO _____ 19___

| SERVICES/ACTIVITIES | ESTIMATED EXPENDITURES FOR CHILD WELFARE SERVICES BY PROGRAM ('$ Thousands) | | | | | | | | | | | | ESTIMATED NUMBER OF CLIENTS TO BE SERVED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FEDERAL | | | | STATE | | | LOCAL | | DONATED | | TOTAL | |
| | Title IV-B (a) | Title XX (b) | Title IV-A (c) | Other* (d) | Match (e) | Certified Public Funds(f) | Other (g) | Match (h) | Other (i) | Match (j) | Other (k) | (l) | |
| 1) Preventive/ Supportive Services(Specify) | | | | | | | | | | | | | |
| 2) Protective Services(Specify) | | | | | | | | | | | | | |

* OTHER FEDERAL PROGRAMS _____

ANNUAL SUMMARY OF CHILD WELFARE SERVICES



STATE OF _____ FOR FISCAL YEAR _____ 19___ TO _____ 19___

| SERVICES/ACTIVITIES | ESTIMATED EXPENDITURES FOR CHILD WELFARE SERVICES BY PROGRAM ('$ Thousands) | | | | | | | | | | | | ESTIMATED NUMBER OF CLIENTS TO BE SERVED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FEDERAL | | | | STATE | | | LOCAL | | LOCALLY | | TOTAL | |
| | Title IV-B (a) | Title XX (b) | Title IV-A (c) | Other* (d) | Match (e) | Certified Public Funds (f) | Other (g) | Match (h) | Other (i) | Match (j) | Other (k) | (l) | |
| 3) Substitute Care (Specify) | | | | | | | | | | | | | |

* OTHER FEDERAL PROGRAMS _____

ANNUAL SUMMARY OF CHILD WELFARE SERVICES



STATE OF _____ FOR FISCAL YEAR _____ 19___ TO _____ 19___

| SERVICES/ACTIVITIES | ESTIMATED EXPENDITURES FOR CHILD WELFARE SERVICES BY PROGRAM ('$ Thousands) | | | | | | | | | | | | ESTIMATED NUMBER OF CLIENTS TO BE SERVED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FEDERAL | | | | STATE | | | LOCAL | | DONATED | | TOTAL | |
| | Title IV-B (a) | Title XX (b) | Title IV-A (c) | Other* (d) | Match (e) | Certified Public Funds (f) | Other (g) | Match (h) | Other (i) | Match (j) | Other (k) | (l) | |
| 4) Adoption (Specify) | | | | | | | | | | | | | |
| 5) Other Services (Specify) | | | | | | | | | | | | | |

* OTHER FEDERAL PROGRAMS _____

ANNUAL SUMMARY OF CHILD WELFARE SERVICES

Page 4 of 4

STATE OF _____ FOR FISCAL YEAR _____ 19___ TO _____ 19___

| SERVICES/ACTIVITIES | ESTIMATED EXPENDITURES FOR CHILD WELFARE SERVICES BY PROGRAM ('$ Thousands) | | | | | | | | | | | | ESTIMATED NUMBER OF CLIENTS TO BE SERVED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FEDERAL | | | | STATE | | | LOCAL | | ISOLATED | | TOTAL | |
| | Title IV-B (a) | Title XX (b) | Title IV-A (c) | Other* (d) | Match (e) | Certified Public Funds (f) | Other (g) | Match (h) | Other (i) | Match (j) | Other (k) | (l) | |
| 6. Administration and Management (Specify) | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | |

* OTHER FEDERAL PROGRAMS _____

BILLING CODE 4110-92-C

**Instructions for the Preparation of the Annual Summary of Child Welfare Services**

General: This form summarizes the State Agency's child welfare services program for the next year by service, by source of funds, and by number of clients to be served. The form is an integral part of the State Child Welfare Services Plan and should be discussed by Children's Bureau and State Agency Representatives. It is also a working document that presents an overview of the State Agency's planned program for the next year.

Specific:

*Services/Activities*

Under each of the categories listed, specify the services the State Agency will provide. A recommended list of services is attached. If necessary, the State Agency may use terms and definitions which conform to its own program categories, funds disbursement and client population categories.

Services for which a reliable estimate of funds can be made should be listed with attendant resources. A particular service may be specified under more than one of the categories in the services/activities column but appropriate resources must be specified in the same manner.

The recommended list of services/activities, especially Substitute Care, Adoption, and Administration and Management, should be utilized if reliable estimates can be made.

Include services purchased from another State or local, public or private agency. Do not include similar services provided by another State or local public agency which have not been arranged for or purchased by the State Agency responsible for child welfare services.

Services/activities listed under Section 5 ("Other Services") should be specified.

*Estimated Expenditures for Child Welfare Services by Program*

(a) Title IV–B: Indicate for each specified service/activity the amount to be expended from the Federal program indicated. Do not include the State/local match.

(b) Title XX: Indicate for each specified service/activity the amount to be expended from the Federal program indicated. Do not include the State/local match.

(c) Title IV–A: Indicate for each specified service/activity the amount to be expended from the Federal program indicated. Do not include the State/local match.

Note.—The Total IV–B funds listed under column (a) should be consistent with the total IV–B funds requested in the Annual Budget Request.

(d) Other Federal: If other Federal funds will be used by the State Agency, specify the other Federal programs in the space at the bottom of the page.

(e) State Match: List funds to be used to match Federal funds. This may include local funds.

(f) State Certified Public Funds: Funds of another public agency which under 45 CFR 228.53 are certified by the contributing public agency as representing expenditures for services eligible for FFP.

(g) State Other: List State funds not matched by any Federal funds. This may include local funds.

(h) Local Match: A State may list local public funds to be used to match State (and Federal funds here, rather than under (e) or (f).

(i) Local Other: Where a reliable estimate can be made, list local public funds not to be matched by State or Federal funds.

(j) Donated Match: Where a reliable estimate can be made, list funds from voluntary agencies and organizations which are used to draw Federal matching funds.

(k) Donated Other: Where a reliable estimate can be made, list funds from voluntary agencies and organizations. Do not include services to be purchased by the State agency.

(l) Total: Add columns (a) thru (k) to obtain the total.

*Estimated Number of Clients to be Served*

Estimate as accurately as possible the number of clients to be served during the next year with these funds.

**Suggested List of Specified Services/Activities**

This suggested list of services/activities is recommended for use under the six categories listed in the Annual Summary of State Child Welfare Services. If a State gathers and maintains its data using different terms and definitions, it may use those terms and definitions to make the required estimates.

Services/Activities relegated to the "other" category should be specified.

(1) *Preventive/Supportive Services (Home Based Services):* Counseling; Day Care; Homemaker; Other.

(2) *Protective Services:* CPS investigation, intake and case management; Emergency services; Self-help groups; Other.

(3) *Substitute Care:* Foster family care—

- Services
- Maintenance

Group/institutional care

- Services
- Maintenance

Independent living

- Services
- Maintenance

Other.

(4) *Adoption:*

- Services
- Maintenance subsidy
- Medical subsidy

(5) *Other Services:*

- Services which are not appropriate under the categories listed above. These may include specialized services to runaway youth, domestic violence, or Indians and Migrant programs or funds utilized for activities with volunteers and advisory committees.

(6) *Administrative and Management:*

- Administration and management
- Training and staff development
- Licensing
- Planning and evaluation
- Systems development and operation

Note.—Administration and Management costs which can be allocated to the specific services listed in items (1)–(4) should be identified as such and placed under the appropriate service.

**Glossary**

*Administration and Management:* Include costs of supervisors and staff whose activities support child welfare services which cannot be allocated under other services/activities.

*Adoption:* The range of services provided for the child for the purpose of adoption. These services include study of the child, study and selection of the adoptive home, and placement and supervision of the child for a stated period of time prior to the legalization of the adoption.

*Counseling:* The guidance and support by the caseworker of the child and his/her family provided independently of other services while the child is residing at home. (Exclude all cases of counseling related to income maintenance and eligibility.)

*Child Protective Services:* Specialized child welfare services developed for investigating suspected cases of child abuse and neglect and intervening in confirmed cases.

*Day Care:* Licensed or approved family or group services, operating less than 24 hours, for the care of children in their own home, family day care homes, centers and group day care homes operated by a public welfare agency or a local public welfare agency or by voluntary or non-profit organizations, including churches or by independent

proprietors. Include expenditures for service, food, transportation, medical or dental care.

*Emergency Services:* Services related to protection of a child and prevention of further maltreatment through availability of a 24 hour reporting mechanism and immediate intervention. This intervention may include hospitalization of the child, assistance in the home including homemakers, or removal of the child from the home to a shelter or foster home.

*Foster Family Care:* Twenty-four hour care in a private home which provides substitute family living for children whose biological families cannot care for them for a temporary or extended period of time. Where feasible, list by services and maintenance separately.

*Group or Institutional Care:* Care provided in a residential facility which provides 24-hour care in a group setting; this includes agency administered group homes.

*Homemaker:* Services which provide a qualified person to assist families with children in home maintenance and management in order to strengthen, support, supplement and/or restore parental capacity to care for the children and to prevent the unnecessary removal of the children from their home.

*Independent Living:* Living arrangements for a child independent of the household of the biological or adoptive parents, relatives, foster parents or guardians.

*Licensing:* A regulatory procedure, based on State statute, which authorizes certain activities only under conditions that are specified in licensing requirements (rules). Licensing is based in the executive branch of state governments, is carried out in accordance with state promulgated rules, and generally applies to non-governmental services and facilities.

*Planning and Evaluation:* Activities related to assessing the needs of children and families for services, evaluating services being delivered, and developing and monitoring plans for improving the delivery of child welfare services.

*Self-Help Group:* Groups of persons with similar problems who share concerns and experiences in an effort to provide mutual help to one another. Usually these groups are self-directed.

*Systems Development and Operation:* A process that begins with analysis of existing practices, followed by formulation of general and specific goals, the design and description of the methods by which those goals will be achieved, specifications for input data, for processing steps and for producing required outputs, conversion of the specifications into instructions and finally, testing and implementation of the system in its programmed operations.

*Training and Staff Development:* Training of CWS State agency personnel and volunteers to improve the operation of the child welfare services program and to assure a high quality of service. This includes orientation of new staff, a program of continuing in-service training opportunities, conferences, institutes, and educational leave.

Appendix B

*Procedures for Development of the Fiscal Year 1981 State Child Welfare Services Plan*

*Assurances*

In the FY '81 Plan, the requirements relating to the Assurances will be altered.

*Operational Strategy*

This section differs from the FY '82 format for the Long Range Strategy only in that goals may be developed either for a period of 9–15 months (the period of coverage for the FY '81 Plan) or for the 2–3 year cycle required in the standard format. Whichever period of time is chosen, goals should extend over the period necessary to achieve the State's priorities. Objectives under this Plan may encompass only one year.

The Operational Strategy must contain the following elements:

A. *Needs Analysis.* The needs analysis is an analysis of information currently available within the State to determine the services needs of children and families, geographic areas in which service needs are greatest, areas in which services are deficient and areas with greatest need for expanding and strengthening State child welfare services.

B. *Priorities.* A priority statement must be developed in the same manner as the priority statement for the FY '82 Plan.

C. *Goals and Objectives.* The content and process for developing goals and objectives are the same as in the FY '82 format. Goals by their nature, tend to be long range. Therefore, for the FY '81 Plan, goals should extend over the period necessary to achieve the stated priorities, even though they may extend more than one year. On the other hand, the objectives under the FY '81 Plan must be limited to the life of this plan (about one year). However, the State may wish to specify its objectives that extend beyond FY 1981, in order to provide a clearer, more complete explanation of how the goal will be met.

D. *The Annual Operating Plan.* The status report reviewing the previous year's goals, objectives and achievements will not be included in the FY '81 Plan. It willbe incorporated into all Plans thereafter.

The Annual Summary of State Child Welfare Services must be included in the FY '81 Plan.

E. *The Annual Budget Request.* The Budget Request must be included in the FY '81 Plan, using the same procedures required for FY '82.

*Governor's Review*

The procedures required for the FY '82 Plan will be required for the FY '81 Plan.

*Plan Submittal*

All four sections of the FY '81 Plan must be submitted to the ACYF Regional Office no later than September 10, 1980.

**Assurances**

*Introduction*

The Assurances specify the basic requirements which the State must meet in providing child welfare services under title IV–B of the Social Security Act and the regulations. They are a preprinted form in the State Child Welfare Services Plan (CWSP) through which the State agency Administrator submits a commitment that the State will meet the requirements of the regulations and the Act. They remain in effect until there is a need for revision or amendment because of changes in legislation, regulations, policies or program operations.

The Assurances apply to all child welfare services delivered under the CWSP regardless of funding source. They concern the provision of basic services and the need to establish and adhere to certain standards in the provision of those services. They also provide a number of commitments related to the structure, procedures and administration of the child welfare program. Assurances which the State agency does not meet must be addressed in the Long Range Strategy of the CWSP.

The State agency must maintain documentation of the arrangements and services required in the Assurances. The documentation will not be submitted with the State Plan but it may be reviewed to assure that the State has made arrangements to provide the services certified in the Assurances, and that the arrangements conform with the requirements in the regulations and the Act. Federal staff will also conduct reviews at the service level to assure that the services are actually provided to children and families in need of them and provided in the manner and using the criteria prescribed by the State.

Relevant sections of the Social Security Act, regulations, and formal Federal policy interpretations govern the State agency's administration of child welfare services. This preprint highlights specific requirements to which States must adhere. For clarity and brevity, the preprint provisions sometimes paraphrase or excerpt the regulations and the Act.

**Table of Contents**


| 45 CFR Section: | Title |
|---|---|
| 220.1 | General provisions. |
| 220.2 | Single organizational unit. |
| 220.3 | Full time staff for services. |
| 220.4 | Advisory Committees on Child Welfare Services. |
| 220.5 | Use of professional staff. |
| 220.6 | Use of subprofessional staff. |
| 220.7 | Use of volunteers. |
| 220.8 | Relationship and use of other agencies. |
| 220.9 | Delivery and utilization of services. |
| 220.10 | Staff development. |
| 220.11 | Appeals, fair hearing and grievances. |
| 220.40(a) | Child welfare services statewide. |
| 220.40(b)(1) | Needs assessment. |
| 220.40(b)(2) | Services to children in own homes and foster care. |
| 220.40(b)(3) | Case plans and case reviews. |
| 220.40(b)(4) | Availability of child welfare services. |
| 220.40(b)(5) | Child welfare services not limited to AFDC cases. |
| 220.45 | Community planning. |
| 220.46 | Reports and evaluation. |
| 220.47 | Implementation: local agencies and service contractors. |
| 220.49 | Other plan requirements. |
| 220.56 | Day care. |
| 220.71(d) | Amendments to State plan. |
| 231.2 | Child abuse and neglect State plan requirements. |
| Sec. 442(a) SSA | Return of runaway youth. |
| Section 205.70 | Availability of agency program issuances. |
| Part 46 | Protection of human subjects. |
| Part 74 | Administration of grants. |
| Part 80 | Nondiscrimination under programs receiving Federal assistance through HEW—effectuation of Title VI of the Civil Rights Act of 1964. |
| Part 84 | Nondiscrimination on the basis of handicap. |
| Section 205.50 | Safeguarding information. |


*Section 220.1 General provisions.*

The State, with respect to the administration of the child welfare services program:

(a) Meets the requirements in subpart A or Part 220;

(b) Will make progress in the extension and improvement of services;

(c) Will indicate the steps to be taken to meet the requirements; and

(d) Will submit implementation and progress reports as may be specified.

*Section 220.2 Single organizational unit.*

(a) There is established a single organizational unit at the State and local levels which provides or supervises provision of child welfare services included in the State plans for Part B of title IV and title XX.[1] This unit is responsible for setting service policies and for furnishing or assuring delivery of child welfare services.

(b) This unit, under the direction of its chief officer (who, at the State level, is not the head of the State agency) is responsible for:

(1) Development of policy and the maintenance of policy control for all parts of the child welfare service program.

(2) Direct program supervision of the local agency or otherwise assuring proper program implementation.

(c) There are documents which show the structure of such unit and its place in the overall agency and the distribution of responsibilities among the major divisions within the unit.

*Section 220.3 Full-time staff for services.*

(a) The functions of arranging or providing services to individuals is, to the maximum extent feasible, performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There are adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there is progress toward the objective of relieving all staff of nonservice functions. (This does not include service at intake, i.e., providing information, screening and referral within the agency and community for all families and children seeking agency help and determining need for specific services).

*Section 220.4 Advisory committees on child welfare services.*

(a) An advisory committee on child welfare services has been established at the State level and at local levels where the program is locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation have been established. There is documentation available for review which shows that the advisory committee:

(1) Advises the principal policy setting and administrative officials of the agency and has adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of client participation in the program of the agency.

(2) Includes representation of other State agencies concerned with child welfare services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of services or their representatives who shall constitute at least one third of the membership. Recipients or their representatives are selected in a manner that assures the participation of the recipients in the selection process and that they are representatives of recipients of services.

(3) Are provided staff assistance from within the agency and independent technical assistance as needed to enable it to make effective recommendations.

(4) Are provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) An advisory committee on day care services has been established at the State level, either as a separate committee, or as part of the advisory committee on child welfare services. In either event, the committee must draw at least one-third of its membership from recipients or their representatives, and include representatives of agencies and groups concerned with day care or related services, i.e., other State agencies, professional or civic or other public or nonprofit private agencies, organizations or groups.

(c) There is documentation which shows the structure and functions of the State and local committees for child welfare services and day care services; their relationships to other boards and committees associated with the State and local agencies; and the system for selecting recipients or other representatives.

*Section 220.5 Use of professional staff.*

(a) There are adequate numbers of suitably qualified personnel drawn from social work and other appropriate disciplines to plan, develop and supervise services and to provide specialized services to families and children. There is an adequate system of career development and progression for such personnel.

(b)(1) There are documents which show the staffing pattern for professional positions carrying out the service functions.

(2) There is an explanation of how the quantity and quality of services will be maintained in instances where the number of professional personnel performing eligibility and service functions results in a caseload or workload higher than that in effect during fiscal year 1968.

*Section 220.6 Use of subprofessional personnel.*

(a) There is training and effective use of subprofessional staff in the programs of child welfare services, including the part-time or full-time employment of recipients and other persons of low income.

(b) There are documents which show:

(1) The methods of recruitment and selection which offer opportunities for employment of such persons.

(2) A career service plan that permits such persons to enter employment at the subprofessional level and progress to positions of increasing responsibility and remuneration.

(3) An organized training program, supervision and supportive assistance for such staff.

(4) Annual progression in the utilization of increasing numbers of such staff until there is optimal use of subprofessional staff in achieving the service goals for families and children.

*Section 220.7 Use of volunteers.*

(a) There is training and effective use of nonpaid or partially paid volunteers representing various age groups, specifically including senior citizens and young persons, in child welfare services programs and assisting related advisory committees.

(b) There are documents which show:

(1) The methods of recruitment and selection which will assure participation of volunteers of all income levels.

(2) A program for organized training and supervision of such volunteers.

(3) Assignment of a specific position which has responsibility for the development, organization, and administration of the

[1] In the territories, title IV–A services rather than title XX services apply.

volunteer program and for the coordination of the program with related functions.

(4) Provision for meeting the costs incident to volunteer service.

(5) Annual progression in the utilization of volunteers until such use is sufficient for the achievement of the service goals for families and children.

*Section 220.8 Relationship and use of other agencies.*

(a) There is maximum utilization of and coordination with other public and voluntary agencies that provide services similar or related to the services provided under the Plan where such services are available without additional cost.

(b) Consideration is given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services. Such use will be based on a determination that required program standards are met and a comparison of the effectiveness of services rendered and their anticipated costs.

(c) There is documentation available for review that shows ways in which public and voluntary agencies are used, including types of services to be purchased.

*Section 220.9 Delivery and utilization of services.*

(a) There is progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services;

(b) There are continued assessments and necessary adaptations to achieve this requirement.

*Section 220.10 Staff development.*

There is staff development on a continuing, progressive and comprehensive basis for all staff responsible for the development and provision of child welfare services. This staff development includes orientation, in-service training and educational leave. There will be increases each year in the number of educational leaves for professional training and to assure an adequate number of professional staff for child welfare services.

*Section 220.11 Appeals, fair hearings and grievances.*

(a) There is in operation a system for fair hearings under which applicants and recipients may appeal denial of or exclusion from the child welfare services program, failure to take account of recipient choice of service or a determination that the individuals must participate in the child welfare services program. The results of appeals are formally recorded and are made available to the State advisory committee and all applicants and recipients are advised of their right to appeal and the procedures for such appeal.

(b) There is in operation a system through which recipients may present grievances about the operation of the child welfare services program.

(c) There are documents which describe the system for appeals and grievances and the methods of informing recipients of their right to appeal.

*Section 220.40 Child welfare services statewide.*

(a) Child welfare services are available in all political subdivisions of the State for all children in need of them. If child welfare services are not available in all political subdivisions, the State assures it will provide them in all political subdivisions. There is annual progress in one or more of the following areas:

(1) Reaching additional children in need of services;

(2) Expanding the range of services provided;

(3) Improving the quality of services through additional trained child welfare personnel.

(b)(1) Priority is given to extending the provision of child welfare services to communities with the greatest need for such services. Determination of those communities with the greatest need will be accomplished through a reasonable and objective method of needs assessment that takes into consideration relative financial need.

(2) Child welfare services are provided to children in their own homes and foster care is provided for children who cannot remain in their own homes.

(3) There is a case plan, including diagnostic evaluation and plan for treatment, when a child is accepted for child welfare services; and there is periodic review of such plan.

(4) Child welfare services are available on the basis of need for services and are not denied on the basis of financial need, legal residence, social status or religion.

(5) Child welfare services are not limited to AFDC cases.

*Section 220.45 Community planning.*

(a) There is progress in developing State and local agency leadership for participation in community affairs which will result in the development of community resources necessary to achieve the program objectives of title IV-B.

(b) There is documentation to show the steps taken to achieve this objective, including the staffing for this function.

*Section 220.46 Reports and evaluations.*

The State agency furnishes reports and evaluations to the Secretary as may be specified, showing the scope, results and costs of services for families and children.

*Section 220.47 Implementation; local agencies and service contractors.*

(a) The State agency has methods of assuring that local agencies are meeting the plan requirements, and where services are purchased, of monitoring local agencies and service contractors to insure that the plan requirements are being met and funds are being appropriately and effectively used. In addition to the requirements of 45 CFR 74.166, any contract also specifies that no fees shall be imposed by providers other than those set by the State.

(b) There is a description of the methods used to carry out this requirement.

*Section 220.49 Other plan requirements.*

(a)(1) *Designation of Appropriate State Agency.* (i) The Governor of the State has designated a State agency as the single agency for the administration of the plan or for supervision of the administration of part of the plan by local agencies.

(ii) The State agency designated to administer or supervise the administration of the child welfare services program under title IV-B is the same agency that administers or supervises the administration of the social services program under title XX of the Act. (If, on Dec. 1, 1974 there were separate IV-A and IV-B agencies, the requirement that the IV-B program be administered by the agency administering the title XX program is not applicable as long as the title XX program agency has not been designated to administer title IV-B, too.)

(iii) In Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands, the State agency administering or supervising the program is the same agency that administers or supervises the administration of the State's services plan under title IV-A.

(2) There is documented authority of the State agency under State law for the administration of the program. Where there is administration by local agencies, there is a documented legal basis for such administration or for the supervision of such administration by the State agency. There are documents which show citations to all directly pertinent laws, copies of all interpretations of such laws by appropriate State officials, and citations to all directly pertinent interpretations of laws by courts.

(b) *Organization for Administration.* There is a description of the organization of the State agency for the administration of the plan and of any local agencies engaged in such administration. There is also a description of the methods of administration utilized by the State agency in the administration of the plan and by any local agencies engaged in such administration. Where there is administration by local agencies, there is a description of the nature and extent of the supervision exercised by the State agency.

(c) *Personnel standards.* (1) There is, with respect to the employees of the State agency and those of local agencies, personnel administration on a merit basis which is in accordance with current Federal Standards established in 5 CFR Part 900 and any standards prescribed by the U.S. Office of Personnel Management pursuant to Section 208 of the Intergovernmental Personnel Act of 1970.

(2) The State agency is implementing an affirmative action plan to ensure equal employment opportunity in all aspects of personnel administration as specified in 5 CFR 900.4. The plan provides for specific action steps and timetables to assure such equal opportunity. The plan is available for review upon request.

(d) *Coordination with services under AFDC.* There is coordination between child welfare services and services for families receiving AFDC with a view to provision of welfare and related services which best promote the welfare of such children and their families.

(e) *Reports.* There is provision for reports with respect to any and all phases of the

State program of child welfare services in such form and containing such information as the Bureau may find necessary. There is documentation to show that the State is meeting the requirements of this section.

*Section 220.56 Day care services.*

If day care services are included under title IV–B, they meet the standards required in § 220.18(c)(2) and the following:

(a) Cooperative arrangements exist with State health and education agencies to assure maximum utilization of such agencies in the provision of health and education services for children in day care.

(b) There is an advisory committee on day care services as set forth in § 220.4(b).

(c) There is in operation a reasonable and objective method for determining the priorities of need for day care for members of low-income or other groups in the population and for geographic areas which have the greatest relative need for the extension of day care.

(d) There are specific criteria for determining the need of each child for care and protection through day care services.

(e) There are criteria employed to determine that day care is in the best interests of the child and the family.

(f) There is provision for determining on an objective basis the ability of families to pay for part or all of the cost of day care and for payment of reasonable fees by families able to pay.

(g) There is provision for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of the child's health and development.

(h) Day care is provided only in facilities (including private homes) which are licensed by the State or approved as meeting the standards for such licensing.

*Section 220.71(d) Amendments to State plan.*

The State agency will amend the State Plan whenever necessary because of any material change in the program provided by the plan, in the organization, policies or operations relating to the program, or any change in pertinent law and as otherwise deemed necessary by the Commissioner of ACYF. Revisions are subject to joint development by the State agency and ACYF, and shall be submitted to ACYF, certified by a duly authorized officer of the State agency, for approval. Revisions shall be incorporated into the State plan and shall be in effect for the purposes of the Act upon, and in accordance with, the approval. Except when it is not feasible for a revision to the annual budget to be submitted to ACYF a reasonable time in advance of being carried out by the State agency, approval of revisions shall be prospective.

*Section 231.2 Child abuse and neglect.*

Child abuse and neglect State plan requirements are included under the title IV–B child welfare services program and there is documentation available to show compliance with these requirements:

(a) *State laws or legally binding administrative procedures.* There are in effect State laws or legally binding administrative procedures for reporting known or suspected instances of abuse or neglect of children up to age 18 or the age specified by the child protection law of the State, for investigation of such reports, and for action pursuant to the results of investigation, as certified by the State Attorney General.

(b) *Provision for reporting.* The State or local agency administering the program under Part B of title IV:

(1) Provides for reporting known or suspected instances of child abuse and neglect;

(2) Complies with all State laws and legally binding administrative procedures regarding such reporting; and

(3) If it enters into agreement for purchase of services or for performance of any aspect of a program or project related to child abuse or neglect, includes a requirement that the provider report instances of child abuse or neglect.

(c) *Prompt investigation.* Upon receipt of a report of known or suspected instances of child abuse or neglect, regarding a child covered by the State's child welfare services program under title IV–B, the State or local agency will promptly initiate an investigation to substantiate the accuracy of the report, unless, under State law or legally binding administrative procedures, such responsibility is exclusively reserved to some other agency, or unless the report involves the acts or omission of the State or local agency itself. In that case, the investigation must be conducted by a different agency or organization.

(d) *Action upon a finding of abuse and neglect.* Upon a finding of abuse or neglect resulting from an investigation required pursuant to paragraph (c) of this section, the State or local agency will take immediate steps to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care, who may be in danger of abuse or neglect.

(e) *Confidentiality of records.* The State or local agency has in effect methods to preserve the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child and his or her parents or guardians, in accordance with 45 CFR 205.50 of this chapter.

(f) *Cooperation among agencies.* Law-enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services in relation to prevention, identification, and treatment of child abuse and neglect cooperate with the State or local agency in carrying out the IV–B program.

(g) The State agency meets these requirements, using the following definitions expressed in 45 CFR 231.1:

"Act": means the Social Security Act.

"Child": means a person under the age of eighteen or the age specified by the child protection law of the State.

"Child abuse and neglect": means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

"Harm or threatened harm to a child's health or welfare" can occur through: Non-accidental physical or mental injury; sexual abuse as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. Provided, however, that when a parent or guardian legitimately practicing his religious beliefs fails to provide specified medical treatment for a child, such failure for that reason alone shall not be considered neglect. "A person responsible for a child's health or welfare" includes the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

*Section 422(a)(2) Return of Runaway Youth (SSA).* If runaway youth services are provided under title IV–B there is provision for the costs of returning any runaway youth who has not attained the age of eighteen to his or her own community in another State, and of maintaining such child until such return for a period not exceeding fifteen days, if the costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child.

*205.70 Availability of agency program manuals.* (a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, need and amount of assistance, recipient rights and responsibilities, and services offered by the agency, are maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

(b)(1) A current copy of such material is made available without charge or at a charge related to the cost of reproduction for access by the public through custodians who (i) request the material for this purpose, (ii) are centrally located and publicly accessible to a substantial number of the recipient population they serve, and (iii) agree to accept responsibility for filing all amendments and changes forwarded by the agency.

(2) Under this requirement the material, if requested, is made available without charge or at a charge related to the cost of reproduction to public or university libraries, the local or district offices of the Bureau of Indian Affairs, and welfare or legal services offices or organizations. The material is also available, with or without charge, to other groups and to individuals.

(c) Upon request, the agency reproduces, without charge or at a charge related to the cost of reproduction, the specific policy materials necessary for an applicant or recipient, or his representative, to determine whether a fair hearing should be requested or to prepare for a fair hearing; and has established policies for reproducing policy materials without charge, or at a charge related to cost, for any individual who requests such material for other purposes.

The State agency adheres to the following HEW regulations of general applicability:

Part 46—Protection of human subjects.
Part 74—Administration of grants.
Part 80—Civil rights.

Part 84—Nondiscrimination on the basis of handicap.
45 CFR 205.50—Safeguarding information.

Effective Date and State Official's Signature

I hereby certify that, with the exception(s) indicated below, the State complies with the requirements of law and regulation listed above in the Assurances.

The State agency is including in this Plan goals and objectives which will enable it to meet those assurances which, as indicated below, are not being met.

(List by number and title those assurances with which the State agency is not incompliance)

Dated:
Certified by:
Administrator, Social Service Agency
Dated:
Reviewed by:
ACYF/CB Representative

**Guidelines for Adherence to the Assurances Governing Child Welfare Services; Title IV–B of the Social Security Act**

*Introduction*

This document contains explanations of the Assurances in the State Child Welfare Services Plan (CWSP), under title IV–B of the Social Security Act. These explanations do not change the content of the regulations which is controlling. Rather, they are intended to assure a common understanding by Federal, State, and local agencies of the purpose, scope and meaning of the regulations; the specific expectations placed on the States and the options that are available to States. These explanations are intended to assist States in planning their child welfare services programs and in determining their conformity to the requirements in the Assurances.

The Children's Bureau of ACYF in some instances has made good practice recommendations. These recommendations, along with publications of the Children's Bureau, other Federal agencies, national standard setting agencies and existing studies and materials, should be utilized in extending and improving the child welfare services provided under the State Child Welfare Services Plan.

The explanations have been developed to correspond with sections of the regulations and efforts have been made to avoid repetition of the language of the Assurances and the regulations. Therefore, these explanations must be read with reference to the related section of the Assurances and regulations. Where the Assurances seem self-explanatory, no guidelines are provided.

Table of Contents


| 45 CFR section | Titles |
|---|---|
| 220.1 | General provisions. |
| 220.2 | Single organization unit. |
| 220.3 | Full time staff for services. |
| 220.4 | Advisory Committees on Child Welfare Services. |
| 220.5 | Use of professional staff. |
| 220.6 | Use of subprofessional staff. |
| 220.7 | Use of volunteers. |
| 220.8 | Relationships and use of other agencies. |
| 220.10 | Staff development. |


Table of Contents—Continued


| 45 CFR section | Titles |
|---|---|
| 220.11 | Appeals, fair hearings and grievances. |
| 220.49(a) | Child welfare services statewide. |
| 220.40(b)(1) | Needs assessment. |
| 220.40(b)(2) | Services to children in own homes and foster care. |
| 220.40(b)(3) | Case plans and case reviews. |
| 220.40(b)(4) | The availability of child welfare services. |
| 220.47 | Implementation; local agencies and service contractors. |
| 220.56 | Day care services. |
| 231.2 | Child abuse and neglect. |
| 205.70 | Availability of agency program manuals. |


*Section 220.1 General provisions.* (a) The requirements in this section establish the framework for implementation of the mandatory provisions of Subpart A of Part 220. In this section, States assume responsibility for each of the requirements specified in the provisions. Within this framework each State must determine the scope of its services program for children, youth and families and plan the actions necessary to broaden the scope and improve the effectiveness of services.

(b) In this section, States will also agree to submit implementation and progress reports necessary to document adherence to the requirements.

(c) The State agency must have clearly stated and promulgated policy, standards, practices and procedures for all requirements, and methods to monitor and assure adherence to the requirements.

*Section 220.2 Single organizational unit.* (a) *State Organizational Unit.* (1) At the State level there must be a unit which is responsible for the development of policy pertaining to all child welfare services for children, youth and families in the State, regardless of funding source, or to make recommendations to the State Agency Administrator in response to such policy. It is not intended that the unit head be necessarily responsible for making final policy decisions. Rather, the Chief executive officer or agency administrator should look to the unit head for advice, counsel and recommendations on policy, planning and program development for State's programs for serving children, youth and families.

(2) There should be, at a minimum, one fulltime person responsible for planning, policy and program development, implementation and review, and standards development.

(3) The unit should be responsible for development of the Child Welfare Services State Plan and for assuring collaboration with title XX planning, coordination and program development. In most States, these functions will require a unit with specialized staff.

(4) The unit should be responsible for the universally accepted child welfare services which supplement or substitute for parental care and supervision, such as protective services, placement and after care services. Other related activities such as supportive services to families, day care, regulatory services, respite care and homemaker services may be lodged in another unit of the agency. There should be arrangements, however, through which the single organizational unit maintains responsibility for policy formulation and implementation regarding these services to children, youth and families.

(5) The organizational structure of the State agency should facilitate and assure effective communication and cooperation between the unit administering child welfare services to children, youth and families, the executive decision-making unit of the agency, and all units providing related and supporting services.

(b) *Local organizational unit.* (1) Single organizational units should also be established at the local level. These units should be responsible for development, supervision and provision of child welfare services. The unit may be located in a county, city, district, or regional agency.

(2) There should be least one full-time person with responsibility for planning, policy and program development and implementation of child welfare services in locally administered agencies. In some States these functions will require a large unit with specialized staff. In counties with a small population where full-time assignment for child welfare services delivery is not feasible, a multicounty or district plan for a full-time services worker may be needed.

(3) Some States may need to reassess or redesign methods of supervision of locally administered programs to assure uniformity of policy and program implementation. There should be sufficient support staff in the State level unit to provide sustained program assistance to local agencies whether they are locally or State administered.

(4) Single organizational units may arrange for provision of services through purchases of service arrangements or other methods such as agreements with other public or voluntary agencies. However, the unit must retain responsibility for policy setting and implementation.

(5) Where appropriate, State or local agencies and Indian tribes and organizations should make agreements regarding provision of services to Indian children and their families to assure availability and provision of services and to avoid jurisdictional disputes which can prevent children and families from receiving needed services.

(6) The State agency should have clearly articulated policy (standards, practices and procedures) that spell out how it meets its responsibility under this requirement.

*Section 220.3 Full time staff for services.*

(a) This requirement recognizes that an effective system for delivery of social services for children and their families, including program planning, supervision, and case management, requires staff assigned full time to these functions at both State and local levels.

(b) At each level of responsibility, there should be:

(1) A staffing plan which identifies and describes the staff to be used in the delivery of each type of service;

(2) Position descriptions describing the work to be performed by each staff member with respect to activities, responsibilities, and standards of performance;

(3) Standards defining the education and experience required for each position; and

(4) Standards defining the workload size and level of supervision for each type of client service operation.

(c) The State agency should establish personnel policies and procedures to implement this requirement which are consistent with standards of good practice as defined by the Child Welfare League of America, or the American Public Welfare Association or for service delivery criteria developed by the Children's Bureau in its *Detailed Design for a System of Social Services for Children and their Families.*

(d) Social services for children and their families shall to the maximum extent feasible be provided by personnel with social work training at levels prescribed by the National Association of Social Workers: at the entry level of service, a Bachelor's Degree in Social Work; and, at the supervisory level, a Master's Degree in Social Work, from an accredited college program.

*Section 220.4 Advisory committee on child welfare services.*

(a) This requirement calls for establishment of:

(1) A State-wide advisory committee on all phases of CWS programs;

(2) Committees in local administrative jurisdictions where the program is locally administered; and

(3) An advisory committee on day care services at the State level.

Such committees may be combined or be part of a larger State or local advisory committee on the total public welfare program.

(b) Well-organized advisory committees can serve a number of purposes including:

(1) Increasing policy and administrative officials' awareness of problems in programs, and the opportunities for improvement;

(2) Increasing the client's sense of participation in development and operation of the program;

(3) Increasing the public's understanding and support of programs; and

(4) Increasing understanding and cooperation among groups within a community or State.

(c) Advisory committees should have adequate opportunity for meaningful participation in both policy and program development including:

(1) Recommendations on priorities for the use of funds and changes in levels of funding;

(2) Recommendations for candiates to senior level positions and the opportunity to express views on the qualifications of candidates considered for such positions, (within the limits of merit system regulations);

(3) Participation in development of administrative policies relating to provision and scope of services, and priority areas to be served;

(4) Review of the operation of the agency personnel system and suggestions for modifications;

(5) Participation in evaluations of program operations and the effects of policy; and

(6) Review of the effectiveness of grievances and appeals systems.

(d) To function effectively committee members should be adequately trained, have access to information on a wide array of areas including services delivery, the mission and policies of the agency, and the availability of resources, and be able to seek alternative views and judgments.

*Section 220.5 Use of professional staff.*

(a) This requirement emphasizes the need for adequate numbers of suitably qualified personnel drawn from social work and other appropriate disciplines to plan, develop, supervise and provide specialized services to children, youth and families. Decisions affecting the future of children and their families should be made by persons with training which prepares them to recognize and effectively respond to the complexities of the problems often encountered in delivering child welfare services.

(b) Generally, three types of personnel are required for effective delivery of child welfare services to clients:

(1) *Caseworker.* The primary responsibility of the child and family caseworker is to ensure the care and protection of the child, whether the client is defined as an individual child or a family, and to improve family functioning. The caseworker must provide a variety of services directly to the client or on his behalf, but this person is especially critical for the primary function of developing a supportive and therapeutic relationship with the child or family to effect changes in problem behaviors or to help them accept and utilize other service elements to their benefits. The caseworker's role is a comprehensive one requiring a variety of responsibilities and skills. Caseworker's must have the skills to:

(i) Develop a supportive and therapeutic relationship with the child or family;

(ii) Study and assess the family's situation, and develop a case plan;

(iii) Select and employ appropriate treatment approaches to different types of client problems;

(iv) Implement a variety of therapeutic techniques such as role modeling and counselling to individuals or groups;

(v) Coordinate the delivery of services to ensure services continuity and integration; and

(vi) Engage in advocacy, for example, intervening on a client's behalf during threatened eviction or ensuring the protection of his/her rights in consumers or legal disputes.

The Bachelor of Social Work (BSW) degree is the recommended minimum acceptable level of training for caseworkers.

(2) *Supervisor.* Supervisors should be highly skilled and accessible to support and direct the activities of workers who, in turn, must be able to respond to serious human problems and make high risk decisions. The worker's ability to handle the stress of participating in a client's often urgent and upsetting problems, and to help the client make difficult and appropriate decisions can be strengthened by the supervisor-caseworker relationship. Supervisors should supervise a maximum of 5 caseworkers.

Supervisors should have sufficient knowledge and skills about child welfare services to:

(i) Perform the dual role of teacher and administrator;

(ii) Be sensitive to each worker's capabilities and level of skill; and

(iii) Be able to develop basic casework capability in less skilled workers and enhance the abilities of more skilled workers.

Supervisors should have a Masters of Social Work (MSW) degree and training in supervision and administration.

(3) *Specialist.* Specialists are staff who serve a particular function or a specific type of client need. They may function as consultants or be part of the Agency staff. Special staff support agency functions through:

(i) Assisting caseworkers and supervisors in decisions on difficut cases;

(ii) Providing specialized training to improve and expand service delivery skills;

(iii) Providing policy and programmatic direction to the service delivery process; and

(iv) Introducing improved techniques and knowledge to the service delivery process.

The types and numbers of specialists required to support agency needs will vary in terms of the volume and nature of client problems. Currently, the following types of specialized consultation are necessary and appropriate to client service needs:

(i) Home-based services to avoid separation of child from family;

(ii) Protective services, to assess the risk and assist in treatment of parents who have abused and neglected their children;

(iii) Substitute care, to determine the most suitable type of placement for a particular child;

(iv) Permanent planning, to move children into permament care arrangements; and

(v) Psychiatric or clinical social work, to assist in the diagnosis and treatment of child, parental, marital, or family anomalies.

Specialized staff to perform these functions should have MSW degrees and specialized training and experience. Consultative services of physicians, psychiatrists, lawyers, psychologists and other such specialists should be available to assist staff where their services are appropriate.

*Section 220.6 Use of subprofessional personnel.*

(a) This provision requires agencies to utilize subprofessionals or paraprofessionals. Subprofessionals include all of those persons performing work related to professional activities, such as day care aides, parent aides, homemakers, health aides, and social service outreach workers. Clerical and janitorial positions or other positions of this type are not included.

(b) One of the most beneficial and effective uses of subprofessional staff is in the capacity of homemakers and emergency caretakers. Emergency caretakers are staff carefully selected and trained to provide short term adult care and supervision for children in their homes during a crisis precipitated by the absence, desertion or incapacity of parents. Homemakers perform emergency caretaker functions but also do role modeling, assist the parent(s) with household chores; and assist the parent(s) in better performance parental roles. Generally, homemakers are part of an overall plan to

assist children and families; therefore, the homemaker's work may not be limited to a specific crisis. Agencies which do not utilize paraprofessionals in this manner should consider developing units of homemakers to be staffed by paraprofessionals.

(c) This requirement recognizes that persons with limited education have knowledge and skills to complement (but not substitute for) the skills of professional staff. Subprofessionals may generally perform the following functions as part of a team or with other professional supervision:

(1) Specialized or individualized interpretation of service programs to ethnic or cultural groups and to help such groups or individuals express their needs;

(2) Helping to overcome language barriers, case-finding in the community, and encouraging eligible persons to use available services;

(3) Acting as liaison between an agency and a defined group or organization in the community;

(4) Assisting individuals or groups with day-to-day problems such as job-finding, locating sources of assistance, or organizing community groups to work on specific problems; and

(5) Transporting children to clinics and hospitals.

*Section 220.7 Use of volunteers.*

(a) Interested citizens can make a major, distinctive contribution in providing services to children, youth and families and in advisory capacities to State and local agencies. Volunteers should be recruited from all income levels and from all parts of the community including clients. Where expenses, such as transportation or baby-sitting costs, limit the availability of volunteers, the State agency should assist with these costs.

(b) Volunteers have been effective in providing services such as parent-aides and homemakers, aides in day care facilities and institutions, care for children at agency intake, and promoting community support for special service projects or interagency coordination. Volunteers with special skills may also be useful in carrying out surveys and studies and in assembling information for advisory committees.

(c) The State agency should have a plan for the use of volunteers, and a designated coordinator for volunteer activities to assure effective leadership and planning and selection, training and supervision of volunteers.

The plan should include—(1) A recruitment program to secure volunteers in all areas where they can assist the agency's services.

(2) Orientation to agency policies and procedures.

(3) Provision of office space, equipment and materials necessary to complete assigned tasks.

(4) Reimbursement of costs incurred by volunteers.

(5) Guide materials relating to requirements and descriptions of tasks.

*Section 220.8 Relationship and use of other agencies.*

(a) The requirement emphasizes the importance of maximum coordination with other public and voluntary agencies to provide effective and comprehensive services to all children, youth, and families in need. States are expected to develop agreements with public and voluntary agencies and to provide guides and supervision to local departments regarding responsibilities for similar arrangements with related local agencies.

(b) The purpose of inter-agency coordination is to develop a services network which ensures availability of necessary services and maximum utilization of each agency's resources. The roles of each agency must be clear and relationships must be established which avoid duplication, fragmentation and gaps in services.

(c) Effective State level arrangements for ensuring coordination of child welfare programs with other agencies and programs that serve children and their families include:

(1) A unit or designated person responsible for coordination of child welfare services.

(2) Established arrangements for the information exchange among agencies providing child welfare services and those providing other social services, e.g., AFDC, and Medicaid.

(3) Established policies and procedures for sharing information, where legally possible, on clients and families among referring agencies. Such policies must assure appropriate arrangements to assure confidentiality of information and safeguards for privacy as required under § 205.50.

(4) Written agreements regarding services responsibilities with State agencies serving children and their families, e.g., mental health, public health, juvenile justice.

(5) Assistance to local public social services agencies in developing cooperative agreements including written guidelines to assure:

(i) Provisions for inter-agency referrals.

(ii) Reports to referring agencies to confirm client contacts.

(iii) Annual review of agreements.

(iv) Joint funding of projects and joint staff development where appropriate.

(6) Assistance to local agencies in developing and implementing agreements.

*Section 220.10 Staff development.*

(a) The State agency should have a plan for ensuring that State and local child welfare personnel are trained to the maximum extent feasible. The plan should describe the State's staff development activities including orientation, in-service training and education, and educational leave.

(b) State child welfare administrators and staff development specialists are ultimately responsible for development of programs that address the specific skills and knowledge needed by administrators, supervisors, case managers, specialists, direct service workers, volunteers and paraprofessional staff. Effective statewide staff development programs require:

(1) Methods of identification of local agencies' staff development and training needs.

(2) A person or unit responsible for coordination and provision of identified staff development needs.

(3) Utilization of title XX funds for training child welfare staff.

(4) Specialized management training programs for child welfare staff.

(5) Training for personnel in provider agencies.

(6) Assistance to local area colleges and universities in developing curricula for child welfare training programs.

(7) Educational leave and funding for workshops, seminars, special courses, professional conferences and meetings.

(8) Training programs for staff sensitivity to special clients and community cultural, ethnic and language considerations.

(9) Provision for purchase of professional journals and other related material for staff use.

(10) Assessment of staff development and training programs including:

(i) Availability of training programs

(ii) Number of staff attending

(iii) Evaluation of staff satisfaction and program relevance, and impact on quality and outcome of service.

(c) Personnel management policies shall be designed and implemented to ensure effective and appropriate services to children and their families and shall include the following provisions:

(1) Allocation and deployment of personnel resources capable of rendering an immediate, full-time (twenty-four hour) response to time-critical needs of children and their families.

(2) Recruitment policies to provide ethnic, cultural and racial diversity appropriate to the nature of the client population, at all staff levels.

(3) Standards and systems to evaluate staff performance and ensure accountability for achieving service goals.

(4) Educational opportunities through structured agency programs to enable professional advancement for staff along the entire career ladder.

(5) Recruitment, selection and promotion policies in accordance with objective criteria and established systems.

(6) Skilled and accessible supervision to support and direct activities of workers and to provide consultation upon their request, at a rate of *one* supervisor to *five* social workers.

(7) An established grievance procedure for all employees.

(8) Long-range planning strategies to support program development and to determine staffing requirements based on assessment of target population needs and community resources.

(9) Opportunities for all staff to participate through established channels in development of policies and procedures and in program planning in order to build a common purpose and common goals.

(10) Opportunities for professional staff to attend and participate in national and community meetings related to child welfare, and encouragement of communication and contacts with counterparts in the private child care sector.

(11) Empirical workload standards for all aspects of service for better workload management and staff projection.

(12) Employment of paraprofessionals and utilization of community volunteers under appropriate agency supervision.

(d) Long-range planning is necessary in determining information for the use of public

agencies. Some significant factors to be analyzed in personnel projections are:

(1) Periodic and systematic needs assessment based on current and projected target population service needs, and current and projected resources.

(2) Service goals and priorities, and service delivery standards.

(3) New knowledge, methods and theories associated with meeting the special needs of children, with implications for agency practice.

(4) Program development required to implement new legislation or new policy.

(5) Workload measurements and standards for each function or service.

(6) Professional qualifications of staff to meet standards proposed by the social work profession.

(7) Purchase of service availability.

(8) Agency setting (rural or urban).

*Section 220.11 Appeals, fair hearings and grievances.*

(a) This requirement is intended to protect the rights of individuals to request a fair hearing to appeal:

(1) Denial of or exclusion from the services to which they are entitled under the State plan;

(2) Actions that negate the individual's right of choice with respect to specific service programs; and

(3) Actions to force involuntary participation in a service program.

(b) Agencies must have procedures for handling grievances on any matter raised by an individual or individuals and must make the precedures readily accessible to individuals.

(c) Agencies must assure staff and client understanding of distinctions between agency out-reach efforts to offer services and coercion of acceptance of services.

(d) The results of appeals hearings should be available to the State Advisory Committee so that the Committee is aware of the nature and frequency of recipient grievances and can advise and assist the agency when grievances about policies and procedures indicate the need for review and possible changes. This requirement to make the results appeals available to the Advisory Committee is limited to reports and results and does not include provision of actual case records, recipient names, or other confidential information.

*Section 220.40(a) Child welfare services statewide.*

(a) As the foundation of a comprehensive plan of public child welfare services, every county or other political subdivision should have available a full range of services for children, youth and their families whose home conditions or individual needs require special attention. This requirement reinforces the purposes of the law to assist the States in establishing, extending and strengthening public child welfare services. Thus, the purpose of title IV–B can be realized through progressive, continuing and consistent expansion until the State is able to adequately meet the needs of children, youth and their families for child welfare services.

(b) Statewide compliance with this requirement should lead to systematic development of all essential child welfare services. These services should include:

(1) Preventive or supportive services to strengthen intact families and when necessary to avoid the need for foster care;

(2) Protective and rehabilitative services;

(3) Foster care services, after care services and adoption services, including adoption subsidies.

These services should be coordinated and provided through a mix of public and voluntary agencies.

(c) This requirement calls for extending and strengthening child welfare services in three dimensions:

(1) Reaching additional children in need of services,

(2) Expanding the range of services provided, and

(3) Improving the quality of services through additional trained child welfare personnel.

*Section 220.40(b)(1) Needs assessment.*

(a) The State agency should develop a plan for periodic identification and assessment of needs, problems and resources relating to its provision of child welfare services. Needs assessment should be directed toward the total services program, not just to specific problems or special services.

(b) There should be a uniform assessment system throughout the State for defining needs and services to minimize program gaps and to avoid duplication of services. Needs assessment should produce clear definitions of populations at risk who are not receiving services as well as assess the adequacy of current services.

(c) Inability to meet currently identified needs should not deter the process of continuously assessing services needs.

(d) States' arrangements for identification and assessment of the need for child welfare services should meet the following criteria:

(1) Written procedures for assessment of the need for child welfare services;

(2) An individual or unit responsible for needs assessment;

(3) Criteria and procedures for a variety of methodologies to identify and assess needs for services, e.g., citizen surveys, client services data, special studies and surveys;

(4) Schedules for periodic needs assessment;

(5) Arrangements to compare data among counties and regions;

(6) Methods for involving relevant community groups, e.g., services clients, advocate groups; and

(7) Arrangements to coordinate needs assessment studies with activities of other agencies and organizations.

*Section 224.40(b)(2) Services to children in their own homes and foster care.*

(a) *Services to Children in Their Own Homes.* The State agency should develop procedures and criteria to assure that the circumstances of children referred for child welfare services are assessed in order to develop an appropriate plan to strengthen, support and improve family functioning. Home-based supportive and supplementary services should be provided where the assessment indicates that the family could remain intact through the provision of such services. The specific supportive and supplementary services to be provided should be described in the individual case plan. The requirements regarding child welfare services to children in their own homes is intended to reinforce the conviction that the family is the first and best resource for the child. It emphasizes a major goal of child welfare services which is to preserve, strengthen and rehabilitate family life and prevent disruption and unnecessary removal of children from their homes. The following criteria are recommended for developing or improving a program of home based services for children, youth and their families:

(1) There is agency and staff commitment to providing services to strengthen and preserve the family and child in the home and this commitment is reflected in agency policy, practices and procedures.

(2) Services are complete, comprehensive and intensive including at a minimum, casework or counseling, day care, homemaker services with a parent education component, and respite care. These services should be available in the amount and for the length of time they are needed.

(3) The home is the primary service setting and community resources are utilized as needed to support and supplement services in the home.

(4) Parental roles are emphasized and supported and the family is the unit of service. This focus recognizes that the family is the primary source of nurture, education and health care for the child.

(5) Maximum use is made of family resources (strengths) including the extended family as appropriate.

(6) Home based services assumes an agency and staff commitment to deal with any problem presented by the family or observed by staff. If the necessary expertise or resources are not available within the agency, the staff should act as coordinator or facilitator to obtain the services from other sources in the community.

(7) The provision of home based services requires the development of community support systems such as ties with relatives, neighbors, community organizations, and volunteers.

Home based services, therefore, is inclusive, rather than exclusive. It is an integration of social, educational and medical services in behalf of family stability, unity and cohesion.

(b) *Foster care.* (1) The requirement regarding foster care is intended to assure appropriate placement and adequate agency supervision and emphasizes the importance of efforts to return children to their own homes or to develop an alternative permanent plan as early as possible. It relates to the growing criticism that public policies and practices regarding the placement of children in foster care have neither helped children to find permanent homes nor provided them with quality supervision and support while in care. It emphasizes timely decision making as well as services in the foster care process.

(2) When the State or local agency provides foster care directly or by purchase, it should:

(i) Assure that the foster family home, group home or child care institution in which

the child is placed is licensed by the State or is certified by the State licensing staff as meeting the State standards for such licensing;

(ii) Assure that the placement is appropriate to the needs of the child, using criteria specified by the State which are based on standards recommended by the American Public Welfare Association (APWA) or the Child Welfare League of America (CWLA);

(iii) Assure that the child receives proper care in the placement using criteria specified by the State which are based on standards recommended by the APWA or CWLA;

(iv) Assure that the child and family will receive services to improve the conditions in the home from which the child was removed so that the child may be reunited with the family;

(v) Assure that where reunification services are inappropriate, the agency will place the child in the home of a relative, in an adoptive home, or, if necessary in planned long-term foster family care; and

(vi) Describe in the case plan how it plans to meet or is meeting the requirements of this section.

(3) When the State provides foster care services through purchase of service agreements, there should be written clarification of the responsibilities of agencies from which the State or local agency purchases services for foster care placement, including case supervision and case review and specification of the responsibilities retained by the State or local agency. The State should assure that the responsibilities described in the agreement are met.

*Section 220.40(b)(3) Case plans and case reviews.*

(a) *Case plans.* (1) The development of a case plan for a child and his family is an essential part of the process of child welfare service delivery. Without a plan, goals are difficult to define, and unplanned services may provide only a transient remedy to chronic problems. A case plan, developed jointly by the family and the agency, with decision making at critical points and periodic review, will provide the structure for achievement of short and long range goals, and an opportunity to assess the appropriateness of services and quality of care.

(2) The State agency should have a clearly stated and promulgated policy (standards, practices and procedures) that all children receiving child welfare services must have a written plan that is developed in cooperation with the family. The State agency should have a method to monitor and assure compliance with this policy.

(3) A structured plan should be developed for each child who is to receive services within thirty days following the agency's decision to provide services. It should contain sufficient information to guide the delivery and monitoring of services, and to assess services outcomes. The case plan should summarize the conditions of the home, and analyze the behaviors and needs of the family and the child(ren), and specify the services required to rectify or resolve major problems.

(4) The following are considered essential components of a case plan in a goal-oriented child welfare program:

(i) A written plan developed in cooperation with the family, for each child and family provided child welfare services;

(ii) An assessment of the circumstances which necessitate the provision of child welfare services;

(iii) The actions to be taken to resolve the identified problems within a specified period of time;

(iv) The services outcomes to be achieved; and

(v) A specific permanent goal for the child.

(5) The agency should develop and implement policies and procedures to assure that the planned services are provided to achieve the goals established for the child and his or her family and to ensure that all possibilities for arranging a suitable permanent plan, when appropriate, are explored and acted upon expeditiously.

(b) *Case review.* (1) The case plan should be reviewed at least semi-annually to assure its continued appropriateness, including the delivery of the services specified in the case plan, and to revise when necessary, according to its continuing relevance to the needs of the child. If the child is in foster care, the review should assess the continued necessity of placement outside the home and the appropriateness of the particular placement, using criteria specified by the State based on standards such as those developed by the Children's Bureau/ American Public Welfare Association (APWA), the Child Welfare League of America (CWLA), or other recognized standard setting agencies.

(2) The review should include participation by State or local agency staff not directly delivering services to the child and family. This may include the first level supervisor or other reviewer(s) designated by the State or local agency.

(3) Another method of case review is the use of a team of agency personnel with direct responsibility for case action, other administrative staff, and consultants to the agency who are knowledgeable in the practice of child welfare. Other methods of review may involve the courts and citizen advocates. If information on the placements of children in foster care is to be shared with citizen or court review groups, the State's intention to use such a review group should be described in the State Plan.

(4) Case reviews serve as a casework support and an administrative control on all major decisions and actions in a case, ensuring that a client's needs are met appropriately and in a manner consistent with agency policies and standards. They can also be a valuable teaching device, used to develop and improve the skills of all service delivery personnel. Through a joint planning process with the family, case reviews also provide a vehicle for exercising the rights of all parties to participate in the planning and achievement of mutual goals.

*Section 220.40(b)(4) The Availability of child welfare services.*

(a) The only test of eligibility for child welfare services is the need of the child and his family for these services. Thus, child welfare services are to be available to all children without regard to financial need, legal residence, social status, race, religion or national origin. Children in stable, intact families, as well as those in disrupted families, may have a range of needs requiring the services of child welfare agencies. Physical, mental and emotional handicaps, neglect and abuse, dysfunctioning family relationships, poor school adjustment, drug abuse and unmarried adolescent parents are major problems which transcend financial and social status, legal residence, race or religion.

(b) Provision of services to all groups in need of them may require improved outreach and development of new types and combinations of services, such as outreach activities, comprehensive child welfare services in a single location, neighborhood centers, agency or multiagency teams, client self-help groups, and staff training for services to special or target groups.

*Section 220.47 Implementation; local agencies and service contractors.*

(a) The State agency has continuing responsibility to assure that local agencies and service contractors are meeting service responsibilities appropriately and effectively and in accordance with the State Plan. Assisting and monitoring local agencies is not a new responsibility to State agencies, but the scope and nature of the services and accountability for results under the Regulation require careful assessment of the adequacy of current methods and staffing for this activity.

(b) State agencies should assist and monitor local agencies through:

(1) Promulgation and dissemination of standards, guidelines and licensing criteria for child welfare programs.

(2) Staff development and training for local agencies and offices providing child welfare services.

(3) Establishment of appropriate personnel policies and procedures for child welfare staff.

(4) Utilization of data from monitoring and evaluation studies to assist in correction of deficiencies and improving child welfare programs.

(5) Determination of compliance with criteria for using licensed contractors.

*Section 220.56 Day care services.*

(a) This provision pertains to all day care services supported by title IV-B funding and must meet the requirements described in the Assurances. Specific Federal regulations and guidance pertaining to provision of day care can be found in the Federal Interagency Day Care Requirements (FIDCR) and the accompanying guidance. The FIDCR, which apply to most Federally funded day care, are currently being revised by the Department of Health, Education, and Welfare.

(b) Day Care refers to a wide variety of organized care and supervision that supplements parental care and guidance for a part of the day, in or outside the home. Responsibility for such supplementary care is delegated by parents and generally provided in their absence. The home and family remain

the central focus of the child's life, and the parent(s) retain(s) primary responsibility for rearing their child(ren).

(c) Day care is an integral part of a system of supportive and supplemental child welfare services to children and families and, as such, should receive increased emphasis in planning. Day care services should be available as a respite for the child(ren) of parents experiencing extreme stress: a resource for care of the child(ren) while the parent(s) is relieved temporarily of their care. Such child care services are clearly supplemental in nature and generally should be one component of a more complete service network to support and strengthen families especially during times of crisis.

(d) Day care, like homemaker services, should be viewed as one of the service options available to prevent out-of-home placement of children. Before decisions are made to remove children from their homes, consideration should be given to day care as an alternative supportive service.

*Section 231.2 Child abuse and neglect.*

(a) Child protective services are vital social services for children who are neglected, abused or exploited and whose conditions are such that community intervention is necessary.

(b) Extensive technical assistance, publications, training and other forms of assistance are available on this subject from the Child Abuse and Neglect Resource Centers, as well as from the regional and central office staff of ACYF. Detailed guidance is available in the draft *Federal Standards for Child Abuse and Neglect Prevention and Treatment Programs and Projects* and the User Manuals. However, of the many significant issues of concern in delivering child protective services, the following five areas have been identified as especially critical:

(1) Prompt investigation is crucial to protect the health and welfare of the abused or neglected child. The National Center on Child Abuse and Neglect (NCCAN) recommends immediate investigation of crisis or emergency situations and investigation within 24 hours of all reports.

(2) Following resolution of any emergency situation, the worker should engage in a more detailed and comprehensive assessment of the family's needs and strengths. During this process the worker, with family members and relevant service providers (e.g., schools, hospitals, mental health agencies) should identify the elements of a case treatment plan for the family which describes the changes required to alleviate the family's problem(s).

(3) Effective child protective services require close coordination with courts, law enforcement, health and medical systems, schools, mental health agencies and other service providers, for identification, and follow-up in cases of child abuse and neglect.

(4) The need for more staff development and training opportunities for child welfare staff has been repeatedly emphasized. This need for basic child welfare skills is particularly important for child protective service workers, who need skills in investigation, case assessment and court presentation.

(5) Policies and procedures which will assure that protective service staff will coordinate their efforts with those of placement and licensing staff, when abuse is alleged to have occurred in licensed services.

*Section 205.70 Availability of agency program manuals.*

There should be public involvement in planning child welfare services in the States. State and local agencies should maintain and make available program manuals and other policy issuances, including the State Plan. To make child welfare services as effective as possible, the State should seek comments and recommendations from individuals and groups, from the general public and from affected target populations. The State agency will gain more public involvement and support for its programs through making materials available. The availability of program manuals and policy issuances is a minimum requirement for informing the public about the State's child welfare program.

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Federal Register

Friday
February 22, 1980

Part III

# Department of Labor

Employment Standards Administration,

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

## DEPARTMENT OF LABOR

### Employment Standards Administration Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

#### New General Wage Determination Decisions

None.

#### Modifications to General Wage Determination Decisions

The numbers of the Decisions being modified and their dates of publication in the Federal Register are listed with each State.

| | |
|---|---|
| Illinois: | |
| IL79-2072 | Sept. 7, 1979 |
| IL79-2073 | Sept. 14, 1979 |
| IL79-2029 | May 4, 1979 |
| IL79-2031 | May 4, 1979 |
| IL79-2037 | May 11, 1979 |
| IL79-2067 | Aug. 24, 1979 |
| IL79-2071 | Sept. 7, 1979 |
| IL79-2074 | Sept. 14, 1979 |
| IL79-2077 | Sept. 14, 1979 |
| IL79-2079 | Sept. 14 1979 |
| Maryland: | |
| MD78-3046 | May 19, 1978 |
| Michigan: | |
| MI79-2020 | June 1, 1979 |
| Ohio: | |
| OH79-2064 | July 6, 1979 |
| Pennsylvania: | |
| PA78-3054 | Aug 11, 1978 |
| PA79-3001 | Feb 2, 1979 |
| PA79-3007 | Apr 6, 1979 |
| Rhode Island: | |
| RI79-2065 | Aug 17 1979 |
| West Virginia: | |
| WV78-3018 | June 9, 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.

| | |
|---|---|
| Maine | |
| ME77-3138 (ME80-2005) | Dec. 12, 1977 |
| Ohio | |
| OH79-2047 (OH80-2006) | May 11 1979 |
| Pennsylvania: | |
| PA78-3015 (PA80-3011) | May 12 1978 |

## Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 15th day of February 1980.

**Dorothy P. Come,**

*Assistant Administrator, Wage and Hour Division.*

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. IL79-2072 - Mod. #1
(44 FR 52547 - September 7, 1979)

Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

CHANGE

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Carpenters & Piledrivermen: | | | | | |
| Remainder of Counties | 12.74 | .90 | 1.15 | | |
| DeKalb & Boone Counties | 12.78 | .90 | 1.00 | | .02 |
| Cement Masons: | | | | | |
| DuPage County | 12.80 | 1.13 | 1.00 | | .07 |
| Will County | 12.55 | .85 | 1.56 | | |
| Electricians: | | | | | |
| Boone & DeKalb Counties | 12.96 | .50 | 3%+.80 | | ½% |
| Ironworkers: | | | | | |
| Boone County; DeKalb County (excluding S.E. 2/3, Including Sycamore & DeKalb) and the N.W. ½ of McHenry County | 13.25 | .75 | .375 | | .10 |
| Kane County; DeKalb (S.E. 2/3, Including Sycamore & DeKalb) County; DuPage County (excluding Argonne & Vicinity); The N. ½ of Kendall County; & the S. E. ½ of McHenry County | 15.25 | .75 | .525 | | .08 |
| Lake County; Hebron & Woodstock & E. Thereof in McHenry | 13.80 | 1.24 | 1.22 | | .10 |
| Will County; Argonne & Vicinity in DuPage County & S. ½ of Kendall County | 13.00 | .75 | .725 | | .02 |
| Linemen: | | | | | |
| Boone, DeKalb, DuPage, Kane, Kendall, Lake & McHenry Counties: | | | | | |
| Linemen, Crane Operator (15 Ton or over); | | | | | |
| Digger Operator | 13.89 | .45 | 3% | | ½% |
| Equipment Operator | 11.83 | .45 | 3% | | ½% |
| Truck Driver | 9.43 | .45 | 3% | | ½% |
| Groundman | 9.12 | .45 | 3% | | ½% |

MODIFICATION PAGE 2

DECISION NO. IL79-2073 - Mod. #1
(44 FR 53616 - September 14, 1979

Bureau, Carroll, Henry, Lee, JoDaviess, Ogle, Rock Island, Stephenson, Whiteside & Winnebago Counties, Illinois

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Carpenters and Piledrivermen: | | | | | |
| Bureau County | 12.44 | .75 | .70 | | .03 |
| Carroll, Stephenson and JoDaviess Counties | 12.60 | .55 | .75 | | |
| Lee County | 12.375 | .55 | 1.00 | | |
| Whiteside County | 12.60 | .55 | .75 | | |
| Rock Island & Henry Counties; Oregon and S. thereof in Ogle County | 12.235 | .65 | 1.00 | | .04 |
| Winnebago County; N. of Oregon in Ogle County | 11.90 | .55 | 1.45 | | |
| Electricians: | | | | | |
| Bureau County; (Townships of Lamoille, Walnut, Ohio, Clarion, Bureau, Dover, Berlin & Westfield | 13.93 | .88 | 3%+.70 | | 2/10% |
| Linemen: | | | | | |
| Eastern part of Carroll County; (Including Cities of Lanark, Milledgeville & Shannon) JoDaviess County; (that portion E of Clyde, Lyndon, Mt. Pleasant & Prophetstown), Ogle, Lee, Stephenson & Winnebago Counties: | | | | | |
| Linemen-Digger Operator - Crane Operator (15 Tons or over) | 13.89 | .45 | 3% | | ½% |
| Equipment Operator | 11.83 | .45 | 3% | | ½% |
| Truck Drivers | 9.43 | .45 | 3% | | ½% |
| Groundmen | 9.12 | .45 | 3% | | ½% |
| Rock Island, Henry Remainder of Carroll, JoDaviess & Whiteside Counties: | | | | | |
| Linemen | 12.57 | .45 | 3% | | ½% |

| DECISION NO. IL79-2073 - Mod. #1 (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Cable Splicers | 12.66 | .45 | 3% | | ½% |
| Dynamiter | 10.70 | .45 | 3% | | ½% |
| Groundmen Truck Drivers: | | | | | |
| With Winch | 8.99 | .45 | 3% | | ½% |
| Without Winch | 8.69 | .45 | 3% | | ½% |
| **DECISION NO. IL79-2029 - MOD. #4** (44 FR 26419 - May 4, 1979) Fulton, Hancock, McDonald & Schuyler Counties, Illinois | | | | | |
| Change: | | | | | |
| ELECTRICIANS: | | | | | |
| Hancock & Schuyler Cos.: (Twps. of Lamoine, Bethel, Industry, & Eldorado in McDonough Co. | 12.54 | .50 | 3%+1.00 | | 1% |
| Twps. of Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory in Fulton County | 12.87 | .55 | 3%+1.00 | | 3/4% |
| **DECISION NO. IL79-2031 - MOD. #3** (44 FR 25424 - May 4, 1979) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois | | | | | |
| CHANGE | | | | | |
| Bricklayers: | | | | | |
| Bureau, LaSalle & Marshall Cos., The N. ½ of Putnam Co. & N. W. Corner of Livingston County | 12.74 | .90 | 1.15 | | |



| DECISION No. IL79-2037 - Mod. #4 (44 FR 27867 - May 11, 1979) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope Pulaski, Saline, Union, White, & Williamson Counties, Illinois | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE | | | | | |
| Painters: | | | | | |
| Jackson & Perry Counties: | | | | | |
| Commercial | 9.70 | | | | |
| Industrial | 10.50 | | | | |
| Marion County: | | | | | |
| Centrallia & Vicinity: | | | | | |
| Brush & Structural Steel | 9.25 | | | | |
| Roller | 9.50 | | | | |
| Spray | 10.25 | | | | |

MODIFICATION PAGE 5

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION NO. IL79-2067 - MOD. #3 (44 FR 49837 - August 24, 1979) Boone, Carroll, DeKalb, Jodaviess, Lee, Ogle, Stephenson, Whiteside and Winnebago Counties, Illinois | | | | | |
| Change: | | | | | |
| Carpenters: | | | | | |
| DeKalb County, Ogle (E. of Hwy. #15 Incl. Rochelle City) Co., Lee (E. ½ of Co.), (Incl. Roxbury & Compton) Co.: | | | | | |
| Carpenters & Soft Floor Layers | $ 12.78 | .90 | 1.00 | | .02 |
| Millwrights and Piledrivermen | 12.83 | .90 | 1.00 | | .02 |
| DECISION NO. IL79-2071 - MOD. #1 (44 FR 52545 - September 7, 1979) Kankakee County, Illinois | | | | | |
| Change: | | | | | |
| Ironworkers | $ 13.60 | .75 | .95 | | .05 |

MODIFICATION PAGE 6

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION No.IL79-2074 -Mod. #1 (44 FR 53623 - September 14, 1979) Ford, Grundy, Iroquis, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam, and Woodford Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| Carpenters: | | | | | |
| Grundy County; Marseilles & Vicinity in LaSalle Co. | 13.98 | .90 | .98 | | .04 |
| DECISION No.IL79-2077- Mod. #1 (44 FR 53642 - September 14, 1979) Champaign, Clark, Coles, Cumberland, Dewitt, Douglas, Edgar, Macon, Moultrie, Piatt, Shelby & Vermillion Counties, Illinois | | | | | |
| CHANGE | | | | | |
| Linemen: | | | | | |
| Vermillion County: | | | | | |
| Linemen & Groundman Equipment Operator | 13.12 | .50 | 3%+.50 | | ½% |
| Groundman Truck Drivers: | | | | | |
| With Winch | 10.67 | .50 | 3%+.50 | | ½% |
| Without Winch | 9.98 | .50 | 3%+.50 | | ½% |
| Groundman | 9.45 | .50 | 3%+.50 | | ½% |

DECISION No.IL79-2079-Mod. #1
(44 FR 53647 - September 14, 1979)
Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe Montgomery, St.Clair and Washington Counties, Illinois

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE | | | | | |
| Linemen: | | | | | |
| Calhoun, Greene & Jersey Counties; S.W. Corner of Macoupin Co.; E. Alton, Alton, Wood River & Hartford in Madison County: | | | | | |
| Linemen | 12.28 | .55 | 3%+1.00 | | 3/10% |
| Groundman Equip.Opr. | 10.55 | .55 | 3%+1.00 | | 3/10% |
| Groundman Truck Driver: | | | | | |
| With Winch | 8.22 | .55 | 3%+1.00 | | 3/10% |
| Without Winch | 7.66 | .55 | 3%+1.00 | | 3/10% |
| Groundman | 7.44 | .55 | 3%+1.00 | | 3/10% |
| Monroe & St. Clair Cos; Okawville & Vendy Townships in Washington Co.; Portion E.of Roundtree, Irving & East Fort Townships in Montgomery Co; and remainder of Macoupin and Madison Cos; & W. ½ of Bond County: | | | | | |
| Linemen | 14.10 | 4% | 3% | | .05 |
| Groundman Equipment Operator | 12.25 | 4% | 3% | | .05 |
| Groundman Truck Drivers with & without winch | 9.96 | 4% | 3% | | .05 |
| Groundman | 9.22 | 4% | 3% | | .05 |



DECISION #MD78-3046 - Mod. #6
(42 FR 21813 - May 19, 1978) Baltimore City, Maryland

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Bricklayers | 11.38 | .80 | .50 | | .07 |
| Carpenters. | 10.80 | .75 | .69 | | .07 |
| Electricians | 11.30 | .80 | 3%+1.20 | | 1/2% |
| Ironworkers: | | | | | |
| Structural and Reinforcing | 10.70 | .90 | 1.95 | | .06 |
| Fence Erectors | 10.35 | .90 | 1.95 | | .06 |
| Line Construction: | | | | | |
| Linemen, Cable Splicers, Digging and Equipment Operators | 12.70 | .60 | 3% | | |
| Winch truck and trucks with pole or steel handling | 8.51 | .60 | 3% | | |
| Truck without winch | 7.94 | .60 | 3% | | |
| Groundmen | 8.00 | .60 | 3% | | |
| Piledrivermen | 10.80 | .75 | .69 | | .07 |
| Power Equipment Operators: | | | | | |
| Group I | 10.02 | .95 | 1.00 | a | .13 |
| Group II | 9.52 | .95 | 1.00 | a | .13 |
| Group III | 8.95 | .95 | 1.00 | a | .13 |
| Group IV | 7.87 | .95 | 1.00 | a | .13 |
| Group V | | | | | |
| a | 10.42 | .95 | 1.00 | a | .13 |
| b | 10.62 | .95 | 1.00 | a | .13 |
| c | 10.82 | .95 | 1.00 | a | .13 |
| d | 11.02 | .95 | 1.00 | a | .13 |
| e | 11.27 | .95 | 1.00 | a | .13 |
| Truck Drivers: | | | | | |
| Pick-up | 7.66 | 1.05 | .80 | a+b | |
| Dumps | 7.88 | 1.05 | .80 | a+b | |
| Drops frame, gooseneck, and trailer drivers | 8.07 | 1.05 | .80 | a+b | |
| Euclids and Dumpsters | 8.19 | 1.05 | .80 | a+b | |

MODIFICATION PAGE 9

| DECISION #MD78-3046 (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Add: | | | | | |
| Divers and Tenders: | | | | | |
| Divers (footage of up to 60 feet) | 20.80 | .75 | .69 | | .07 |
| Additional basic depth rate: | | | | | |
| 60 to 70 feet - extra $5.00 per day; | | | | | |
| 70 to 80 feet - extra $10.00 per day; | | | | | |
| 80 to 90 feet - extra $15.00 per day; | | | | | |
| 90 to 100 feet - extra $20.00 per day; | | | | | |
| Divers Tenders | 10.80 | .75 | .69 | | .07 |
| Painters: | | | | | |
| Brush and Roller | 9.35 | 1.00 | .55 | | .07 |
| Spray painting (except steel) | 9.60 | 1.00 | .55 | | .07 |
| Steel painting, any painting using swinging stages and boatswain chairs, sand and water blasting, steam cleaning, and all epoxy | 9.85 | 1.00 | .55 | | .07 |

MODIFICATION PAGE 10

| DECISION #MI79-2020 - MOD. #7 (44 FR 31842 - June 1, 1979) Statewide, Michigan | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| Power Equipment Operators: | | | | | |
| Highway, Airport, Bridge & Sewer Construction | | | | | |
| ZONE 1 | | | | | |
| Wayne, Monroe, Washtenaw, Oakland, Macomb & Genesee | | | | | |
| Class 1 | $10.44 | .95 | 1.50 | 11% | .05 |
| Class 2 | 10.22 | .95 | 1.50 | 11% | .05 |
| Class 3 | 9.77 | .95 | 1.50 | 11% | .05 |
| Class 4 | 9.63 | .95 | 1.50 | 11% | .05 |
| ZONE 2 | | | | | |
| Remainder of State | | | | | |
| Class 1 | 10.44 | .95 | 1.50 | 11% | .05 |
| Class 2 | 10.10 | .95 | 1.50 | 11% | .05 |
| Class 3 | 9.65 | .95 | 1.50 | 11% | .05 |
| Class 4 | 9.40 | .95 | 1.50 | 11% | .05 |

Decision No. OH79-2 064 - Mod. #1
(44 FR 39933 dated July 6, 1979)

Lucas County, Ohio

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | 13.83 | .55 | 1.40 | | .04 |
| ELECTRICIANS: | | | | | |
| Commercial | 14.50 | .85 | 3%+.75 | | .3% |
| Residential | 8.94 | .65 | 3%+.55 | | .1% |
| IRONWORKERS | 13.45 | 1.06 | 1.48 | | .06 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 14.92 | .70 | 3% | c | ½% |
| Cable Splicers | 15.17 | .70 | 3% | c | ½% |
| PAINTERS: | | | | | |
| Commercial: | | | | | |
| Brush; Drywall Tapers; Paperhangers | 11.93 | 1.06 | 1.30 | | |
| Bridge; Railings; Powerhouse; Refinery Tanks | 12.18 | 1.06 | 1.30 | | |
| Sandblasting; Spray; Pressure Cleaning | 12.48 | 1.06 | 1.30 | | |
| Residential Work | 10.79 | 1.06 | 1.30 | | |
| PLUMBERS; STEAMFITTERS; PIPEFITTERS: | | | | | |
| Commercial Building | 14.38 | 1.25 | 1.05 | | .12 |
| Residential | 8.35 | .50 | .30 | | .03 |
| ROOFERS | 12.98 | 1.06 | 1.50 | | .02 |
| SOFT FLOOR LAYERS: | | | | | |
| Residential | 10.30 | 1.20 | .75 | | .04 |
| SPRINKLER FITTERS | 14.02 | .75 | 1.05 | | .08 |
| TERRAZZO WORKERS; TILE SETTERS | 13.53 | 1.06 | .30 | | |



Decision No. OH79-2064 - Mod. #1 (Cont'd):

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| Unskilled Laborers | 11.41 | .80 | .80 | | .11 |
| Mason Tenders | 11.54 | .80 | .80 | | .11 |
| Gunnite Pot Men; Mortar Mixers | 11.61 | .80 | .80 | | .11 |
| Concrete Pump Nozzle Men; All Power Driven Tools; Power Buggies | 11.565 | .80 | .80 | | .11 |
| Pipe Layers; Bellmen; Bottom Men for Fire Brick Work Only | 11.665 | .80 | .80 | | .11 |
| Nozzle Operators for Gunnite Work | 12.32 | .80 | .80 | | .11 |
| Plasterers' Tenders | 11.43 | .80 | .80 | | .11 |
| POWER EQUIPMENT OPERATORS: | | | | | |
| GROUP A | 13.44 | .96 | 1.00 | | .11 |
| GROUP B | 13.28 | .96 | 1.00 | | .11 |
| GROUP C | 12.93 | .96 | 1.00 | | .11 |
| GROUP D | 12.12 | .96 | 1.00 | | .11 |
| GROUP E | 11.79 | .96 | 1.00 | | .11 |
| GROUP F | 9.58 | .96 | 1.00 | | .11 |

MODIFICATION PAGE 13

| DECISION NO. PA78-3054<br>MOD. NO. 6<br>(43 FR 35868 - August 11, 1978)<br>Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| OMIT: | | | | | |
| LINE CONSTRUCTION: | | | | | |
| Journeyman Lineman | $13.71 | .45 | 1.37 | | .041 |
| Experience Winch Truck | 9.55 | .45 | .095 | | .028 |
| 2nd 1000 Hrs. | 9.32 | .45 | .093 | | .027 |
| 1st. 1000 Hrs. | 9.09 | .45 | .090 | | .027 |
| Experience Truck Driver | 8.86 | .45 | .088 | | .026 |
| 2nd 1000 Hrs. | 8.63 | .45 | .086 | | .025 |
| 1st. 1000 Hrs. | 8.40 | .45 | .084 | | .025 |
| Experience Groundman | 8.17 | .45 | .081 | | .024 |
| 2nd 1000 Hrs. | 7.93 | .45 | .079 | | .023 |
| 1st. 1000 Hrs. | 7.70 | .45 | .077 | | .023 |
| CHANGE: | | | | | |
| LINE CONSTRUCTION: | | | | | |
| Journeyman Lineman | 14.62 | .45 | 3% | | 1% |
| Experience Winch Truck | 10.23 | .45 | 3% | | 1% |
| Experience Groundman | 8.77 | .45 | 3% | | 1% |

MODIFICATION PAGE 14

| DECISION NO. PA79-3001<br>MOD. NO. 3<br>((44 FR 6886 - February 2, 1979)<br>Northampton County, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| Asbestos Workers | $11.61 | 1.12 | .90 | | .01 |
| Boilermakers | 14.64 | 1.17 | 1.00 | | .02 |
| Carpenters | 11.10 | .84 | .72 | | .05 |
| Millwrights | 11.50 | .84 | .72 | | .05 |
| Painters(Bethlehem) | | | | | |
| Brush | 10.65 | 1.23 | .75 | | .05 |
| Structural Steel | 11.75 | 1.23 | .75 | | .05 |
| Spray | 11.65 | 1.23 | .75 | | .05 |
| Soft Floor Layers | 9.95 | .64 | .72 | .65 | |
| Sprinkler Fitters | 13.55 | .75 | 1.05 | | .08 |
| DECISION NO. PA79-3007<br>MOD. NO. 6<br>(44 FR 20932 - April 6, 1979)<br>Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania | | | | | |
| CHANGE: | | | | | |
| Boilermakers | $14.64 | 1.17 | 1.00 | | .02 |
| Electricians | | | | | |
| Zone 1 | 13.35 | .55 | 3%+.40 | .60 | .10 |
| Glaziers | | | | | |
| Zone 1 | 11.44 | .92 | 1.15 | 1.15 | .02 |
| Ironworkers | | | | | |
| Zone 3 | 11.72 | .60 | 1.10 | | |
| Line Construction | | | | | |
| Zone 1 | | | | | |
| Lineman | 14.83 | .45 | 3% | | 3/8% |
| Groundman | 8.90 | .45 | 3% | | 3/8% |
| Winch Truck Operator | 10.38 | .45 | 3% | | 3/8% |
| Piledrivermen | 12.98 | 5.5% | 10% | | 1/2% |
| Sprinkler Fitters | 13.55 | .75 | 1.05 | | .08 |

DECISION NO. RI79-2065 - Modif. #1
(44 FR 48587 dated August 17, 1979)
STATEWIDE - RHODE ISLAND

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BUILDING CONSTRUCTION | | | | | |
| ASBESTOS WORKERS | 11.18 | 1.45 | 1.33 | | |
| BRICKLAYERS; STONEMASONS: | | | | | |
| Cities, Towns or Townships of Charlestown, Hopkinton, Peace Dale, Richmond, South Kingstown, Wakefield & Westerly | 11.25 | 1.10 | 1.15 | | .02 |
| Remainder of State | 11.25 | 1.10 | 1.15 | | .02 |
| CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS: | | | | | |
| Cities of Providence, Pawtucket, East Providence, Central Falls, Cranston, Warwick, Woonsocket; Towns of Barrington, Burrillville, Warren, Bristol, West Warwick, East Greenwich, West Greenwich, North Providence, Johnston, Cumberland, Lincoln, Smithfield, North Smithfield, Foster, Scituate, Gloucester, Coventry, North Kingstown, South Kingstown, Exeter, Narragansett, Westerly & Charlestown: | | | | | |
| Building | 11.35 | .75 | 1.10 | | .05 |
| City of Newport; Towns of Middletown, Portsmouth, Jamestown, Tiverton, Little Compton, New Shoreham (Block Island), & Prudence Island: | | | | | |
| Carpenters, Soft Floor Layers: | | | | | |
| Commercial Building | 10.95 | .85 | 1.00 | | .03 |
| Residential $125,000 & Over | 8.76 | .85 | 1.00 | | .03 |
| Residential Up to $125,000 | 7.665 | .85 | 1.00 | | .03 |



RI79-2065

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS (Cont'd): | | | | | |
| Millwrights (except Cities of Tiverton & Little Compton; Piledrivermen | 11.55 | .85 | 1.00 | | .03 |
| Millwrights (Cities of Tiverton & Little Compton) | 12.15 | .95 | 1.00 | | .10 |
| CEMENT MASONS; PLASTERERS: | | | | | |
| Woonsocket, N. Smithfield, Burrillville, Chepachet, Cumberland (N 1/3), & Lincoln | 11.25 | 1.10 | 1.15 | | .02 |
| Westerly, Hopkinton, South Kingstown, Charlestown, Richmond, Wakefield, & Peace Dale | 11.25 | 1.10 | 1.15 | | .02 |
| Remainder of State: | | | | | |
| Cement Masons | 11.45 | .90 | .75 | | |
| Plasterers | 10.50 | .90 | .45 | | |
| ELECTRICIANS: | | | | | |
| Tiverton & Little Compton | 10.65 | 7% | 3%+1.00 | 6% | ½% |
| GLAZIERS | 9.95 | .62 | 1.38 | | .01 |
| IRONWORKERS: | | | | | |
| Ornamental; Reinforcing; & Structural | 11.18 | 1.15 | 2.35 | | .05 |
| MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS | 10.50 | 1.10 | 1.15 | | |
| PAINTERS: | | | | | |
| Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton: | | | | | |
| Brush; Tapers: | | | | | |
| New Construction | 11.91 | .82 | 1.20 | | .04 |
| Repaint | 10.16 | .82 | 1.20 | | .04 |
| Sandblasting; Spray | 12.91 | .82 | 1.20 | | .04 |
| Steel | 14.03 | .82 | 1.20 | | .04 |
| SPRINKLER FITTERS | 12.31 | .75 | 1.05 | | .01 |

RI79-2065

| HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BRICKLAYERS; STONEMASONS: | | | | | |
| Catch Basins; Manhole Builders | 11.20 | 1.10 | 1.25 | | .02 |
| CARPENTERS; PILEDRIVERMEN: | | | | | |
| Bristol, Kent, Providence & Washington (excluding Block Island) Counties | 11.36 | .75 | 1.10 | | .05 |
| CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; & WHARF, BRIDGE & DOCK CARPENTERS: | | | | | |
| Newport County & Block Island | 11.55 | .85 | 1.00 | | .03 |
| Marine Divers | 18.50 | .85 | 1.00 | | .03 |
| CEMENT MASONS & FINISHERS | 9.10 | .50 | .35 | | |
| ELECTRICIANS: | | | | | |
| Little Compton & Tiverton | 10.65 | 7% | 3%+1.00 | 6% | ½% |
| IRONWORKERS: | | | | | |
| Ornamental; Reinforcing; & Structural | 11.18 | 1.15 | 2.35 | | .05 |
| LABORERS: | | | | | |
| Open Air Caisson, Underpinning and Boring Crew: | | | | | |
| Bottom Man | 9.70 | .70 | 1.00 | | .10 |
| Laborer; Top Man | 8.95 | .70 | 1.00 | | .10 |
| Driller | 9.82 | .70 | 1.00 | | .10 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 12.20 | .70 | 3%+.50 | e | 3/8% |
| Equipment Operators | 10.67 | .70 | 3%+.50 | e | 3/8% |
| Driver Groundman | 8.54 | .70 | 3%+.50 | e | 3/8% |
| Groundman | 7.93 | .70 | 3%+.50 | e | 3/8% |
| PAINTERS: | | | | | |
| Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton: | | | | | |
| Brush; Tapers: | | | | | |
| New Construction | 11.91 | .82 | 1.20 | | .04 |
| Repaint | 10.16 | .82 | 1.20 | | .04 |
| Sandblasting; Spray | 12.91 | .82 | 1.20 | | .04 |
| Steel | 14.03 | .82 | 1.20 | | .04 |



RI79-2065

| TRUCK DRIVERS HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CLASS I | 8.27 | .8925 | 1.00 | a+b | |
| CLASS II | 8.42 | .8925 | 1.00 | a+b | |
| CLASS III | 8.47 | .8925 | 1.00 | a+b | |
| CLASS IV | 8.57 | .8925 | 1.00 | a+b | |
| CLASS V | 8.67 | .8925 | 1.00 | a+b | |
| CLASS VI | 8.92 | .8925 | 1.00 | a+b | |
| CLASS VII | 9.17 | .8925 | 1.00 | a+b | |

FOOTNOTES:

b. Employee who has been on the Payroll for 1 Year or more but less than 5 Years and has worked 150 Days during the last Year of Employment shall receive 1 week's paid Vacation; 5 to 10 years - 2 Weeks' paid Vacation; 10 or more years - 3 weeks' paid Vacation.

DECISION #WV78-3018 - Mod. #9

| (43 FR 25278 - June 9, 1978) State of West Virginia excluding the Counties of Berkeley, Jefferson, and Morgan | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Omit: | | | | | |
| Powdermen from Group 3 of Laborers' Classification Definitions for Area 6 | | | | | |
| Demolition Worker from Group 1 of Laborers' Classification Definitions for Area 7 | | | | | |
| Tool Room Attendants from Group 2 of Laborers' Classification Definitions for Area 7 | | | | | |
| All Roofers' Classifications for Area 3 | | | | | |
| Add: | | | | | |
| Tool Room Attendants to Group 1 of Laborers' Classification Definitions for Area 7 | | | | | |
| Demolition Work, Lead Man on Concrete Pump Hose, and Scaffolding Work over 50 ft. (inside and outside) to Group 2 of Laborers' Classification Definitions for Area 7 | | | | | |
| Deep Ditch Vertical 6 ft. or More to Area 7 for Laborers | $10.02 | .60 | .60 | | .05 |
| Roofers: | | | | | |
| Area 3 | 13.05 | | .20 | | .01 |
| (Roofers engaged in hot waterproofing which is applied vertically or in an enclosed area shall receive an additional $.50 per hour.) | | | | | |



Decision #WV78-3018 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Areas Covered by Plumbers & Pipefitters: | | | | | |
| Area 1 - Harrison, Marion, and Monongolia Counties | | | | | |
| Area 2 - Barbour, Doddridge, Lewis, Preston, Taylor, and Upshur Counties | | | | | |
| Area 3 - Braxton, Gilmer, Randolph, and Tucker, Counties | | | | | |
| Area 4 - Grant, Hampshire, Hardy, Mineral, and Pendleton Counties | | | | | |
| Area 5 - Brooke(south of Buffalo Creek),Marshall, Ohio, and Wetzel Counties | | | | | |
| Area 6 - Brooke, (remainder of county) and Hancock Counties | | | | | |
| Area 7 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt, and Wood Counties | | | | | |
| Area 8 - Cabell, Lincoln Logan, Mason, Mingo, and Wayne Counties | | | | | |
| Area 9 - McDowell, Mercer, Monroe, Raleigh Summers, and Wyoming Counties | | | | | |
| Asbestos Workers Area 3 | 13.75 | .50 | 1.10 | | .03 |
| Bricklayers, Stone Masons, Marble Masons, Terrazzo Workers, & Tile Layers: Area 5 | | | | | |
| Bricklayers & Stonemasons | 13.23 | .75 | .40 | | |
| Marble Masons, Terrazzo Workers, & Tile Layers | 12.05 | .75 | .40 | | |

MODIFICATION PAGE 21

Decision #WV78-3018 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Carpenters & Piledrivermen: | | | | | |
| Area 5 | | | | | |
| Carpenters | 12.36 | .45 | .25 | | .02 |
| Piledrivermen | 12.61 | .45 | .25 | | .02 |
| Electricians: | | | | | |
| Cabell & Wayne Counties: | | | | | |
| Wiremen | 12.52 | .50 | 3%+1.02 | 1.02 | .04 |
| Cable Splicers | 13.15 | .50 | 3%+1.02 | 1.02 | .04 |
| Lincoln County: | | | | | |
| Wiremen | 12.72 | .50 | 3%+1.02 | 1.02 | .04 |
| Cable Splicers | 13.36 | .50 | 3%+1.02 | 1.02 | .04 |
| Logan, Mason, & Mingo Counties: | | | | | |
| Wiremen | 12.97 | .50 | 3%+1.02 | 1.02 | .04 |
| Cable Splicers | 13.62 | .50 | 3%+1.02 | 1.02 | .04 |
| Ironworkers - Structural, Ornamental, & Reinforcing | | | | | |
| Area 1 | 11.95 | 1.00 | 1.45 | | .03 |
| Area 2 | 12.60 | .90 | 1.75 | | .05 |
| Area 6 | | | | | |
| Zone 1 - 10 miles from Union Hall | 12.07 | .90 | 1.05 | | .01 |
| Zone 2 - 10 to 15 miles from Union Hall | 12.22 | .90 | 1.05 | | .01 |
| Zone 3 - 15 to 20 miles from Union Hall | 12.32 | .90 | 1.05 | | .01 |
| Zone 4 - 20 miles and over from Union Hall | 12.42 | .90 | 1.05 | | .01 |
| Laborers: | | | | | |
| Area 1 | | | | | |
| Group 1 | 9.10 | .60 | .60 | | .05 |
| Group 2 | 9.50 | .60 | .60 | | .05 |
| Group 3 | 9.80 | .60 | .60 | | .05 |
| Area 2 | | | | | |
| Group 1 | 9.02 | .60 | .60 | | .05 |
| Group 2 | 9.34 | .60 | .60 | | .05 |
| Group 3 | 9.72 | .60 | .60 | | .05 |

MODIFICATION PAGE 22

Decision #WV78-3018 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Area 3 | | | | | |
| Group 1 | 8.32 | .60 | .60 | | .05 |
| Group 2 | 8.72 | .60 | .60 | | .05 |
| Group 3 | 9.03 | .60 | .60 | | .05 |
| Area 4 | | | | | |
| Group 1 | 9.44 | .60 | .60 | | .05 |
| Group 2 | 9.84 | .60 | .60 | | .05 |
| Group 3 | 10.09 | .60 | .60 | | .05 |
| Area 5 | | | | | |
| Group 1 | 9.44 | .60 | .60 | | .05 |
| Group 2 | 9.84 | .60 | .60 | | .05 |
| Group 3 | 10.09 | .60 | .60 | | .05 |
| Area 6 | | | | | |
| Group 1 | 9.50 | .60 | .60 | | .05 |
| Group 2 | 9.80 | .60 | .60 | | .05 |
| Group 3 | 10.15 | .60 | .60 | | .05 |
| Area 7 | | | | | |
| Group 1 | 9.42 | .60 | .60 | | .05 |
| Group 2 | 9.72 | .60 | .60 | | .05 |
| Group 3 | 10.07 | .60 | .60 | | .05 |
| Marble, Terrazzo, and Tile Finishers: | | | | | |
| Cabell, Lincoln, Mason (that portion south of the Kanawha River), & Wayne Counties | 9.87 | .75 | .40 | | |
| Painters: | | | | | |
| Area 2: | | | | | |
| Basic: | | | | | |
| An area within 50 miles of Huntington | 9.73 | .45 | .35 | | .02 |
| An area beyond 50 miles of Huntington | 11.08 | .45 | .35 | | .02 |
| Vinyl and all other wall covering and drywall taping: | | | | | |
| An area within 50 miles of Huntington | 10.48 | .45 | .35 | | .02 |
| An area beyond 50 miles of Huntington | 11.83 | .45 | .35 | | .02 |
| Repaint work (limited to Public Schools): | | | | | |
| An area within 50 miles of Huntington | 7.74 | .45 | .35 | | .02 |

Decision #WV78-3018 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| An area beyond 50 miles of Huntington | 9.09 | .45 | .35 | | .02 |
| Plumbers & Pipefitters: | | | | | |
| Area 1 | 11.57 | .65 | 1.00 | 1.157 | .04 |
| Area 2 | 11.82 | .65 | 1.00 | 1.182 | .04 |
| Area 3 | 12.07 | .65 | 1.00 | 1.207 | .04 |
| Area 4 | 12.32 | .65 | 1.00 | 1.232 | .04 |
| Area 5 | 11.79 | .75 | 1.06 | 1.18 | .05 |
| Area 7 | 12.63 | .50 | .80 | | |
| Plumbers & Steamfitters: Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocohontas, Putnam, Roane, and Webster Counties | 12.95 | .65 | .80 | | .05 |
| Roofers: Area 2 | 12.52 | .70 | .50 | | .02 |
| Sheet Metal Workers: Area 4 | 12.73 | .82 | .60 | | .03 |
| Soft Floor Layers: Area 6 | 11.96 | .45 | .25 | | .02 |
| Truck Drivers: Area 7 | | | | | |
| Group 1 | 8.83 | .90 | 1.15 | | |
| Group 2 | 8.98 | .90 | 1.15 | | |
| Group 3 | 9.18 | .90 | 1.15 | | |
| Group 4 | 9.37 | .90 | 1.15 | | |
| Group 5 | 9.61 | .90 | 1.15 | | |

SUPERSEDEAS DECISION

STATE: MAINE STATEWIDE
DECISION NO: ME80-2005 DATE: Date of Publication
SUPERSEDEAS DECISION NO. ME77-3138, Dated December 12, 1977, in 42 FR 63621

DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS: | | | | | |
| Aroostook | $5.03 | | | | |
| Cumberland | 5.25 | | | | |
| Franklin | 5.34 | | | | |
| Hancock | 5.08 | | | | |
| Kennebec | 5.46 | | | | |
| Knox | 4.84 | | | | |
| Lincoln | 5.33 | | | | |
| Oxford | 5.32 | | | | |
| Penobscot & Piscataquis | 4.50 | | | | |
| Somerset | 5.60 | | | | |
| Waldo | 5.21 | | | | |
| Washington | 5.04 | | | | |
| York | 6.50 | | | | |
| CEMENT MASONS: | | | | | |
| Androscoggin | 5.08 | | | | |
| Aroostook & Cumberland | 5.00 | | | | |
| Franklin | 4.95 | | | | |
| Hancock | 4.78 | | | | |
| Kennebec | 4.97 | | | | |
| Lincoln | 5.29 | | | | |
| Piscataquis | 4.50 | | | | |
| Waldo | 4.89 | | | | |
| York | 5.50 | | | | |
| CEMENT MASONS/FINISHERS: | | | | | |
| Penobscot | 4.75 | | | | |
| Washington | 4.50 | | | | |
| CEMENT FINISHERS: | | | | | |
| Aroostook | 4.50 | | | | |
| ELECTRICIANS: | | | | | |
| Aroostook, Piscataquis, & Washington | 5.25 | | | | |
| Cumberland | 7.58 | | | | |
| Franklin | 6.94 | | | | |
| Hancock | 8.46 | | | | |
| Knox, Lincoln & Waldo | 6.00 | | | | |
| Penobscot | 7.69 | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS: | | | | | |
| REINFORCING: | | | | | |
| Aroostook, Piscataquis & Washington | $5.00 | | | | |
| Cumberland | 5.10 | | | | |
| Franklin & Penobscot | 4.18 | | | | |
| Hancock | 4.43 | | | | |
| Kennebec & Lincoln | 5.75 | | | | |
| Oxford | 5.01 | | | | |
| Waldo | 5.15 | | | | |
| York | 6.31 | | | | |
| STRUCTURAL: | | | | | |
| Cumberland | 5.10 | | | | |
| Franklin | 5.85 | | | | |
| Hancock | 4.43 | | | | |
| Kennebec & Lincoln | 5.75 | | | | |
| Oxford | 5.10 | | | | |
| Penobscot & Washington | 4.65 | | | | |
| Piscataquis | 5.00 | | | | |
| Waldo | 5.15 | | | | |
| York | 6.31 | | | | |
| LABORERS: | | | | | |
| ASPHALT RAKERS: | | | | | |
| Androscoggin & Cumberland | 5.60 | | | | |
| Aroostook | 5.59 | | | | |
| Franklin | 4.89 | | | | |
| Hancock & Penobscot | 5.50 | | | | |
| Kennebec | 5.00 | | | | |
| Knox | 5.70 | | | | |
| Oxford | 4.49 | | | | |
| Piscataquis | 5.20 | | | | |
| Sagadahoc | 4.90 | | | | |
| Somerset | 4.38 | | | | |
| Waldo | 5.14 | | | | |
| Washington | 5.74 | | | | |
| York | 5.40 | | | | |
| AIR TOOL OPERATORS: | | | | | |
| Penobscot & Waldo | 4.70 | | | | |
| Piscataquis & Washington | 4.50 | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (Cont'd): | | | | | |
| BLASTER, POWDERMEN: | | | | | |
| Aroostook, Piscataquis & Washington | $4.50 | | | | |
| Kennebec | 5.00 | | | | |
| Knox, Lincoln & Waldo | 4.00 | | | | |
| CHAIN SAW OPERATORS: | | | | | |
| Aroostook, Cumberland, Hancock, Knox, Lincoln, Penobscot, Piscataquis, Waldo & Washington | 4.00 | | | | |
| Franklin | 4.81 | | | | |
| Kennebec | 4.50 | | | | |
| Sagadahoc | 4.05 | | | | |
| Somerset | 6.00 | | | | |
| DRILLERS, WAGON DRILL: | | | | | |
| Androscoggin, Kennebec, Knox, Lincoln, Waldo & York | 4.50 | | | | |
| Aroostook, Cumberland & Piscataquis | 6.00 | | | | |
| Franklin | 4.67 | | | | |
| Hancock | 4.47 | | | | |
| Washington | 5.39 | | | | |
| LABORERS: | | | | | |
| Androscoggin | 3.86 | | | | |
| Aroostook | 3.79 | | | | |
| Cumberland & Penobscot | 3.63 | | | | |
| Franklin | 3.82 | | | | |
| Hancock | 3.57 | | | | |
| Kennebec | 3.91 | | | | |
| Knox | 3.10 | | | | |
| Lincoln & Oxford | 3.75 | | | | |
| Piscataquis | 3.70 | | | | |
| Sagadahoc | 4.24 | | | | |
| Somerset | 3.61 | | | | |
| Waldo | 3.62 | | | | |
| Washington | 3.70 | | | | |
| York | 4.31 | | | | |
| LANDSCAPE WORKERS: | | | | | |
| Cumberland | 3.79 | | | | |
| Hancock & Lincoln | 5.00 | | | | |
| Sagadahoc | 4.36 | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (Cont'd): | | | | | |
| MASON TENDERS: | | | | | |
| Franklin | $4.13 | | | | |
| Lincoln & Waldo | 3.83 | | | | |
| Knox | 3.87 | | | | |
| PIPELAYERS: | | | | | |
| Franklin | 3.75 | | | | |
| Penobscot & Waldo | 4.55 | | | | |
| Piscataquis & Washington | 5.05 | | | | |
| York | 4.70 | | | | |
| POWER TOOL OPERATORS: | | | | | |
| Aroostook | 4.50 | | | | |
| Hancock | 4.70 | | | | |
| TRUCK DRIVERS: | | | | | |
| 2 AXLE: | | | | | |
| Androscoggin | 4.09 | | | | |
| Aroostook | 4.25 | | | | |
| Cumberland | 3.93 | | | | |
| Franklin | 3.50 | | | | |
| Hancock & Penobscot | 3.60 | | | | |
| Kennebec | 3.95 | | | | |
| Knox | 3.58 | | | | |
| Lincoln & Waldo | 3.83 | | | | |
| Oxford | 3.50 | | | | |
| Piscataquis | 4.19 | | | | |
| Sagadahoc | 4.00 | | | | |
| Somerset | 3.95 | | | | |
| Washington | 4.26 | | | | |
| York | 4.41 | | | | |
| 3 AXLE: | | | | | |
| Androscoggin | 4.28 | | | | |
| Aroostook | 4.34 | | | | |
| Cumberland & Oxford | 4.00 | | | | |
| Franklin | 4.12 | | | | |
| Hancock & Penobscot | 4.10 | | | | |
| Kennebec | 3.81 | | | | |
| Knox | 3.98 | | | | |
| Lincoln | 3.77 | | | | |
| Piscataquis | 4.23 | | | | |
| Sagadahoc | 3.68 | | | | |
| Somerset | 4.06 | | | | |
| Waldo | 4.12 | | | | |
| Washington | 4.31 | | | | |
| York | 4.13 | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS (Cont'd): | | | | | |
| TRAILER DRIVER: | | | | | |
| Aroostook & Washington | $3.75 | | | | |
| Hancock, Penobscot & Waldo | 4.35 | | | | |
| Lincoln | 8.00 | | | | |
| SPECIAL EARTH MOVING EQUIPMENT: | | | | | |
| Androscoggin, Aroostook, Franklin, Piscataquis & Washington | 5.55 | | | | |
| Cumberland | 5.03 | | | | |
| Hancock, Waldo & Lincoln | 5.40 | | | | |
| Penobscot | 6.27 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| ASPHALT PAVERS: | | | | | |
| Androscoggin & Cumberland | 5.60 | | | | |
| Aroostook | 5.57 | | | | |
| Franklin | 5.17 | | | | |
| Hancock, Penobscot & Washington | 5.82 | | | | |
| Kennebec, Lincoln & Sagadahoc | 5.00 | | | | |
| Knox | 5.61 | | | | |
| Oxford | 4.96 | | | | |
| Piscataquis | 6.00 | | | | |
| Somerset | 4.79 | | | | |
| Waldo | 5.56 | | | | |
| York | 5.68 | | | | |
| ASPHALT PLANT OPERATORS: | | | | | |
| Franklin & Oxford | 4.50 | | | | |
| Hancock, Penobscot & Waldo | 7.50 | | | | |
| Piscataquis | 5.82 | | | | |
| Washington | 7.50 | | | | |
| BACKHOE: | | | | | |
| Androscoggin | 6.53 | | | | |
| Aroostook | 6.44 | | | | |
| Cumberland | 5.61 | | | | |
| Franklin | 5.95 | | | | |
| Hancock | 6.20 | | | | |
| Kennebec, Lincoln & Knox | 5.50 | | | | |
| Oxford | 5.96 | | | | |
| Penobscot | 7.00 | | | | |
| Piscataquis | 6.45 | | | | |

| POWER EQUIPMENT OPERATORS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BACKHOE (Cont'd): | | | | | |
| Sagadahoc & Somerset | $5.00 | | | | |
| Waldo | 5.79 | | | | |
| Washington | 6.43 | | | | |
| York | 5.57 | | | | |
| BULLDOZER: | | | | | |
| Androscoggin | 7.50 | | | | |
| Aroostook | 6.47 | | | | |
| Cumberland | 5.83 | | | | |
| Franklin | 5.72 | | | | |
| Hancock | 6.66 | | | | |
| Kennebec & Lincoln | 5.50 | | | | |
| Oxford | 5.88 | | | | |
| Penobscot | 7.20 | | | | |
| Piscataquis | 6.53 | | | | |
| Sagadahoc & Somerset | 5.50 | | | | |
| Waldo | 6.29 | | | | |
| Washington | 6.58 | | | | |
| York | 6.30 | | | | |
| CRANE: | | | | | |
| Androscoggin | 6.00 | | | | |
| Aroostook | 6.29 | | | | |
| Cumberland | 5.98 | | | | |
| Franklin | 6.64 | | | | |
| Hancock | 6.67 | | | | |
| Kennebec & Lincoln | 8.00 | | | | |
| Knox | 5.95 | | | | |
| Oxford & Piscataquis | 6.35 | | | | |
| Somerset | 5.19 | | | | |
| Waldo | 6.89 | | | | |
| Washington | 6.36 | | | | |
| York | 6.59 | | | | |
| CRUSHER-SCREENING PLANT OPERATOR: | | | | | |
| Aroostook | 6.41 | | | | |
| Franklin | 5.11 | | | | |
| Hancock, Penobscot & Washington | 5.36 | | | | |
| Knox & Lincoln | 5.80 | | | | |
| Oxford | 4.75 | | | | |
| Piscataquis | 5.71 | | | | |
| York | 4.93 | | | | |



| POWER EQUIPMENT OPERATORS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| FRONT END LOADERS: | | | | | |
| Androscoggin | $7.50 | | | | |
| Aroostook | 5.87 | | | | |
| Cumberland | 5.34 | | | | |
| Franklin & Kennebec | 4.12 | | | | |
| Hancock | 6.03 | | | | |
| Knox | 5.37 | | | | |
| Lincoln | 5.09 | | | | |
| Oxford | 5.22 | | | | |
| Penobscot | 6.40 | | | | |
| Piscataquis | 6.00 | | | | |
| Somerset | 5.98 | | | | |
| Waldo | 5.93 | | | | |
| Washington | 5.95 | | | | |
| York | 5.66 | | | | |
| GRADALL: | | | | | |
| Androscoggin | 6.73 | | | | |
| Aroostook, Piscataquis & Washington | 7.00 | | | | |
| Cumberland | 6.23 | | | | |
| Franklin | 7.50 | | | | |
| Hancock | 6.10 | | | | |
| Knox & Lincoln | 6.80 | | | | |
| Penobscot | 6.01 | | | | |
| Waldo | 6.10 | | | | |
| York | 6.30 | | | | |
| GRADER: | | | | | |
| Androscoggin | 6.63 | | | | |
| Aroostook | 7.00 | | | | |
| Cumberland | 5.50 | | | | |
| Franklin | 6.40 | | | | |
| Hancock & Washington | 6.61 | | | | |
| Kennebec | 5.67 | | | | |
| Knox | 6.25 | | | | |
| Lincoln | 6.12 | | | | |
| Penobscot | 6.99 | | | | |
| Piscataquis | 6.62 | | | | |
| Somerset | 5.25 | | | | |
| Waldo | 6.45 | | | | |
| York | 6.33 | | | | |

| POWER EQUIPMENT OPERATORS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| HYDROSEEDER: | | | | | |
| Aroostook | $4.86 | | | | |
| Franklin & Somerset | 4.25 | | | | |
| Hancock | 4.13 | | | | |
| Kennebec | 4.70 | | | | |
| Knox & Lincoln | 4.00 | | | | |
| Penobscot | 4.13 | | | | |
| Piscataquis | 4.56 | | | | |
| Waldo | 4.28 | | | | |
| Washington | 4.65 | | | | |
| York | 4.33 | | | | |
| MECHANIC: | | | | | |
| Androscoggin | 5.84 | | | | |
| Cumberland | 7.10 | | | | |
| Franklin | 3.95 | | | | |
| Hancock | 6.50 | | | | |
| Kennebec | 6.17 | | | | |
| Knox | 5.91 | | | | |
| Lincoln | 6.00 | | | | |
| Oxford | 5.50 | | | | |
| Penobscot | 5.95 | | | | |
| Piscataquis | 6.41 | | | | |
| Waldo | 6.45 | | | | |
| Washington | 6.39 | | | | |
| York | 5.47 | | | | |
| MULCHER: | | | | | |
| Aroostook, Franklin, Kennebec, Lincoln, Piscataquis, Somerset, Waldo & Washington | 4.50 | | | | |
| OILER-GREASER: | | | | | |
| Franklin | 4.70 | | | | |
| Knox | 3.50 | | | | |
| Penobscot | 4.68 | | | | |
| Washington | 6.00 | | | | |
| POST DRIVER MACHINE: | | | | | |
| Aroostook | 4.13 | | | | |
| Franklin | 3.92 | | | | |
| Knox & Washington | 3.90 | | | | |
| Penobscot | 4.45 | | | | |



| POWER EQUIPMENT OPERATORS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POST DRIVING MACHINE/ AUGER: | | | | | |
| Hancock | $3.71 | | | | |
| Kennebec | 4.13 | | | | |
| Lincoln | 4.04 | | | | |
| Piscataquis | 4.45 | | | | |
| Somerset | 3.93 | | | | |
| Waldo | 4.18 | | | | |
| POST HOLE AUGER: | | | | | |
| Franklin | 3.93 | | | | |
| Knox | 3.80 | | | | |
| York | 4.35 | | | | |
| ROLLER, EMBANKMENT: | | | | | |
| Aroostook & Piscataquis | 5.57 | | | | |
| Cumberland | 4.45 | | | | |
| Franklin | 5.19 | | | | |
| Hancock | 4.68 | | | | |
| Knox & Lincoln | 4.84 | | | | |
| Penobscot | 5.49 | | | | |
| Sagadahoc | 5.50 | | | | |
| Waldo | 5.37 | | | | |
| Washington | 5.26 | | | | |
| York | 4.45 | | | | |
| ROLLER, PAVEMENT: | | | | | |
| Androscoggin, Cumberland & York | 5.40 | | | | |
| Aroostook | 5.57 | | | | |
| Franklin | 4.89 | | | | |
| Hancock, Knox & Penobscot | 5.82 | | | | |
| Kennebec | 5.45 | | | | |
| Lincoln | 5.28 | | | | |
| Oxford | 4.76 | | | | |
| Piscataquis | 5.81 | | | | |
| Sagadahoc | 4.45 | | | | |
| Somerset | 4.28 | | | | |
| Waldo | 5.52 | | | | |
| Washington | 5.85 | | | | |

| POWER EQUIPMENT OPERATORS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| SCRAPERS: | | | | | |
| Aroostook, Hancock, Knox, Lincoln, Piscataquis, Waldo, & Washington | $5.25 | | | | |
| Franklin | 6.85 | | | | |
| SKIDDER: | | | | | |
| Aroostook, Piscataquis & Waldo | 4.00 | | | | |
| Knox & Lincoln | 5.00 | | | | |
| SHOVEL: | | | | | |
| Hancock | 5.63 | | | | |
| Knox & Waldo | 5.25 | | | | |
| Washington | 6.00 | | | | |

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a) (1)(ii).

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NO.: OH80-2006 DATE: Date of Publication
Supersedes Decision Nos. OH79-2047, dated May 11, 1979 in 44 FR 27889; OH79-2049, dated May 11, 1979 in 44 FR 27906; and OH79-2063 dated July 13, 1979 in 44 FR 41044
DESCRIPTION OF WORK: Building Construction Projects ( Does not include single family homes and apartments up to and including 4 stories)

*ADAMS, ALLEN, ASHLAND, AUGLAIZE, BROWN, BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON, COLUMBIANA, COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FAIRFIELD, FAYETTE, FRANKLIN, FULTON, GALLIA, GEAUGA, GREENE, HAMILTON, HANCOCK, HARDIN, HENRY, HIGHLAND, HOLMES, HURON, KNOX, LAWRENCE, LICKING, LOGAN, MADISON, MARION, MEDINA, MEIGS, MERCER, MIAMI, MONTGOMERY, MORROW, MUSKINGUM, OTTAWA, PAULDING, PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS, SANDUSKY, SCIOTO, SENECA, SHELBY, TUSCARAWAS, UNION, VAN WERT, WARREN, WAYNE, WILLIAMS, WOOD, & WYANDOT

| ASBESTOS WORKERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| ADAMS, BROWN, BUTLER (Twps. of Fairfield, Hanover, Liberty, Milford, Morgan, Oxford, Ripley, Ross, St. Clair, Union & Wayne), CLERMONT, HAMILTON, HIGHLAND, & WARREN (Twps. of Deerfield, Hamilton, Harlan, Salem, Union, & Washington) COS. | $14.01 | .75 | 1.25 | | .02 |
| ALLEN, DEFIANCE, MERCER, PAULDING, VAN WERT, & WILLIAMS COUNTIES | 12.60 | .55 | 1.25 | | |
| ASHLAND, COSHOCTON, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS. | 13.66 | .60 | .99 | | .02 |
| AUGLAIZE, BUTLER (Middletown & Vicinity), CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) COS. | 12.87 | .55 | 1.50 | | .02 |
| CARROLL, & COLUMBIANA COS. | 13.74 | .55 | 1.25 | | .02 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, KNOX, LICKING, MADISON, MARION, MORROW, MUSKINGUM, PERRY, PICKAWAY, ROSS, & UNION COS. | 13.07 | .60 | 1.15 | | .02 |
| ERIE (E½), GEAUGA, & HURON COS. | 15.04 | .99 | | | |
| ERIE (W½), FULTON, HANCOCK, HENRY, OTTAWA, PUTNAM, SANDUSKY, SENECA, WOOD & WYANDOT COS. | 13.83 | .55 | 1.40 | | .04 |
| GALLIA, LAWRENCE, MEIGS, PIKE, & SCIOTO COS. | 14.15 | .50 | .70 | | .03 |
| BOILERMAKERS | | | | | |
| ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, & WARREN COS. | 11.80 | 1.175 | 1.20 | 1.50 | .04 |
| ALLEN, ASHLAND, AUGLAIZE, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FULTON, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, SHELBY, UNION, VAN WERT, WILLIAMS, WOOD, & WYANDOT COS. | 13.575 | 1.075 | 1.00 | | .03 |
| CARROLL, COSHOCTON, GEAUGA, HOLMES, MEDINA, TUSCARAWAS, & WAYNE COS. | 12.68 | .90 | 1.20 | | .03 |
| COLUMBIANA CO. | 11.785 | 7.5% | 7% | | .01 |



DECISION NO. OH80-2006

| BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS, & SCIOTO COS. | 12.90 | | .50 | | .05 |
| ALLEN, AUGLAIZE, MERCER & VAN WERT COS. | 12.29 | | .60 | | .02 |
| ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.) & WYANDOT (except Crawford, Ridge, Richland & Tymochtee Twps.) COS. | 12.23 | .70 | 1.00 | | .02 |
| BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers & Gratis Twps.) & WARREN COS. | 13.595 | .65 | .45 | | .02 |
| CARROLL, COLUMBIANA (Twps. of Knox, Butler, West, & Hanover), & TUSCARAWAS COS. | 12.29 | .95 | .70 | | .01 |
| CHAMPAIGN, CLARK, & LOGAN COS. | 10.47 | .85 | 1.10 | | .03 |
| CLINTON & HIGHLAND COS. | 10.00 | | | | |
| COLUMBIANA (Twps. of East Liverpool, Wayne, Franklin, Madison, St. Clair, & Yellow Creek) CO. | 11.90 | .70 | .50 | | |
| COLUMBIANA (Twps. of Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem, & Unity) CO. | 12.595 | .75 | 1.00 | | .02 |
| COSHOCTON, FAIRFIELD, KNOX, LICKING, MUSKINGUM & PERRY COS. | 11.05 | .70 | 1.30 | | .10 |
| DARKE, MIAMI, & SHELBY COS. | 11.18 | .85 | 1.10 | | .03 |
| DEFIANCE, FULTON, (except Twps. of Fulton, Amboy & Swan Creek), HENRY (except Twps of Monroe, Barlow, Liberty, Washington, Richfield, Marion & Damascus & that part of Harrison outside city limits or City of Napolean), PAULDING, PUTNAM, & WILLIAMS COS. | 13.08 | 1.20 | .50 | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS. | 12.44 | .80 | 1.00 | | .03 |
| ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Twps. of Tymochtee, Crawford, Ridge, & Richland), COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY | 12.44 | .70 | 1.10 | | .01 |
| FAYETTE, PIKE, & ROSS COS. | 12.86 | | .50 | | .05 |
| FULTON (Twps. of Fulton, Amboy & Swan Creek), HENRY (Twps. of Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion), & WOOD (Twps. of Perrysbury, Ross, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids) COS. | 13.175 | 1.06 | 1.40 | | .01 |
| GALLIA & MEIGS COS. | 12.95 | .70 | | | |
| GEAUGA COUNTY | 14.52 | .70 | 1.00 | | a |
| GREENE, MONTGOMERY & PREBLE (Except Dixon, Israel, Lanier, Somers, Gratis Twps.) COS. | 11.93 | .85 | .75 | | .03 |
| LAWRENCE CO. | 11.50 | | .50 | | .05 |
| MEDINA (Twps. of Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York) CO. | 13.66 | 1.15 | 1.33 | | .04 |
| MEDINA (Twps. of Wadsworth, Guilford, Westfield, Lafayette, Sharon), & WAYNE (Twps. of Milton & Chippewa) COS. | 12.91 | .88 | .80 | | .02 |
| MEDINA (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) CO. | 13.60 | | .80 | b | .01 |



DECISION NO. OH80-2006

| CARPENTERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS, FAYETTE, GALLIA, HIGHLAND, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS. | 9.24 | .55 | 1.00 | | .03 |
| ALLEN, AUGLAIZE, CHAMPAIGN, CLARK COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, MUSKINGUM, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT & WYANDOT COS. | 11.47 | .60 | 1.00 | | .04 |
| ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS. | 12.82 | .70 | 1.00 | c | .08 |
| BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS. | 13.20 | .75 | .85 | | .075 |
| CARROLL, TUSCARAWAS, & WAYNE COS. | 11.88 | .60 | .70 | | .02 |
| COLUMBIANA COUNTY | 11.68 | .99 | 1.00 | | .03 |
| DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS. | 11.55 | .90 | 1.25 | | .07 |
| DEFIANCE, HENRY, PAULDING, & WILLIAMS COS. | 13.12 | 1.20 | .75 | | |
| FULTON, HANCOCK (except City of Fostoria), & WOOD (except City of Fostoria) COS. | 13.70 | 1.20 | .75 | | .05 |
| GEAUGA COUNTY | 13.87 | .95 | 1.40 | | .05 |
| MEDINA COUNTY | 12.85 | .60 | 1.00 | | .02 |
| CEMENT MASONS | | | | | |
| ADAMS, LAWRENCE (except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS. | 13.65 | | .60 | | .05 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, & VAN WERT COS. | 14.16 | .60 | | | .05 |
| ASHLAND, CRAWFORD, MARION, MORROW, RICHLAND, & WYANDOT (Exclu. Tymochtee, Crawford, Ridge, & Richland Twps.) COS. | 11.65 | .60 | | | |
| BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS. | 13.13 | .80 | .95 | | .30 |
| CARROLL & TUSCARAWAS COS. | 12.29 | .95 | .70 | | .01 |
| CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS. | 11.38 | .60 | .60 | | .07 |
| COLUMBIANA CO. | 11.80 | .60 | .50 | | .05+d |
| DEFIANCE, PAULDING, & WILLIAMS COS. | 13.50 | .60 | | | |
| DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, KNOX, LICKING, MADISON, MUSKINGUM, PERRY, PICKAWAY, ROSS, & UNION COS. | 10.95 | .60 | 1.00 | | .05 |
| ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & the ISLAND OF LAKE ERIE N. of SANDUSKY | 11.84 | .60 | .80 | | .01 |
| FULTON, HANCOCK, HENRY, PUTNAM, & WOOD (Exclu. Perry & Bloom Twps.) COS. | 14.99 | .60 | | | .02 |
| GALLIA & MEIGS COS. | 12.95 | .70 | | | |
| GEAUGA CO. | 14.52 | .70 | 1.00 | | a |
| HOLMES, & WAYNE (except Milton & Chippewa Twps.) COS. | 12.88 | | 1.00 | | .02 |
| LAWRENCE (Fayette, Union, & Rome Twps.) CO. | 11.50 | | .50 | | .05 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MEDINA (Twps. of Litchfield, Chatham, Homer, Harrisville & Spencer) CO. | 13.60 | | .80 | b | .01 |
| MEDINA (except Twps. of Litchfield, Chatham, Homer, Harrisville & Spencer) CO. | 12.39 | .60 | .75 | | .02 |
| ELECTRICIANS | | | | | |
| ADAMS, PIKE (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Scioto), & SCIOTO COS. | 12.50 | .50 | 3%+.60 | 1.00 | .04 |
| ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT & WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) COS. | 13.20 | .60 | 3%+.43 | | .04 |
| ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt & Antrim) COS. | 13.15 | .60 | 3%+.50 | | .1% |
| BROWN, CLERMONT, & HAMILTON COS. | | | | | |
| Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati | 13.70 | .70 | 3%+.80 | | ½% |
| Over 18 mi. radius up to & inclu. 21 mi. radius from Hamilton Co. Court House, Cincinnati | 14.00 | .70 | 3%+.80 | | ½% |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati | $14.10 | .70 | 3%+.80 | | ½% |
| Over 25 mi. radius from Hamilton Co. Court House, Cincinnati | 14.25 | .70 | 3%+.80 | | ½% |
| BUTLER, & WARREN (Twps. of Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) COS. | | | | | |
| E. of Interstate #75 | 13.85 | .55 | 3%+1.00 | | ½% |
| W. of Interstate #75 | 13.30 | .55 | 3%+1.00 | | ½% |
| 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. | 13.35 | .55 | 3%+.60 | | .3% |
| CARROLL (S ½ excl. Fox, Harrison, Rose & Washington Twps.) CO. | 14.50 | 7% | 14% | 10% | ½% |
| CHAMPAIGN, CLARK, & MADISON (Twps. of Paint, Pike, Somerford, Union, & Stokes) COS. | 12.09 | .75 | 3%+.90 | | .04 |
| CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Twps. of Wayne, Clear Creek, & Franklin) COS.: | | | | | |
| Electrical, Communications Installers within 11 mi. radius of 3rd & Main Street, Dayton | 13.28 | .75 | 3%+1.00 | | .5% |
| Electrical, Communications Installers beyond 11 mi. radius of 3rd & Main Street, Dayton | 13.51 | .75 | 3%+1.00 | | .5% |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| COLUMBIANA (Twps. of Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek) CO. | 12.58 | 1.63 | 3%+.50 | | .08 |
| COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity) CO. | 13.73 | .75 | 9% | | .5% |
| COSHOCTON, KNOX (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS (Twps. of Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks) COS. | 12.10 | .40 | 3%+1.02 | | .03 |
| DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS. | 14.50 | .85 | 3%+.75 | | .3% |
| DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Twps. of Canaan, Darby, Deer Creek, Fairfield, Jefferson, Monroe, Oak Run, Pleasant & Range), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Washington, Muhlenberg, Scioto & Walnut), & UNION COS. | 13.15 | .40 | 3%+1.02 | | .06 |
| ERIE & HURON (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarkfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) COS. | 14.05 | .73 | 3% | | .1% |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| FAYETTE, HIGHLAND, PICKAWAY, (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (except Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), & ROSS COUNTIES | 13.35 | .40 | 3% | | .02 |
| GALLIA CO. | 13.62 | .50 | 3%+1.00 | 1.00 | .04 |
| GEAUGA (Twps. of Russell, Chester & Bainbridge) CO. | 14.62 | .90 | 3%+.51 | | .03 |
| GEAUGA (Twps. of Auburn, Middlefield, Parkman & Troy) CO. | 14.29 | .75 | 7% | | .7%+e |
| GEAUGA (Rem. of Co.) CO. | 14.98 | .85 | 3%+.70 | | .2% |
| LAWRENCE CO. | 12.52 | .50 | 3%+1.00 | 1.00 | .04 |
| MEDINA (Litchfield, Liverpool Twps.) CO. | 13.95 | .75 | 3%+1.00 | | .1% |
| MEDINA (Rem. of Co.), & WAYNE (N½) COS. | 13.66 | .74 | 3%+.65 | | .2% |
| MEIGS CO. | 12.45 | .50 | 3%+.80 | 1.25 | .04 |
| ELEVATOR CONSTRUCTORS | | | | | |
| ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, DARKE, GREENE, HAMILTON, HIGHLAND MIAMI, MONTGOMERY, PREBLE, & WARREN COS. | 12.36 | .745 | .56 | f&g | .035 |
| ALLEN, AUGLAIZE, DEFIANCE, MERCER, PAULDING, PUTNAM VAN WERT, & WILLIAMS COS. | 11.635 | .745 | .56 | f&g | .035 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASHLAND, CHAMPAIGN, CLARK, COSHOCTON, CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MORROW, MUSKINGUM, PERRY, PICKAWAY, RICHLAND, ROSS, SHELBY TUSCARAWAS, & UNION COS. | 12.22 | .745 | .56 | f&g | .035 |
| CARROLL COUNTY | 10.08 | .545 | .35 | f&g | .02 |
| COLUMBIANA COUNTY | 11.99 | .745 | .56 | f&g | .035 |
| ERIE, GEAUGA, & HURON COS. | 13.335 | .745 | .56 | f&g | .035 |
| FULTON, HANCOCK, HENRY, OTTAWA, SANDUSKY, SENECA, WOOD, & WYANDOT COS. | 13.225 | .745 | .56 | f&g | .035 |
| GALLIA, LAWRENCE, MEIGS, PIKE, SCIOTO COS. | 11.465 | .745 | .35 | f&g | .02 |
| MEDINA & WAYNE COS. | 12.49 | .745 | .56 | f&g | .035 |
| GLAZIERS | | | | | |
| ADAMS, BROWN, BUTLER (Hamilton & Vicinity), CLERMONT, CLINTON (S ½), HAMILTON, HIGHLAND (S. Part), & WARREN (Lebanon & South) COS. | 14.10 | | .60 | | .01 |
| ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY (N. part), VAN WERT, & WYANDOT (Western part) COS. | 9.70 | | .70 | | |
| ASHLAND, CRAWFORD, HURON (S. ½), KNOX, MARION, RICHLAND, & WYANDOT (E. part) COS.: | | | | | |
| Outside Replacement | 10.55 | .50 | | | .01 |
| Outside all other work | 10.82 | .50 | | | .01 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BUTLER (exclu. Hamilton & Vicinity), CHAMPAIGN, CLARK, CLINTON (N½), DARKE, FAYETTE (W½), GREENE, HIGHLAND (N. Part), MIAMI, MONTGOMERY, PREBLE, SHELBY (S. Part), WARREN (N. of Lebanon) COS. | 11.38 | | .70 | | .01 |
| CARROLL, COSHOCTON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE COS.: | | | | | |
| New Work | 11.79 | .71 | 1.01 | | |
| Replacement | 9.49 | .71 | 1.01 | | |
| COLUMBIANA COUNTY | 12.61 | .75 | 1.00 | | |
| DEFIANCE, ERIE (NW Tip of Co. to Rte. #4), FULTON, HENRY, OTTAWA, SANDUSKY, SENECA, WILLIAMS, & WOOD COS. | 12.675 | .70 | 1.00 | | .01 |
| DELAWARE, FAIRFIELD, FAYETTE (E½), FRANKLIN, LICKING, MADISON, MUSKINGUM, PERRY, PICKAWAY, PIKE, ROSS, UNION COS. | 12.22 | | .57 | | .01 |
| ERIE (exclu. NW Tip of Co. to Rte. #4), GEAUGA, HURON (N½), & MEDINA COS. | 14.53 | .60 | 1.00 | | .01 |
| LAWRENCE, & SCIOTO COS. | 11.30 | | .80 | | |
| IRONWORKERS | | | | | |
| ADAMS (E ½), GALLIA, LAWRENCE, PIKE (S ½), & SCIOTO COS.: | | | | | |
| Up to 10 miles from Union Hall in Ashland, Ky. | 11.27 | .90 | 1.05 | | .01 |
| 10 to 15 miles from Union Hall in Ashland, Ky. | 11.42 | .90 | 1.05 | | .01 |
| 15 to 20 miles from Union Hall in Ashland, Ky. | 11.52 | .90 | 1.05 | | .01 |
| 20 miles & over from Union Hall in Ashland, Ky. | 11.62 | .90 | 1.05 | | .01 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS (W ½), BROWN, BUTLER (S½), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (exclu. E. 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), & WARREN (S½) COS. | | | | | |
| Reinforcing | 12.18 | 1.00 | 2.25 | | .02 |
| Ornamental; Structural | 13.08 | 1.00 | 1.45 | | .03 |
| ALLEN (S½), AUGLAIZE, BUTLER (N ½), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (Excl. S. of a line drawn from Blanchester to Lynchburg), DARKE, GREENE, HIGHLAND (Inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3), MERCER (S½), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N½) COS. | | | | | |
| Within 15 miles radius of Local Union Office #290 | 12.36 | 1.00 | 1.45 | | .06 |
| Outside 15 miles radius of Local Union Office #290 | 12.51 | 1.00 | 1.45 | | .06 |
| ALLEN (N½), DEFIANCE (except Portion S. of a line drawn from where Rte. 66 meets the N. line through Independence to the E. Co. border), MERCER (N½), PAULDING, PUTNAM (except portion E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), VAN WERT & WILLIAMS (except portion E. of a line drawn from Pioneer thru Stryker to the S. border) COS. | 12.35 | 1.00 | 1.70 | | .02 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASHLAND, CARROLL, COSHOCTON (Exclu. portion w. of a line beginning at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, STARK, TUSCARAWAS, & WAYNE COS. | 12.58 | .80 | .95 | | .05 |
| CHAMPAIGN (E 1/3), CLARK (E½), COSHOCTON (W. of a Line beginning at N. W. Co. line going through Walhonding & Tunnel Hill to the So. Co. Line), CRAWFORD (S. of Rte 30), FAYETTE, HARDIN (except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line Starting at Adams Mill going to Adamsville & going from Adamsville thru Blue Rock to the S. Border), PERRY, PIKE (N½), ROSS & WYANDOT (S. of Rte. 30) COS. | 12.35 | 1.00 | 2.20 | | .05 |
| CRAWFORD (Area between lines drawn from where hwy 598 & 30 meet thru N. Liberty to the N. border & from said Hwy. junction point due W. to the border), DEFIANCE (S. of a line drawn from where Rt. 66 meets the N. Line thru Independence to the E. Co. border), ERIE (W. 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 miles S. of the N. line on the E. line), HENRY, | | | | | |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| HURON (W. of a line drawn from the N. Border thru Monroeville & Willard), OTTAWA, PUTNAM (E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), SANDUSKY, SENECA, WILLIAMS (E. of a line drawn from Pioneer thru Stryker to the S. border), WOOD & WYANDOT (Area N. of Rte. #30) COS. | 13.45 | 1.06 | 1.48 | | .06 |
| DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COS. | 12.25 | 1.00 | 2.20 | | .05 |
| ERIE (excluding W 1/3), GEAUGA (except portion E. of a line from Austinburg to Middlefield & South), HURON (exclu. portion W. of a line drawn from the N. border through Monroeville & Willard), & MEDINA COS. | 13.72 | 1.05 | 1.45 | | .03 |
| FRANKLIN CO. | 12.10 | 1.00 | 2.20 | | .05 |
| GEAUGA (E. of a line from Austinburg to Middlefield & South) CO. | 13.00 | .75 | 1.30 | | .09 |
| MEIGS CO. | 11.95 | 1.00 | 1.45 | | .03 |
| MUSKINGUM (except portion W. of line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the S. Border) CO. | 12.36 | .90 | 1.75 | | .05 |
| LATHERS | | | | | |
| AUGLAIZE, BUTLER, CHAMPAIGN, CLARK (W½), CLINTON, DARKE, FAYETTE, GREENE, LOGAN (W½), MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, WARREN (N½) COS. | 12.54 | | .40 | | .01 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CLARK (E½), COSHOCTON (SW¼), CRAWFORD, DELAWARE, FAIRFIELD, FRANKLIN, HIGHLAND (N.E. Tip), KNOX, LICKING, LOGAN (E½), MADISON, MARION, MORROW, MUSKINGUM, PERRY, PICKAWAY, ROSS, UNION & WYANDOT COS. | 12.45 | | .40 | | .01 |
| CLERMONT, HAMILTON, HIGHLAND (except NE Tip), & WARREN (S. ½ of Co.) COS. | 14.02 | | .35 | | .025 |
| COLUMBIANA, COSHOCTON (NE¼), MEDINA, & WAYNE (NW¼) COS. | 13.56 | .88 | .50 | | .01 |
| DEFIANCE, FULTON, HANCOCK, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS & WOOD COS. | 13.76 | 1.20 | .10 | | .01 |
| ERIE, & HURON COS. | 14.30 | | | | .01 |
| GEAUGA CO. | 13.38 | | 1.50 | | .01 |
| LAWRENCE CO. | 9.315 | | .10 | | |
| MARBLE SETTERS; Terrazzo Workers; & Tile Setters | | | | | |
| ADAMS, & SCIOTO COS. | 12.90 | | .50 | | .05 |
| ALLEN, AUGLAIZE, MERCER & VAN WERT COS.: Tile Setters | 12.29 | | .60 | | .02 |
| ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (except Milton & Chippewa Twps.), & WYANDOT (except Crawford, Ridge, Richland, & Tymochtee Twps.) COS. | 12.23 | .70 | 1.00 | | .02 |
| BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers, & Gratis Twps.) & WARREN COS.: Marble Setters | 13.435 | .65 | .45 | | |
| Terrazzo Workers; Tile Setters | 13.385 | .65 | .45 | | |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARROLL & TUSCARAWAS COS.: Marble Setters | 11.22 | .95 | .70 | | |
| Terrazzo Workers | 11.14 | .95 | .70 | | |
| Tile Setters | 11.05 | .95 | .70 | | |
| CHAMPAIGN, CLARK, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE (except Dixon, Israel, Lanier, Somers, & Gratis Twps.), & SHELBY COS. | 10.66 | .85 | .35 | | |
| CLINTON & HIGHLAND COS. | 10.00 | | | | |
| COLUMBIANA (Twps. of East Liverpool, Wayne, Franklin, Madison, St. Clair & Yellow Creek) CO. | 11.90 | .70 | .50 | | |
| COLUMBIANA (Twps. of Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity) CO. | 14.005 | | | | |
| COSHOCTON, FAIRFIELD, KNOX, LICKING, MUSKINGUM, & PERRY COS. | 11.05 | .70 | 1.30 | | .10 |
| DEFIANCE, FULTON (except Twps. of Fulton, Amboy & Swan Creek), HENRY (except Twps. of Monroe, Barlow, Liberty, Washington, Richfield, Marion & Damascus & that part of Harrison outside city limits of city of Napolean), PAULDING, PUTNAM, & WILLIAMS COS.: Marble Setters | 13.08 | 1.20 | .50 | | |
| DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS. | 12.55 | | | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) & WYANDOT (Twps. of Tymochtee, Crawford, Ridge & Richland), & ISLAND OF LAKE ERIE North of SANDUSKY | 12.44 | .70 | 1.10 | | .01 |
| FULTON (Twps. of Fulton, Amboy & Swan Creek), HENRY (Twps. of Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion), & WOOD (Twps. of Perrysburg, Ross, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids) COS.: | | | | | |
| Marble Setters | 13.175 | 1.06 | 1.40 | | .01 |
| FULTON & WOOD (except Twps. of Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids) COS.: | | | | | |
| Terrazzo Workers; Tile Setters | 13.53 | 1.06 | .30 | | |
| GALLIA & MEIGS COS.: | | | | | |
| Terrazzo Workers; Tile Setters | 12.95 | .70 | | | |
| GEAUGA CO. | 14.52 | .70 | 1.00 | | a |
| LAWRENCE CO. | 11.50 | | .50 | | .05 |
| MEDINA (Twps. of Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York) CO.: | | | | | |
| Marble Setters; Terrazzo Workers | 13.66 | 1.15 | 1.33 | | .04 |
| Tile Setters | 13.905 | | 1.75 | | |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MEDINA (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon), & WAYNE (Twps. of Milton & Chippewa) COS. | 12.02 | .81 | .60 | | |
| MEDINA (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) COS. | 13.60 | | .80 | b | .01 |
| MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS & TILE SETTERS' FINISHERS | | | | | |
| ADAMS, BROWN, BUTLER, CLERMONT, GALLIA, HAMILTON, HIGHLAND, LAWRENCE, MEIGS, SCIOTO & WARREN COS.: | | | | | |
| Marble Setters' Finishers | 12.35 | | | | |
| Marble Sanders; Polishers; Sawyers; & Waxers | 12.515 | | | | |
| Terrazzo Workers' Finishers & Grinders | 12.35 | | | | |
| Terrazzo Base Grinders (While operating base grinding machine) | 12.77 | | | | |
| Tile Setters' Finishers | 12.35 | | | | |
| ALLEN, DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS. | 11.00 | 1.06 | .40 | .50 | |
| ASHLAND, ERIE, GEAUGA, HURON, MEDINA (excl. Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Ahron), & RICHLAND COS.: | | | | | |
| Marble Setters' Finishers | 12.51 | | 2.00 | | |
| Terrazzo Workers' Finishers | 13.57 | | 1.50 | | |
| Tile Setters' Finishers | 13.04 | | 2.00 | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE & SHELBY COS. | 9.99 | | | | |
| CARROLL & TUSCARAWAS COS.: | | | | | |
| Terrazzo Workers' Finishers | 10.26 | .95 | .70 | | |
| Terrazzo Grinders | 10.60 | .95 | .70 | | |
| Tile Setters' Finishers | 10.14 | .95 | .70 | | |
| DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS. | 10.05 | | | | |
| MEDINA (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon), WAYNE (Twps. of Milton & Chippewa) COS. | 11.52 | .81 | .60 | | |
| MILLWRIGHTS | | | | | |
| ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, MUSKINGUM, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT & WYANDOT COS. | 12.12 | .60 | 1.00 | | .04 |
| ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA & RICHLAND COS. | 13.60 | .95 | 1.67 | | .05 |
| BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS. | 13.34 | .50 | 1.10 | | .10 |
| CARROLL, TUSCARAWAS, & WAYNE COS. | 12.36 | .60 | .70 | | .02 |
| COLUMBIANA CO. | 12.38 | .75 | 6% | | .03 |
| DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS. | 11.36 | .90 | 1.25 | | .07 |
| DEFIANCE, ERIE (W. of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS & WOOD COS. | 13.70 | 1.20 | .75 | | .05 |



DECISION NO. OH80-2006

| PAINTERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS, HIGHLAND, PIKE, & SCIOTO COS.: | | | | | |
| Brush; Exterior Bldgs. under 40 ft.; Paper or Wall Covering; Taping & Washing | 11.55 | | .60 | | |
| Floor Sanding; Power Tools; Rollers; & Swing Stage | 12.05 | | .60 | | |
| Burning; Sandblasting; Spray; & Steamcleaning | 12.55 | | .60 | | |
| ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT, & WILLIAMS COS.: | | | | | |
| Brush; Drywall Taping; & Rollers | 10.05 | .73 | .50 | | .03 |
| Wallcovering | 10.30 | .73 | .50 | | .03 |
| Sandblasting; Spray; & Steamcleaning | 10.55 | .73 | .50 | | .03 |
| ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS: | | | | | |
| Brush; Cleaner; Roller; & Washer | 9.80 | | .50 | | |
| Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer | 10.55 | | .50 | | |
| BROWN, CLERMONT, & HAMILTON COS.: | | | | | |
| Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing | 13.55 | | .35 | | h |
| Steamcleaning | 13.70 | | .35 | | h |
| Spray | 14.05 | | .35 | | h |
| Hopper Tender; Sandblasting; & Waterblasting | 14.45 | | .35 | | h |
| BUTLER & WARREN COS.: | | | | | |
| Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing | 11.58 | | | | |
| Hopper Tender; Sandblasting; & Spray | 12.58 | | | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARROLL, HOLMES, TUSCARAWAS & WAYNE COS.: | | | | | |
| Brush; Rollers | 11.16 | .93 | .60 | | .02 |
| Baperhangers | 11.26 | .93 | .60 | | .02 |
| Drywall | 11.56 | .93 | .60 | | .02 |
| Spray | 11.66 | .93 | .60 | | .02 |
| CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE COS.: | | | | | |
| Brush; Roller | 12.59 | | .80 | | .08 |
| Drywall Taping & Spackling; & Wallcovering | 12.94 | | .80 | | .08 |
| Structural Steel | 12.99 | | .80 | | .08 |
| Cleaning; Sandblast; & Spray | 13.09 | | .80 | | .08 |
| COLUMBIANA CO.: | | | | | |
| Brush; Hydro-jet Cleaning; Paperhanging; Roller; Steamcleaning; Wallwashing; & Waterproofing | 12.45 | .75 | 1.00 | | |
| Drywall Taping | 12.60 | .75 | 1.00 | | |
| Open Structural Steel | 12.66 | .75 | 1.00 | | |
| Spray | 12.95 | .75 | 1.00 | | |
| COSHOCTON CO.: | | | | | |
| Brush; Drywall Tapers; Paperhangers; Wallpaper Cleaners; & Wall Washers | 6.00 | | | | |
| Scaffold & Removal of Wallpaper; Swing Stage | 6.25 | | | | |
| Spray | 6.50 | | | | |
| DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.: | | | | | |
| Drywall Sanders | 11.29 | .85 | .85 | | .02 |
| Brush; Paperhangers; Rollers; & Wall Washing | 11.54 | .85 | .85 | | .02 |
| Structural Steel | 11.84 | .85 | .85 | | .02 |
| Drywall Tapers & Finishers | 11.94 | .85 | .85 | | .02 |
| Spray | 12.04 | .85 | .85 | | .02 |
| Sandblasting; Steam Cleaning | 12.24 | .85 | .85 | | .02 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ERIE, HANCOCK, HURON, SANDUSKY, SENECA, & WYANDOT COS.: | | | | | |
| Old Commercial: | | | | | |
| Brush; Rollers; & Wash & Clean Surfaces | 9.90 | .70 | .70 | | i |
| Drywall & Paperhangers | 10.15 | .70 | .70 | | i |
| Sandblasting; Spray | 10.40 | .70 | .70 | | i |
| New Commercial: | | | | | |
| Brush; Rollers; & Wash & Clean Surfaces | 10.80 | .70 | .70 | | i |
| Drywall & Paperhangers | 11.05 | .70 | .70 | | i |
| Sandblasting; & Spray | 11.30 | .70 | .70 | | i |
| FULTON, HENRY, OTTAWA, & WOOD COS.: | | | | | |
| Brush; Drywall Tapers & Finishers; Paperhangers; Spray & Sandblasting Pot Tenders | 11.93 | 1.06 | 1.30 | | |
| Pressure Cleaning; Sandblasting; & Spray | 12.48 | 1.06 | 1.30 | | |
| GALLIA, LAWRENCE, & MEIGS COS.: | | | | | |
| Brush; Roller | 10.05 | | | j | |
| Drywall Tapers & Finishers; Paperhangers; Wall washers | 10.68 | | | j | |
| Open Structural Steel | 10.65 | | | j | |
| Spray | 11.15 | | | j | |
| GEAUGA CO.: | | | | | |
| Brush; Paperhangers & Rollers | 13.31 | .82 | 1.00 | | .05 |
| Spray | 13.71 | .82 | 1.00 | | .05 |
| KNOX, LICKING, MUSKINGUM & PERRY COS.: | | | | | |
| Brush; Paperhangers | 8.50 | | | | |
| Spray | 8.95 | | | | |
| ROSS CO.: | | | | | |
| Brush; Paperhanging; Roller; Taping | 9.50 | | | | |
| Pot Tender; Structural Steel | 9.75 | | | | |
| Sandblast; Spray | 10.25 | | | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PILEDRIVERMEN | | | | | |
| ADAMS, FAYETTE, GALLIA, HIGHLAND, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS. | 9.53 | .55 | 1.00 | | .03 |
| ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, MUSKINGUM, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS. | 12.12 | .60 | 1.00 | | .04 |
| ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS. | 13.60 | .95 | 1.67 | | .05 |
| BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS. | 13.20 | .75 | .85 | | .075 |
| CARROLL, TUSCARAWAS, & WAYNE COS. | 12.36 | .60 | .70 | | .02 |
| COLUMBIANA CO. | 12.98 | 5.5% | 10% | | ½% |
| DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS. | 11.55 | .90 | 1.25 | | .07 |
| DEFIANCE, ERIE (W. of B&O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS. | 13.70 | 1.20 | .75 | | .05 |
| PIPEFITTERS; Plumbers; Steamfitters | | | | | |
| ADAMS, GALLIA, HIGHLAND, LAWRENCE, PIKE, & SCIOTO COS.: | | | | | |
| Within 10 mi. radius of Portsmouth | 13.17 | .85 | 1.00 | | |
| Over 10 and within 20 mi. radius of Portsmouth | 13.42 | .85 | 1.00 | | |
| Over 20 mi. and within 35 mi. radius of Portsmouth | 13.52 | .85 | 1.00 | | |
| Over 35 mi. radius of Portsmouth | 13.77 | .85 | 1.00 | | |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY, & VAN WERT COS. | 13.65 | .60 | .90 | | .05 |
| ASHLAND, CRAWFORD, ERIE, HURON, KNOX, MORROW, RICHLAND, & WYANDOT COS | 14.28 | .80 | .95 | | .05 |
| BROWN, CLERMONT, HAMILTON, & WARREN (S 1/3 of Co.) COS.: | | | | | |
| Pipefitters; Steamfitters | 13.78 | 1.045 | 1.60 | | .08 |
| Plumbers; Gas Fitters | 13.82 | 1.05 | 1.20 | | .07 |
| BUTLER (N½) & WARREN (N. of Rte. 63 exclu. Lebanon & South Lebanon) COS. | 14.10 | .90 | 1.00 | | .05 |
| BUTLER (S½) & WARREN (S. to Rte. 63 to Hamilton Co. line, W. to Indiana State line, E. to Rte. 42 including Lebanon, South Lebanon, & Mason) COS. | 14.12 | .80 | 1.10 | | .02 |
| CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon) COSHOCTON, HOLMES, MUSKINGUM, & TUSCARAWAS COS. | 13.80 | .70 | .60 | | .08 |
| CARROLL (exclu. Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), & WAYNE COS. | 13.32 | .50 | .70 | k | .10 |
| CHAMPAIGN, CLARK, GREENE (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), LOGAN, & MADISON (W. of Rte #38 including city of London) COS. | 13.30 | .83 | .85 | | .04 |
| CLINTON, DARKE, FAYETTE, GREENE (exclu. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), MIAMI, | | | | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MONTGOMERY, & PREBLE COS. | 13.06 | 1.05 | 1.05 | | .03 |
| COLUMBIANA CO. (exclu. Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427) | 13.44 | 1.07 | .80 | | .05 |
| COLUMBIANA CO. (Washington & Yellow Creek (Twps. & Liverpool Twp. - secs. 35 & 36 - West of Co. Rd. #427) | 12.86 | .80 | 1.53 | 1.53 | .12 |
| DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS. | 14.38 | 1.25 | 1.05 | | .12 |
| DELAWARE, FAIRFIELD, FRANKLIN, LICKING, MADISON (E. of Rte. #38 not inclu. city of London), MARION, PERRY, PICKAWAY, ROSS, & UNION COS. | 13.77 | .96 | .82 | | .06 |
| GEAUGA, & MEDINA (N. of #18 exclu. City of Medina) COS.: Pipefitters | 13.61 | 1.31 | 1.30 | | .15 |
| GEAUGA, & MEDINA (N. of Rte. #18 & Smith Rd.) COS.: Plumbers | 14.13 | .90 | 1.10 | | .02 |
| MEDINA (S. of #18 exclu. City of Medina) CO. | 13.20 | .85 | 1.20 | | .05 |
| MEIGS CO. | 12.83 | .62 | .75 | | .06 |
| PLASTERERS | | | | | |
| ADAMS, LAWRENCE (except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS. | 13.65 | | .60 | | .05 |
| ALLEN, AUGLAIZE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, KNOX, LICKING, LOGAN, MADISON, MERCER, MUSKINGUM, PERRY, PICKAWAY, ROSS, UNION & VAN WERT COS. | 11.94 | .60 | .30 | | .02 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASHLAND, CRAWFORD, MARION, MORROW, RICHLAND, & WYANDOT (Exclu. Tymochtee, Crawford, Ridge, & Richland Twps.) COS. | 10.95 | | | | |
| BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND & WARREN COS. | 13.895 | | .75 | | .02 |
| CARROLL, COLUMBIANA (Twps. of Knox, Butler, West, & Hanover), & TUSCARAWAS COS | 12.29 | .95 | .70 | | .01 |
| CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS. | 12.95 | | | | |
| COLUMBIANA (Exclu. Twps. of Knox, Butler, West, & Hanover) CO. | 12.11 | .60 | | | .03 |
| ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & the ISLAND OF LAKE ERIE N. of SANDUSKY | 12.44 | .70 | 1.10 | | .01 |
| FULTON, HANCOCK, HENRY, PUTNAM & WOOD (exclu. Perry & Bloom Twps.) COS. | 14.65 | .60 | | | .01 |
| GALLIA & MEIGS COS. | 12.95 | .70 | | | |
| GEAUGA CO. | 14.52 | .70 | 1.00 | | a |
| HOLMES & WAYNE (except Milton & Chippewa Twps.) COS. | 12.88 | | 1.00 | | .02 |
| LAWRENCE (Fayette, Union, & Rome Twps.) CO. | 11.50 | | .50 | | .05 |
| MEDINA (Twps. of Litchfield Chatham, Homer, Harrisville & Spencer) CO. | 13.60 | | .80 | b | .01 |
| MEDINA (except Twps. of Litchfield, Chatham, Homer, Harrisville & Spencer) CO. | 12.26 | .60 | .75 | | .01 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | | | | | |
| ADAMS, GALLIA, LAWRENCE, MEIGS, MUSKINGUM, PIKE & SCIOTO COS. | 12.50 | | .60 | | |
| ALLEN, AUGLAIZE, CHAMPAIGN, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, PERRY, PICKAWAY, PUTNAM, ROSS, UNION, VAN WERT & WYANDOT COS. | 12.80 | .85 | .65 | | .01 |
| ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS & WAYNE COS. | 12.37 | .94 | .85 | | .02 |
| BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS. | 14.32 | | .85 | | .01 |
| CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.: | | | | | |
| Composition, Damp, & Waterproof | 12.25 | .80 | .75 | | |
| Slate, Tile & Asbestos | 12.47 | .80 | .75 | | |
| DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING, WILLIAMS & WOOD COS. | 12.98 | 1.05 | 1.50 | | .02 |
| ERIE, GEAUGA, HURON, OTTAWA, SANDUSKY, & SENECA COS. | 15.28 | .25 | .50 | | .05 |
| SHEET METAL WORKERS | | | | | |
| ADAMS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, KNOX, LAWRENCE, LICKING, MADISON, MARION, MEIGS, MORROW, MUSKINGUM, PERRY, PICKAWAY, PIKE, ROSS, SCIOTO & UNION COS. | 12.07 | .86+1 | 1.12 | | .15 |
| ALLEN, AUGLAIZE, BUTLER, CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, VAN WERT, WARREN & WYANDOT COS | 12.28 | .96+1 | 1.15 | | .16 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASHLAND, CARROLL, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS. | 12.41 | .81 | .84 | | .05 |
| BROWN, CLERMONT, HAMILTON, & HIGHLAND COS. | 13.835 | 1.06 | .85 | | .06 |
| COLUMBIANA CO. | 12.26 | .75 | .79 | | .04 |
| DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SENECA, WILLIAMS, & WOOD COS. | 13.155 | 1.20 | 1.57 | | .045 |
| ERIE, HURON, & SANDUSKY COS. | 13.91 | .85 | 1.20 | | .06 |
| GEAUGA CO. | 13.85 | .70 | 1.48 | | .06 |
| SOFT FLOOR LAYERS | | | | | |
| ADAMS, FAYETTE, GALLIA, HIGHLAND, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS. | 9.24 | .55 | 1.00 | | .03 |
| ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE FAIRFIELD, FRANKLIN, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, MUSKINGUM, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS. | 11.47 | .60 | 1.00 | | .04 |
| ASHLAND, CRAWFORD, ERIE, HURON, OTTAWA, RICHLAND, SANDUSKY, & SENECA COS. and the portion of the city of Fostoria located in HANCOCK and WOOD COS. | 12.82 | .70 | 1.00 | c | .08 |
| BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS. | 11.50 | .75 | .85 | | .05 |
| CARROLL, TUSCARAWAS, & WAYNE COS. | 11.71 | .60 | .70 | | .02 |
| DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & SHELBY COS. | 10.40 | .90 | .90 | | .07 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DEFIANCE, FULTON, HANCOCK, (except city of Fostoria), HENRY, PAULDING, WILLIAMS, & WOOD (except city of Fostoria) COS. | 12.03 | 1.20 | .75 | | .04 |
| GEAUGA CO. | 13.87 | .95 | 1.40 | | .05 |
| SPRINKLER FITTERS | | | | | |
| GEAUGA, & MEDINA (N. of #18, exclu. City of Medina COS. | 13.61 | 1.31 | 1.30 | | .15 |
| REMAINING COS. | 14.02 | .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. $75.00 per year
b. 2 paid holidays: C & D
c. 2 paid holidays: B & D
d. $25.00 per year
e. $25.00 per year
f. 7 paid Holidays: A through F and Day after Thanksgiving
g. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.
h. $25.00 per year
i. $50.00 per year
j. 6 paid holidays: A, C, E, F, Decoration Day, & Veterans' Day
k. 1 paid Holiday: D, providing the employee has worked 5 consecutive days before and after the holiday.
l. 3% of gross earnings to SASMI



DECISION NO. OH80-2006

LABORERS

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS, GALLIA, HIGHLAND, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.: | | | | | |
| Bottom men; Building & Construction Laborers; Carpenters' Tenders; Mason Tenders; Mortar Mixers; Pipelayers; Plasterers' Tenders; Shoeting & Shoring Men | 9.42 | .70 | .90 | | .10 |
| Air & Machine Driven Tool Op.; Asphalt Rakers & Smoothers; Burning & Cutting Torches; Chain saws; Form Setters; Hand Spikers & Powered Concrete Buggies | 9.67 | .70 | .90 | | .10 |
| Gunnite Machine Op.; Gunnite Nozzlemen; Powdermen & Blasters | 9.94 | .70 | .90 | | .10 |
| ALLEN, AUGLAIZE, MERCER, PAULDING, PUTNAM, SHELBY & VAN WERT COS.: | | | | | |
| Building Laborers; Laser Beam; Power Wheelbarrow or Power Buggy | 8.65 | .80 | .80 | | .10 |
| All Machine Driven Tools (Gas, Electric, Air); Asphalt Rakers; Caisson; Cement Finishers' Tenders; Cofferdam; Demolition; Packers; Pot Tenders; Pump Man Under 4" Discharge; Spikers by Hand (Railroad); Tamper; Torch Man; Tunnel & Vibrators | 8.80 | .80 | .80 | | .10 |
| Blaster Tender; Cylinder, Shaft; Jackhammer; Manhole Builders; Mason Tenders; Mortar Mixers; Plasterers' Tenders; Sewer Bottom Man; Sewer Pipelayer; Sewer, Water Conduit, Gas, Oil Pipeline, except Mainlines; & Wagon Drill Tender | 8.95 | .80 | .80 | | .10 |
| Blaster-Powderman; Gunnite Ops.; Muckers & Miners (Tunnel & Caisson) Free Air; Sandblasters; & Wagon Drill/Op. | 8.95 | .80 | .80 | | .10 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASHLAND, CARROLL, COSHOCTON, CRAWFORD, DELAWARE, HANCOCK, HARDIN, HOLMES, KNOX, MARION, MORROW, RICHLAND, SENECA STARK, TUSCARAWAS, WAYNE & WYANDOT COS. | | | | | |
| Building & Construction Laborers; Carpenters' Tenders; Concrete Handler; Finisher Tenders; Guard Rail Erector; Tool Cribmen; & Utility Construction Laborer | 9.51 | .80 | .80 | | .10 |
| Air & Power Driven Tools; Bottom Men; Burner on Demolition; Caisson Worker; Cofferdam Worker; Creosote Workers; Form Setter; Hod Carrier; Laser Beam Setup Men; Mason Tender; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Powder Men & Dynamite Blaster; Scaffold Building; Swinging Scaffold; & Tunnel Laborers | 9.71 | .80 | .80 | | .10 |
| Gunnite Operator | 10.11 | .80 | .80 | | .10 |
| BROWN, CLERMONT, CLINTON & HAMILTON COS.: | | | | | |
| GROUP 1 | 11.15 | .80 | .80 | | .10 |
| GROUP 2 | 11.25 | .80 | .80 | | .10 |
| GROUP 3 | 11.30 | .80 | .80 | | .10 |
| GROUP 4 | 11.35 | .80 | .80 | | .10 |
| GROUP 5 | 11.50 | .80 | .80 | | .10 |
| GROUP 6 | 11.65 | .80 | .80 | | .10 |
| GROUP 7 | 11.90 | .80 | .80 | | .10 |
| GROUP 8 | 10.62 | .80 | .80 | | .10 |
| GROUP 9 | 10.77 | .80 | .80 | | .10 |

GROUP 1 - Common Laborers; Cement Masons' Tenders; Hand Operated Mechanical Mule; & Mechanical Sweeper
GROUP 2 - Bottom Man; Pipelayer
GROUP 3 - Burning Torch Operator; Concrete Pump Hose Man; Jackhammer; Mechanical & Air Tamper Operator; Mechanical Concrete Buggies; Power Operated Mechanical Mule; Vibrator Man



DECISION NO. OH80-2006

GROUP 4 - Bottom Jackhammer Man; Mason Tenders; Plasterers' Tenders; Stonemasons' Tenders
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

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BUTLER & WARREN COS. | | | | | |
| Common Laborers | ~~10.44~~ | ~~.80~~ | ~~.80~~ | | |
| Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op. | 10.54 | .80 | .80 | | .10 |
| Mason Tenders; Mortar Mixers; & Scaffold Builders | 10.77 | .80 | .80 | | .10 |
| Concrete Pumps & Hose Men; Gunnite Operators; & Sandblasters | 10.79 | .80 | .80 | | .10 |
| CHAMPAIGN, CLARK, & LOGAN COS.: | | | | | |
| Carpenters' Tenders; Laborers | 8.60 | .80 | .80 | | .10 |
| Air and Machine Driven Tool Operators; Asphalt Raker and Tamper; Barko and Chain Saw; Bottom Man Gunnite Machine Operator & Nozzle Man; Hand Spikers; Jackhammer; Power Concrete and Buggies; Sewer Pipelayers; & Wagon Drill | 8.85 | .80 | .80 | | .10 |
| Mason Tenders; Mortar Mixers; & Plasterers' Tenders | 9.00 | .80 | .80 | | .10 |
| Miners and Muckers for Tunnel and Caisson, Powdermen and Blasters | 9.10 | .80 | .80 | | .10 |
| COLUMBIANA CO.: | | | | | |
| Carpenter Tenders; General Laborers | 9.40 | .70 | .90 | | .10 |
| Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Operator; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stone Masons, & Tile Setters | 9.57 | .70 | .90 | | .10 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; All Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Concrete Busters; Panel Cleaning Machine Operators; Pipelayer and Tenders Working in Ditches or Tunnels and Hand Spikers on Railroads, and Laborer Handling Concrete for Test or Working with Tar, Acid, & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders | 9.60 | .70 | .90 | | .10 |
| DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.: | | | | | |
| Laborers | 9.44 | .70 | .70 | | .10 |
| All Machine & Power Driven Tools; Chipping Hammers; Power Buggies; Railroad Spikers by Hand; Swinging Scaffold over 15 ft.; & Vibrators | 9.59 | .70 | .70 | | .10 |
| Air Drill; Batter Board Setter & Bottom Men; Jackhammer; Man Hole Builders; Sandblasters; & Sewer Pipelayers | 9.64 | .70 | .70 | | .10 |
| Caisson Work; Scaffold W/Power Tools | 9.69 | .70 | .70 | | .10 |
| Torch Man on Wrecking | 9.74 | .70 | .70 | | .10 |
| Caisson Work w/Jackhammer | 9.89 | .70 | .70 | | .10 |
| Gunnite Operator; Wagon Drill Operator, and Blaster - Powder Man | 9.94 | .70 | .70 | | .10 |
| Tenders for Bricklayers and Masons | 10.07 | .70 | .70 | | .10 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Tenders for Lathers and Plasterers | 10.11 | .70 | .70 | | .10 |
| DEFIANCE, FULTON, HENRY, & WILLIAMS COS.: | | | | | |
| Carpenter Tenders; Cement Finishers' Tenders; Laborers | 9.57 | .80 | .80 | | .10 |
| Gunnite Pot Man; Mason Tenders | 9.69 | .80 | .80 | | .10 |
| All Power Driven Tools and Buggies; Burners, Torchmen and Nozzle Man for Concrete Pump | 9.72 | .80 | .80 | | .10 |
| Plasterers' Tenders | 9.745 | .80 | .80 | | .10 |
| Bellman; Bottom Man; & Brick Expeditor | 9.805 | .80 | .80 | | .10 |
| Nozzle Operator for Gunnite Work | 10.22 | .80 | .80 | | .10 |
| ERIE, HURON, OTTAWA, AND SANDUSKY COS.: | | | | | |
| Building and Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tenders; Guard Rail Erectors; Tool Cribmen; & Utility Construction Laborers | 10.66 | .80 | .80 | | .10 |
| Air and Power Driven Tools; Bottom Men; Burner on Demolition Work; Caisson Workers; Cofferdam; Workers; Creosote Workers; Form Setters; Hod Carrier; Laser Beam Set Up Men; Mason Tenders; Mortar Mixers; Mucker; Pipelayers; Plasterers' Tenders; Powder Men & Dynamite Blasters; Scaffold; Swinging Scaffold; & Tunnel Laborers | 10.86 | .80 | .80 | | .10 |
| Gunnite Operator | 11.26 | .80 | .80 | | .10 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.: | | | | | |
| Carpenter Tenders; Cleaning, Debris; Cleaning of all Material; Common Laborers; Conveyor Belt; General Clean Up; Handling & Conveying All Material; Lanscape; Loading and Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Salamander; Sod Layers; Washing of all Windows; & Wire Mesh Handlers or Setters | 9.04 | .80 | .80 | | .10 |
| Air or Electrical Pneumatic Tool Operator; All Scaffold Builders (Swinging Scaffold); Asphalt and Blacktop Rakers; Bottom Man; Brick Tenders; Caisson Bottom Man; Cement Mason Tender; Concrete Saw Operator, and Brush Feeders on Pulverizers; Forklift Operator; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun, Burners; Mortar Mixers & Operator; Pipe Layers; Plasterers' Tenders; Power Buggy Operator; Power Driven Tools; Power Wheelbarrow Operator; Sand and Vacuum Cleaning; Sandblasting of Concrete; Stone Mason Tender; Vibrator Man; Wagon and Churn Drill Operators; & Wall Wrecker & Bar Man on Demolition | 9.34 | .80 | .80 | | .10 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GEAUGA CO.: | | | | | |
| Equipment Replacing Wheelbarrow & Concrete Buggy; Laborers | 11.53 | 1.46 | 1.55 | | |
| Fire Brick Tenders; Power Driven Tools & Vibrators; Sewer & Utilities Laborers | 11.68 | 1.46 | 1.55 | | |
| Acetylene Burner; Jackhammer; & Mucker | 11.73 | 1.46 | 1.55 | | |
| Air Track and Wagon Drill; Mason Tender Handling Carbon Block & Bottom, Block Material; & Swinging Scaffold | 11.78 | 1.46 | 1.55 | | |
| Acid Brick Tenders; Blasters & Shooters; Caisson; Cofferdams; Cylinder; Gunnite Operator; Mine Workers w/o Air; & Well | 12.01 | 1.46 | 1.55 | | |
| Topman on Free Standing Radial Stack | 12.18 | 1.46 | 1.55 | | |
| LICKING CO.: | | | | | |
| All Portable Heaters; Carpenter Tender; Cleaning of All Material; Common Laborers; Conveyor Belt; General Clean-up Incl. Vacuum Cleaning; Handling and Conveying All Material; Landscape; Loading & Unloading all Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Sod Layers; Washing of all Windows; Water Pumps up to & Incl. 4" Intake | 8.27 | .55 | .40 | | .05 |
| Air or Electrical Pneumatic Tool Operators; All Scaffold Builders; Asphalt & Blacktop Rakers; Bottom Man; Brick Tender; Brush Feeders on Pulverizers; Burners; Cement Mason Tender; Concrete Saw Operators; Fork Lift Operators; | | | | | |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Gunnite Nozzleman; Jackhammer Operator; Laser Gun; Mortar Mixer & Operator; Pipelayers; Plasterers' Tender; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemason Tender; Swinging Scaffolds; Vibrator Man; Wagon & Churn Drill Operators; Wall Wrecker & Bar Man on Demolition; Welders on Demolition | 8.49 | .55 | .40 | | .05 |
| MEDINA Co.: | | | | | |
| Carpenter Tenders; Common Laborers; Concrete Bucket Tender; Landscape Laborers; Mason Tender; & Welder Tenders | 10.92 | .80 | .80 | | .16 |
| Air Driven boring Machine; Asphalt Raker; Hook-up Man on Demolition Work; Material Mixer; Paving Bed Maker; Power Tools - Air, Gas, or Electric; Scaffold Erector; Structural Precast Erector; Tamper Operator; & Wire Mesh Handler | 11.07 | .80 | .80 | | .16 |
| Barco Type Tampers; Bottom Man; Burners; Form Setters; Hod Carriers; Jackhammer; Muckers - Tunnel; Pipelayers; Power Buggy or Power Wheelbarrow; Power Saws; & Rock Drillers | 11.12 | .80 | .80 | | .16 |
| Dynamite Men; Gunnite Nozzlemen; Pump Hose Nozzlemen; Tunnel Miners; & Water Line Caulkers | 11.42 | .80 | .80 | | .16 |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MUSKINGUM & PERRY COS.: | | | | | |
| Building & Construction Laborers; Carpenter Tenders; Planters (Landscape) Plumbers Tenders & Tree Trimmers | 9.32 | .80 | .80 | | .10 |
| Air & Machine Driven Tools Operators; Asphalt Plant Aggremeter Operator; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand Spikers Operators; Jackhammer Operator; Mason Tenders; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Operator; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Men; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Operator; & Yarners & Wrenchmen | 9.42 | .80 | .80 | | .10 |
| Brick Droppers; Lock Tenders; & Powdermen or Blasters | 9.57 | .80 | .80 | | .10 |
| ROSS CO.: | | | | | |
| All Water Pumps Up to & Incl. 3" Intake; clean-Up Incl. Vacuum Cleaning; Cleaning Debris; Common Laborers; Conveyor Belt; Handling & Conveying All Materials; Landscape; Loading & Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of All Concrete; Sod Layers; & Washing of All Windows | 8.99 | .70 | .90 | | .10 |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air or Electrical Pneumatic Tool Operators; All Scaffold Builders (Swinging Scaffolds); Asphalt & Blacktop Rakers; Bottom Man; Brick Tenders; Brush Feeders on Pulverizers; Burners; Carpenters' Tenders; Cement Masons' Tenders; Concrete Saw Operators; Forklift Operators; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun; Mortar Mixer & Operators; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemasons' Tenders; Vibrator Man; Wagon & Churn Drill Operators; Wall Wreckers & Bar Man on Demolition; Welders on Demolition | 9.19 | .70 | .90 | | .10 |
| WOOD CO.: | | | | | |
| Unskilled Laborers | 11.41 | .80 | .80 | | .11 |
| Plasterers' Tenders | 11.43 | .80 | .80 | | .11 |
| Mason tenders | 11.54 | .80 | .80 | | .11 |
| All Power Driven Tools & Buggies | 11.565 | .80 | .80 | | .11 |
| Gunnite Pot Men; Mortar Mixers | 11.61 | .80 | .80 | | .11 |
| Pipelayers | 11.665 | .80 | .80 | | .11 |

DECISION NO. OH80-2006

| LINE CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ADAMS, GALLIA, LAWRENCE, MEIGS, SCIOTO & PIKE (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union) COS.: | | | | | |
| Cable Splicers; Linemen & Welders | 14.00 | .50 | 3%+.50 | 1.00 | ½% |
| Linemen | 12.73 | .50 | 3%+.50 | 1.00 | ½% |
| Operators: All Mechanized Equipment | 10.18 | .50 | 3%+.50 | 1.00 | ½% |
| Groundmen | 8.27 | .50 | 3%+.50 | 1.00 | ½% |
| ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) COS.: | | | | | |
| Linemen | 13.53 | .60 | 3% | | ½% |
| Equipment Operators | 12.18 | .60 | 3% | | ½% |
| Groundmen; Truck Drivers | 8.95 | .60 | 3% | | ½% |
| ASHLAND, CRAWFORD, HURON, (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps.of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) COS.: | | | | | |
| Equipment Operators; Linemen | 12.30 | .60 | 3%+.50 | | ½% |
| Line Truck Driver | 8.00 | .60 | 3%+.50 | | ½% |
| Groundmen | 7.38 | .60 | 3%+.50 | | ½% |
| BROWN, CLERMONT, & HAMILTON COS.: | | | | | |
| ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati: | | | | | |
| Linemen; Machine Ops. | 13.90 | .70 | 3%+.60 | | ½% |
| Groundmen | 10.41 | .70 | 3%+.60 | | ½% |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati: | | | | | |
| Linemen; Machine Ops. | 14.20 | .70 | 3%+.60 | | ½% |
| Groundmen | 10.65 | .70 | 3%+.60 | | ½% |
| ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati: | | | | | |
| Linemen; Machine Ops. | 14.30 | .70 | 3%+.60 | | ½% |
| Groundmen | 10.73 | .70 | 3%+.60 | | ½% |
| ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati: | | | | | |
| Linemen; Machine Ops. | 14.45 | .70 | 3%+.60 | | ½% |
| Groundmen | 10.84 | .70 | 3%+.60 | | ½% |
| BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) COS.: | | | | | |
| ZONE I: West of Interstate #75: | | | | | |
| Linemen | 13.30 | .55 | 3%+1.00 | | ½% |
| Cable Splicers | 13.80 | .55 | 3%+1.00 | | ½% |
| Groundmen | 9.31 | .55 | 3%+1.00 | | ½% |
| ZONE II: East of Interstate #75: | | | | | |
| Linemen | 13.85 | .55 | 3%+1.00 | | ½% |
| Cable Splicers | 14.35 | .55 | 3%+1.00 | | ½% |
| Groundmen | 9.86 | .55 | 3%+1.00 | | ½% |
| 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, Greene & Wayne Twps.) COS.: | | | | | |
| Cable Splicers; Linemen | 13.35 | .55 | 3%+.60 | | .3% |
| Line Equipment Ops. | 11.60 | .55 | 3%+.60 | | .3% |
| Groundmen; Truck Drivers | 7.95 | .55 | 3%+.60 | | .3% |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARROLL (S. of Fox, Harrison, Rose & Washington Twps.) CO.: | | | | | |
| Linemen; Line Equipment Ops.; Truck Drivers | 14.50 | 7% | 14% | 10% | ½% |
| Cable Splicers | 15.00 | 7% | 14% | 10% | ½% |
| Groundmen | 9.43 | 7% | 14% | 10% | ½% |
| CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.: | | | | | |
| Cable Splicers; Equipment Ops.; Linemen | 15.43 | .60 | 3% | | ½% |
| Groundmen | 10.03 | .60 | 3% | | ½% |
| CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.: | | | | | |
| Cable Splicers; Linemen | 13.28 | .75 | 3%+1.00 | | ½% |
| Operators: | | | | | |
| Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket | 13.28 | .75 | 3%+1.00 | | ½% |
| Line Truck with Winch or Pole & Steel Handling | 9.96 | .75 | 3%+1.00 | | ½% |
| Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver | 7.76 | .75 | 3%+1.00 | | ½% |
| COLUMBIANA CO. (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.): | | | | | |
| Linemen; Heavy Equipment Ops. | 12.58 | 13% | 7% | | ½% |
| Groundmen & Truck Drivers | 11.35 | 13% | 7% | | ½% |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), & GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy) COS.: | | | | | |
| Cable Splicers; Linemen; Operator - Poledigging Equipment | 14.90 | .70 | 3% | | ½% |
| Groundmen | 11.92 | .70 | 3% | | ½% |
| COSHOCTON, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.: | | | | | |
| Cable Splicers; Equipment Op.; Linemen | 13.00 | .50 | 3% | | ½% |
| Groundmen | 7.88 | .50 | 3% | | ½% |
| DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.: | | | | | |
| Linemen | 14.92 | .70 | 3% | a | ½% |
| Technicians | 14.39 | .70 | 3% | a | ½% |
| Cable Splicers | 15.17 | .70 | 3% | a | ½% |
| Operator Class I | 11.88 | .70 | 3% | a | ½% |
| Operator Class II | 10.47 | .70 | 3% | a | ½% |
| Groundmen | 8.97 | .70 | 3% | a | ½% |
| DELAWARE, FRANKLIN, MADISON (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.: | | | | | |
| Cable Splicers; Equipment Ops. & Linemen | 13.98 | .50 | 3% | | ½% |
| Groundmen | 7.88 | .50 | 3% | | ½% |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.): | | | | | |
| Cable Splicers; Equipment Ops. & Linemen | 14.05 | .73 | 3% | | ½% |
| Truck Driver (Winch) Groundman; Groundman | 9.13 | .73 | 3% | | ½% |
| FAIRFIELD, KNOX (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, & Pleasant), & LICKING COS.: | | | | | |
| Cable Splicers; Linemen; Operators: All Mechanized Equipment | 12.90 | .70 | 3% | | ½% |
| Groundmen - Truck Driver | 10.21 | .70 | 3% | | ½% |
| Groundmen | 7.85 | .70 | 3% | | ½% |
| FAYETTE, HIGHLAND, PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (excl. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), & ROSS COS.: | | | | | |
| Linemen; Equipment Operators | 13.35 | .40 | 3% | | ½% |
| Truck Drivers | 7.92 | .40 | 3% | | ½% |
| Groundmen | 7.57 | .40 | 3% | | ½% |
| GEAUGA (excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) CO.: | | | | | |
| Cable Splicers; Equipment Ops. & Linemen | 14.98 | .85 | 3%+.70 | | ½% |
| Truck Drivers (Winch) Groundman; Groundman | 9.74 | .85 | 3%+.70 | | ½% |
| MEDINA (Litchfield & Liverpool Twps.) COS.: | | | | | |
| Cable Splicer; Equipment Op.; & Linemen | 13.95 | .75 | 3%+1.00 | | ½% |
| Truck Driver (Winch) Groundman; Groundman | 9.07 | .75 | 3%+1.00 | | ½% |



DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & WAYNE (Northern ½ of Co.) COS.: | | | | | |
| Linemen | 13.66 | .74 | 3%+.65 | | ½% |
| Cable Splicers | 14.46 | .74 | 3%+.65 | | ½% |
| Equipment Operators | 10.25 | .74 | 3%+.65 | | ½% |
| Truck Drivers; Groundman | 6.83 | .74 | 3%+.65 | | ½% |
| FOOTNOTE: a. 10 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve, & Good Friday | | | | | |
| POWER EQUIPMENT OPERATORS: All Counties, except Columbiana Co.: | | | | | |
| Well & Pump Work (Incl. Drilling & Repair of all Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells) | | | | | |
| Well Driller & Pump Installer | 8.10 | .34 | .27 | a&b | |

DECISION NO. OH80-2006

FOOTNOTES:

a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day
b. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation



DECISION NO. OH80-2006

| POWER EQUIPMENT OPERATORS COLUMBIANA COUNTY | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | 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; Backfiller W/Drag Attachment; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; 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 and Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front end; Locomotive; Mechanic as Welder; Metro Clip Harvester W/Boom; Mucking Mach.; Paving-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; Stone-crusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/Attachments; Trench Mach.; Trucks-Boom; Truck-Tire-Assigned to Job; Tunnel Machine (Mark 21 Java or Similar); Whirley

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.; Hoist-Single Drum; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; 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

DECISION NO. OH80-2006

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; 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); Jacks Hydraulic (Railroad); Ladavator; Roller (Walk Behind 1 Ton or Over); Steam Jenny; Syphons; Tender Mechanic; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oiler

CLASS VI - Rigs-Pile Driving or Caisson Type



DECISION NO. OH80-2006

| POWER EQUIPMENT OPERATORS | ZONE I Basic Hourly Rates | ZONE II Basic Hourly Rates | ZONE III Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|---|
| | | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 13.44 | 13.16 | 13.72 | .96 | 1.00 | | .11 |
| GROUP B | 13.28 | 13.00 | 13.57 | .96 | 1.00 | | .11 |
| GROUP C | 12.93 | 12.64 | 13.22 | .96 | 1.00 | | .11 |
| GROUP D | 12.12 | 11.86 | 12.44 | .96 | 1.00 | | .11 |
| GROUP E | 11.79 | 11.53 | 12.12 | .96 | 1.00 | | .11 |
| GROUP F | 9.58 | 9.33 | 9.94 | .96 | 1.00 | | .11 |

POWER EQUIPMENT OPERATORS

ZONE I: Allen, Ashland, Carroll, Coshocton, Defiance, Fulton, Hancock, Hardin, Henry, Holmes, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Tuscarawas, Van Wert, Wayne, Williams, & Wood Counties

ZONE II: Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Crawford, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Montgomery, Morrow, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Warren, & Wyandot Counties

ZONE III: Erie, Geauga, Huron, & Medina Counties

GROUP A - A-Frames; Boiler or Compressor Operator Mounted on Crane (Piggy-Back 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; Hammerhead Tower Cranes; 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; Rotary Drills used on Caisson Work for Foundations and Sub-Structure Work; Side Boom; Slip Form Pavers; Straddle Carriers Building Construction on Site); Trench Machine (Over 24" Wide); Tug Boat

GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End-Loaders; 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

DECISION NO. OH80-2006

GROUP D - Compressors on Building Construction; Conveyors (Building Material); Generators; Gunnite Machines; Mixers, (Capacity more than One Bag); Mixers (One Bag Capacity, Side Loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher Rollers; Welder Operator

GROUP E - Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machine; 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 Compactor (With Integral Power)

GROUP F - Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Boilers (Less than 15 lbs. Pressure); Pumps under 4" Discharge Submersible Pumps under 4" Discharge; Tenders



DECISION NO. OH80-2006

| 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.: | | | | | |
| Bus Drivers (Incl. all Equipment used for Hauling Men & Materials); Dump to & Incl. 2 Tons; Fuel Trucks; Jeeps; Pick-ups; & Station Wagons | 8.96 | 21.50a | | | |
| Dumps Over 2 Tons; Euclids; Fork Lifts (Incl. Mason Tending Work); Lowboys; Semi-Tractor; & Tandems | 9.88 | 21.50a | | | |
| BUTLER & WARREN COS.: | | | | | |
| Jeeps; Pickups; & Single Axle Trucks | 10.11 | 25.00b | 41.00a | | |
| Fork Lifts; Tandem Axle Dump Trucks; Tandem Axle Trucks; Truck Warehousemen & Winch Trucks | 10.26 | 25.00b | 41.00a | | |
| Semi Combination & Combination of Hauling Units | 10.36 | 25.00b | 41.00a | | |
| Drag & Lowboys | 10.52 | 25.00b | 41.00a | | |
| Euclids; Mechanics | 10.56 | 25.00b | 41.00a | | |
| CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.: | | | | | |
| Straight Flat & Dump Truck; Winch Truck | 7.68 | 27.50a | 11.00a | c&e | |
| Ready Mix Dump Crete | 7.74 | 27.50a | 11.00a | c&e | |
| Tandem Truck & Tractor Trailer Combination | 7.79 | 27.50a | 11.00a | c&e | |
| Euclid to 12 Yds. | 7.85 | 27.50a | 11.00a | c&e | |
| Euclid over 12 Yds. | 8.21 | 27.50a | 11.00a | c&e | |
| DELAWARE, FAYETTE, FRANKLIN, MADISON, PICKAWAY & ROSS COS.: | | | | | |
| Dump & Straight | 9.71 | 33.00a | | | |
| Tandem & Semi-Farm Tractor | 9.81 | 33.00a | | | |
| Lowboy | 9.91 | 33.00a | | | |

DECISION NO. OH80-2006

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GALLIA, LAWRENCE (E. of Ohio St. Rte. #75), & MEIGS COS.: | | | | | |
| Dump Trucks (Up to 5 Cubic Yds.); Flatbody Material Truck (Straight Job); Greasers; Panel Trucks; Pickups; Station Wagons; Tiremen; Trucks Tenders; Warehousemen; & Washers | 9.84 | 93.17d | 60.67d | 1.00 | |
| Tank Trucks (Straight) | 9.94 | 93.17d | 60.67d | 1.00 | |
| Agitator or Mixer Trucks (Up to 5 Cu. Yds.); Dump Trucks (5 Cu. Yds. & Over); Semi-Dump Trucks; Semi-Trailers (Whether Flat, Rack or Pole & Hauled or Pushed by Truck or Tractors); Tank Truck (Semi) | 10.09 | 93.17d | 60.67d | 1.00 | |
| Distributor Trucks (Front End & Backend); Fork Trucks; Low Boy; Trailers; Monorail Truck; Truck Crane; & Winch Trucks | 10.14 | 93.17d | 60.67d | 1.00 | |
| Material Checker & Receiver; Mechanic's Tender | 10.19 | 93.17d | 60.67d | 1.00 | |
| Agitator or Mixer Truck (5 Cu. Yds. & over) | 10.24 | 93.17d | 60.67d | 1.00 | |
| A-Frame; Athey Wagon or Similar Equipment; Dual Purpose Trucks; End Dumpsters; Hydraulic Lift Tailgate Truck & Farm Type Tractors; Hydrolift; Mechanic; Ross Carriers; Tri-Axle Dump Trucks; & Turnarockers | 10.49 | 93.17d | 60.67d | 1.00 | |



DECISION NO. OH80-2006

FOOTNOTES:

a. Per week per employee

b. Per week per employee providing employee has been on payroll at least 30 days

c. 1 year's employment - 1 week's paid vacation; 7 years' employment - 2 weeks' 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 Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hours' pay for said holidays.

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES 29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Pennsylvania

Counties: Greene, Somerset & Potter

DECISION No.: PA80-3011

DATE: Date of Publication

Supersedes Decision No.: PA78-3015 dated May 12, 1978, in 43 FR 20697.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (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 | 13.47 | .85 | 1.25 | | |
| ZONE II | 12.50 | 1.32 | .90 | | .06 |

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 | 11.785 | 7.5% | 7% | | .01 |

AREA COVERED BY BOILERMAKERS ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

| | | | | | |
|---|---|---|---|---|---|
| BRICKLAYERS & STONEMASONS | | | | | |
| ZONE I | 12.265 | .75 | 1.63 | | .01 |
| ZONE II | 10.80 | | .90 | | .01 |
| ZONE III | 12.10 | .70 | .60 | | |



DECISION NO. PA80-3011

AREA COVERED BY BRICKLAYERS AND STONEMASONS

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. |
| CARPENTERS | | | | | |
| ZONE I | 10.95 | 6% | 8% | 10% | 1½% |
| ZONE II | 11.75 | 6% | 8% | 10% | |

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 | 12.21 | .85 | 1.95 | | |
| 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

DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS | | | | | |
| ZONE I | 13.35 | .55 | 3%+.40 | .60 | .10 |
| ZONE II | 9.98 | .60 | 3%+.85 | .75 | .02 |

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

| | | | | | |
|---|---|---|---|---|---|
| GLAZIERS | | | | | |
| ZONE I | 11.44 | .92 | 1.15 | 1.15 | .02 |
| ZONE II | 11.54 | 1.70 | .70 | | .25 |
| ZONE III | 10.19 | .40 | .60 | | .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



DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS | | | | | |
| ZONE I | 12.60 | .90 | 1.75 | | .05 |
| ZONE II | 11.925 | .975 | 1.47 | | .07 |
| ZONE III | 11.72 | .60 | 1.10 | | |

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Greene County

ZONE II - Potter County

ZONE III - Somerset County

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS | | | | | |
| ZONE I | | | | | |
| CLASS 1 | 10.08 | 9% | 9% | | |
| CLASS 2 | 10.20 | 9% | 9% | | |
| CLASS 3 | 10.32 | 9% | 9% | | |
| CLASS 4 | 10.55 | 9% | 9% | | |
| CLASS 5 | 10.73 | 9% | 9% | | |
| ZONE II | | | | | |
| CLASS 1 | 10.00 | 9% | 9% | | |
| CLASS 2 | 10.25 | 9% | 9% | | |
| CLASS 3 | 10.80 | 9% | 9% | | |
| ZONE III | | | | | |
| CLASS 1 | 8.95 | 10% | 9% | | |
| CLASS 2 | 9.45 | 10% | 9% | | |
| CLASS 3 | 9.55 | 10% | 9% | | |
| CLASS 4 | 9.45 | 10% | 9% | | |
| CLASS 5 | 9.00 | 10% | 9% | | |

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE I - Greene County

CLASS 1 - Laborers, carryable pumps, west brick buggy or similar (non self-propelled), vibrator operators, walk behind forklift similar, stripper & mover of forms, cement finisher 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 tender, (incl. drill mounted on truck, track or similar), blaster's tender, 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 & worklifts, 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 tender (includes drill mounted trucks, track or similar) sheeters and shores, vibrator operators, power tamper operators y-gun, burnercutting torch and carrable pumps, chain saw Operator, pipe layers, all material conveyors and elevators, signal man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carriers, 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)

CLASS 3 - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, welder, 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 | 11.61 | .50 | 3% | | 3/8% |
| Winch truck Operator | 8.16 | .50 | 3% | | 3/8% |
| Groundman | 7.80 | .50 | 3% | | 3/8% |
| ZONE II | | | | | |
| Linemen | 14.83 | .45 | 3% | | 3/8% |
| Groundman | 8.90 | .45 | 3% | | 3/8% |
| Winch truck operator | 10.38 | .45 | 3% | | 3/8% |

AREA COVERED BY LINE CONSTRUCTION

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

| | | | | | |
|---|---|---|---|---|---|
| MILLWRIGHTS | 11.20 | 6% | 6% | 25% | 1/2% |
| PAINTERS: | | | | | |
| ZONE 1 | | | | | |
| COMMERCIAL - shall include stores, schools, warehouse not in plant showrooms, churches, apartment buildings, commercial garage, office building | | | | | |
| Brush | 9.85 | .65 | .45 | | .05 |
| Spray | 10.975 | .65 | .45 | | .05 |
| INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting teel sash and all steel surfaces, officers & hospital, both interior and exterior | | | | | |
| Brush | 10.35 | .65 | .45 | | .05 |
| Spray | 11.475 | .65 | .45 | | .05 |

DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 2 | | | | | |
| COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings | | | | | |
| Brush & Roller | 10.39 | .75 | .45 | | .02 |
| Spray | 10.44 | .75 | .45 | | .02 |
| INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior | | | | | |
| Brush | 10.94 | .75 | .45 | | .02 |
| Spray | 11.64 | .75 | .45 | | .02 |
| ZONE 3 | | | | | |
| COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings | | | | | |
| Brush & Roller | 11.60 | .75 | 1.10 | | |
| Spray | 12.60 | .75 | 1.10 | | |





DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| INDUSTRIAL - shall include sewage treatment plants, water works or authorities and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks furnances, machinery, corrugated ceiling and sidewalks, sheeting steel officers & hospital, both interior and exterior | | | | | |
| Brush & Roller | 12.10 | .75 | 1.10 | | |
| Spray | 13.10 | .75 | 1.10 | | |

AREA COVERED BY PAINTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

| | | | | | |
|---|---|---|---|---|---|
| PILEDRIVERMEN | 12.98 | 5.5% | 10% | | 1/2% |
| PLASTERERS | | | | | |
| ZONE I | 11.39 | .85 | 1.55 | | |
| ZONE II | 12.85 | | | | .01 |
| ZONE III | 10.10 | .50 | .50 | | |

DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLUMBERS | | | | | |
| ZONE I | 12.07 | .78 | 1.13 | .75 | .24 |
| ZONE II | 12.83 | 1.00 | 1.47 | | .07 |
| ZONE III | 11.45 | .79 | .70 | .75 | .05 |

AREA COVERED BY PLASTERERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

AREA COVERED BY PLUMBERS ZONES

ZONE I - Somerset County & the extreme eastern portion or Greene County

ZONE II - Remainder of Green County

ZONE III - Potter County



DECISION NO. PA80-3011

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Zone - 1 | | | | | |
| CLASS I | $13.175 | 1.05 | 1.00 | | .09 |
| CLASS I-A | 13.425 | 1.05 | 1.00 | | .09 |
| CLASS I-B | 13.675 | 1.05 | 1.00 | | .09 |
| CLASS I-C | 13.925 | 1.05 | 1.00 | | .09 |
| CLASS II | 12.975 | 1.05 | 1.00 | | .09 |
| CLASS III | 11.53 | 1.05 | 1.00 | | .09 |
| CLASS III-A | 12.03 | 1.05 | 1.00 | | .09 |
| CLASS IV | 10.71 | 1.05 | 1.00 | | .09 |
| CLASS V | 10.44 | 1.05 | 1.00 | | .09 |
| CLASS V-A | 10.54 | 1.05 | 1.00 | | .09 |
| CLASS V-B | 10.69 | 1.05 | 1.00 | | .09 |
| CLASS V-C | 11.44 | 1.05 | 1.00 | | .09 |

Zone 1 - Greene County

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

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 feeding or discharge, batch plant - no coveyors for direct feeding or discharge; cableway; caisson drill, central mix plant; cranes (excluding overhead) (truck or crawler type); cranes - tower (mobile); cranes - tower (stationary) (climbing type); cranes - tower (climbing type); cranes - hydraulic self-contained wagon crane - over 18 ton; cranes - hydraulic self-contained wagon crane - 18 ton or less; derrick-traveler (self-propelled); derrick (all types); 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; hoist-single cage with 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; mix mobile or similar type (with self-loading attachment); mix mobile or similar type; mucking machine (tunnel); multiple bowl machines; pile driver (sonic or similar type); 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 and whirley

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS I-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 to & including 150 ft. (truck or crawler type); cranes - mobile (any type 15 ton or over placed on any bldg. structure; hoist-hod (2 cages over 10 floors)

CLASS I-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. truck or crawler type)

CLASS I-C - Cranes (boom or mast over 200 ft.)

CLASS II - Asphalt plant operator; athey loader; auger - truck 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); 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; mucking machine; pipe cleaning machine; refrigeration plant (used for constr. jobs i.e., 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; 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); elevator (when used for alterations & remodeling all bldgs); grout pump (10 H.P. or over); paver operator - asphalt (spreader); pumpkrete or similar type (not self-propelled); pumpkrete machine operator (stationary); tire repairman (when assigned to job); welder (repairman)



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS III - Ballast regulator; boiler; boring machine; broom, power (except push type); compressor - single (over 65 CFM; compressor (over 125 CFM and air pump); compressor (1) and sand blasting machine (1) (combination); conveyor over 1 and up to 3 units (regarless of power used); crane (carry); curb builder (self propelled); drills - well and horizontal truck mounted; fork-lifts (ridden or self-propelled); form line machine; generator (over 5 KW); hoists (monorail) (regardless of power used); hoist one drum (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); pavement breaker (self-propelled or ridden); pipe dream; plant, private or industrial air or steam valve; pump (over 1½" discharge regardless of power used); roller; saw (concrete); soil stabilizer (pump type); spray cure machine (power driven); steam jenny (or similar type); stone crusher; stone spreader self-propelled; syphon (steam or air); tractors (when used for snaking and hauling); truck, (winch) truck or hydraulic boom (when hoisting & placing); tube finisher (CII or similar type); tugger; welding machine single (300 amp or over) (other than electrically driven); compressors (2); generators (2); mortar machine over 10 cu. ft. and single unit conveyor; pumps (1½" ditcharge or less) (2 to 3); pumps (over 1½" discharge (2) in bank) (within reasonable distance); welding machines (2 to 3) (other than electrically driven)

CLASS III-A - Conveyors 4 units or more

CLASS IV - Compressor - 65 cubic ft. or under (regardless of power used); conveyors 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

CLASS V - Brakeman; deckhand; helicopter oiler; mechanic

CLASS V-A - Truck crane; oiler & fireman

CLASS V-B - Oiler on truck crane 50-ton up to but not incl. 100-ton

CLASS V-C - Oiler truck crane 100 ton and over

DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| ZONE II | | | | | |
| CLASS 1 | 12.975 | 1.05 | 1.00 | | .09 |
| CLASS 1-A | 13.225 | 1.05 | 1.00 | | .09 |
| CLASS 1-B | 13.475 | 1.05 | 1.00 | | .09 |
| CLASS 1-C | 13.725 | 1.05 | 1.00 | | .09 |
| CLASS 2 | 12.825 | 1.05 | 1.00 | | .09 |
| CLASS 3 | 10.95 | 1.05 | 1.00 | | .09 |
| CLASS 3-A | 11.45 | 1.05 | 1.00 | | .09 |
| CLASS 4 | 10.30 | 1.05 | 1.00 | | .09 |
| CLASS 5 | 9.25 | 1.05 | 1.00 | | .09 |
| CLASS 6 | 9.55 | 1.05 | 1.00 | | .09 |
| CLASS 6-A | 9.65 | 1.05 | 1.00 | | .09 |
| CLASS 6-B | 9.80 | 1.05 | 1.00 | | .09 |
| CLASS 6-C | 10.55 | 1.05 | 1.00 | | .09 |

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE II - Somerset & Potter Counties

Class I - Austin-Western or similar type under 25 ton, austin-western 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) use of oil to be discussed at per 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 maintenace, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (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 local 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



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), 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, mucking 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), grout 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), pumpkrete machine operator (stationary), tire repairman (when assigned job), welder (repairmen)

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-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 & placing), 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 back) 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 mochine, 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 mot 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



DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | | | | | |
| ZONE I | 13.51 | .77 | 1.50 | | .16 |
| 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 | 12.60 | 1.02 | 1.56 | | .21 |
| ZONE II | 11.52 | .70 | .76 | | .02 |

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

DECISION NO. PA80-3011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SOFT FLOOR LAYERS | | | | | |
| ZONE I | 11.71 | 6% | 6% | 6% | .06 |
| 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 | 13.55 | .75 | 1.05 | | .08 |
| STEAMFITTERS | | | | | |
| ZONE I | 13.30 | .85 | 1.19 | | .10 |
| ZONE II | 12.05 | .84 | 1.07 | | .24 |
| ZONE III | 11.45 | .79 | .70 | .75 | .05 |

AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County



DECISION NO. PA80-3011

| | 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 | 12.50 | .75 | 1.15 | | .01 |
| 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 | 11.50 | .60 | 1.40 | | |
| ZONE II | 10.10 | .50 | .50 | | |

AREA COVERED BY TILE SETTERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

DECISION NO. PA80-3011

| | 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 | 8.1& | a | b | | |
| ZONE II | | | | | |
| CLASS 1 | 9.85 | 9.6% | 6.6% | c | |
| CLASS 2 | 9.91 | 9.6% | 6.6% | c | |
| CLASS 3 | 9.92 | 9.6% | 6.6¢ | c | |
| CLASS 4 | 10.01 | 9.6% | 6.6% | c | |
| CLASS 5 | 10.20 | 9.6% | 6.6% | c | |
| CLASS 6 | 10.03 | 9.6% | 6.6% | c | |
| CLASS 7 | 10.18 | 9.6% | 6.6% | 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 | | |

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA 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 - 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); distribtor 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, tander

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 6 - 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 7 - Winch truck and form truck

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 water trucks)

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer truck (Tri-Axle)

CLASS 6 - Concrete mixer truck (Tri-Axle)

CL 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.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)0."

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 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.

[FR Doc. 80-5384 Filed 2-21-80; 8:45 am]

BILLING CODE 4510-27-C

Federal Register

Friday
February 22, 1980

Part IV

# Department of Housing and Urban Development

## Office of Assistant Secretary for Community Planning and Development

## Fiscal Year 1980 Innovative Grants for Community Energy Conservation; Competition Solicitation

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary, Community Planning and Development

[Docket No. N-80-976]

### Fiscal Year 1980 Innovative Grants for Community Energy Conservation; Competition Solicitation

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice establishing a competition for FY 1980 Innovative Grants to support community-related energy conservation programs.

**SUMMARY:** HUD, with support from the Department of Energy, invites pre-applications from States and units of general local government for Innovative Grants for community energy conservation activities. This competition is intended to encourage the development of comprehensive strategies that will achieve significant energy savings at the State and local level. HUD solicits innovative approaches which integrate proven and feasible energy conservation activities and alternative energy supply technologies into housing rehabilitation, neighborhood revitalization, and other community and economic development programs. Activities funded from this competition must be elements of community energy conservation strategies and are to address one or more of the following: assist low- and moderate-income persons to conserve energy, encourage the provision of energy services and supplies, and assist small and/or minority businesses to achieve energy savings.

**SOURCES OF INFORMATION:** A toll-free number has been established to provide information to State and local government officials about energy conservation programs. This Information Center has been provided with detailed information about this competition. Applicants may obtain answers to questions about energy conservation projects, additional sources of funding, and general questions about this program by contacting: Community Energy Conservation Competition, The President's Clearinghouse for Community Energy Efficiency, Suite 185, 400 N. Capitol Street, NW., Washington, D.C. 20001, National: (800) 424-9043, Alaska, Hawaii, Puerto Rico: (800) 424-9081, Washington, D.C. Metro Area Only: 252-2855.

Program Information Kits have been prepared and are available upon request from the Clearinghouse. These kits contain a discussion of the competition, a list of sources of information on energy programming, a list of other sources of Federal assistance, a bibliography of publications on energy conservation, and specific forms and regulations pertaining to this competition.

**SUPPLEMENTARY INFORMATION:** In recent years the availability and use of the world's energy resources has become an issue facing individuals, businesses, institutions and all levels of government. Each has had to deal with the rising costs and fluctuating supplies of traditional sources of energy. Each has experienced financial pressures, planning uncertainties, and performance limitations. As a result, there has been widespread recognition of an "energy problem" and perception of a need for action to assure a continuous and adequate supply of energy resources. The Department of Housing and Urban Development and the Department of Energy realize that energy issues have increasing importance for State and local governments. As energy problems become more persistent, State and local governments will share in the responsibility for dealing with the energy problems of their jurisdictions. Both agencies recognize the challenges this will present to government planning and management and sees the need for building State and local government capability to deal with energy problems.

State and local governments acting in concert with all segments of the local community must be actively involved if the nation is to achieve its energy conservation objectives. They can play major roles in promoting energy conservation by influencing local energy use through existing and new legislative, regulatory and general political powers. Local and State governments can establish standard operating procedures, special programs, and criteria for decision making that will result in immediate and significant energy savings. Important opportunities exist for integrating energy conservation into ongoing housing and community development strategies. Applicants should explore how this integration can be developed to encourage energy conservation activities.

This competition is intended to address local needs and opportunities for action which may not be readily met by other governmental energy conservation initiatives. Applicants should examine and coordinate with all available programming resources. Proposals for Innovative Grants should complement, rather than substitute for, other assistance or incentives sponsored by Federal, State, or local authorities. A list of other Federal resources is contained in the Information Kit for this competition (See "Sources of Information").

HUD and DOE believe State and local governments have a unique and essential role in accomplishing the urgent need for energy conservation. It is essential that each locality become aware of the sectors of energy use and the potential for conservation in each sector. Each State and local government must begin to develop comprehensive strategies, which may require legal and institutional changes, to make that use less wasteful and more efficient. Thus, a pre-requisite for entry in this competition is a statement that the applicant government has begun the task of comprehensive energy planning and program development, and will provide a description of the steps taken to date and to be taken, and the manner in which the innovative grant project relates to and is in furtherance of, this overall community energy conservation strategy.

Pre-applications will be screened for comformance to the purposes and requirements of this competition. Successful applicants will be invited to submit final applications after the initial HUD review. HUD will subsequently award Innovative Grants to selected final applicants to implement activities identified in community energy conservation strategies. Grantees will be required to participate in future workshops, conferences, and other presentations of their program activities. A future additional grant award may be made to projects approved under this competition that demonstrate a high degree of success in implementation in order to disseminate information on exemplary project models to the general public and to provide opportunities for additional energy conservation activities. Eligible applicants will be notified at a later date concerning the terms and conditions for receiving such an award.

While no limit has been placed on the minimum or maximum amount available for each Innovative Grant, HUD anticipates funding approximately ten to twenty projects, representing a broad cross-section of approaches. Approximately $10 million is being provided for the national competition by HUD and the Department of Energy anticipates transferring to HUD $1 million for the competition for a total of $11 million.

**Community Energy Conservation Competition Guidelines**

*Program Objectives:* HUD will consider for funding on a competitive basis pre-applications for Innovative Grants which propose activities that help implement energy conservation strategies and which address one or more of the following objective:

1. Assist low- and moderate-income persons to conserve energy without reducing their standard of living. Under this objective:

At least 50 percent of the beneficiaries of the program activities must be low- and moderate-income persons; or

The activities must be targeted to areas in which block grant assisted activities are being carried out in a concentrated manner, such as a neighborhood strategy area, which is defined in CFR 570.301(c).

2. Encourage the provision of energy conservation services and supplies through the expansion and/or establishment of small and/or minority businesses as defined in 13 CFR 121.3 and Executive Order 11625 (36 FR 119967). Under this objective:

The business activities must be actively involved with establishing or enlarging businesses involved in energy conserving supplies and services.

3. Assist small and/or minority businesses, as defined in 13 CFR 121.3 and Executive Order 11625, serving low- and moderate-income neighborhoods to conserve energy without reducing operations or profit margins. Under this objective:

The activities must be targeted to areas in which block grant assisted activities are being carried out in a concentrated manner, such as a neighborhood strategy area, which is defined in CFR 570.301(c).

*Public-Private Partnerships:* In most communities, there are no broad-based organizations for energy conservation, either among neighborhood groups, consumers, lending institutions, or those businesses and trades that offer, or have the potential to offer, energy conservation services and supplies. Since State and local efforts at conservation are so fragmented, it is essential that States and units of general local government create an institutional framework to promote and coordinate public and private actions.

In order for governmental efforts to deal effectively with the energy problem, public and private groups and all levels of government must work together to develop a comprehensive, long-term program of conservation. Applicants are encouraged to develop local, public-private partnerships to carry out energy conservation programs or to build upon existing coalitions of groups. These may include, for example, community and neighborhood groups; chambers of commerce; local and State economic development organizations; local lending institutions; utility companies; consumer and homeowner associations; property managers' groups; and energy conservation specialists.

*Comprehensive Energy Strategy:* To combat our energy problem, States and localities must seek to identify their patterns of energy consumption, goals, and objectives in order to develop comprehensive community energy strategies. Such strategies provide opportunities to save scarce fuels and thus lessen our dependence on imported foreign oil, help communities stabilize energy costs and make these areas more attractive for employment and tax base generating commercial and industrial enterprises, and alleviate the hardship of escalating energy costs upon low- and moderate-income persons and small and minority businesses.

Local governments can play three types of roles in reducing energy consumption by the transportation, commercial, industrial and residential sectors. They can inform the public of conservation benefits and methods; they can stimulate conservation action through direct incentives; and they can legislate or regulate compliance with specific conservation measures. HUD will consider any comprehensive strategy for energy conservation that incorporates all three types of action, building on the traditional relationships, resources, and responsibilities of State and local governments. To achieve conservation goals, State and local governments should integrate energy conservation into their overall management systems. The development of energy conservation strategies requires defining energy conservation as an important concern and bringing it into local and State government policy development, planning, and budgeting processes. Energy conservation management involves an inventory of energy consumption, the formulation of specific local policies, the development of appropriate programs to carry out policy objectives, and actual implementation and evaluation of conservation actions. It also involves the support and commitment of the commercial sector, utility companies, neighborhood groups, and other segments of the State and local community.

As a pre-requisite for this competition, pre-applications must contain a statement of the energy conservation planning and program development activities that have been undertaken or will be undertaken in the community. This statement must identify the scope and comprehensiveness of the energy strategy, indicate the extent of public and private support and commitment for the community's energy plans or programs, and describe the steps taken to date and to be taken in the future. The relationship between the activities proposed for this competition and the applicant's energy strategy must be identified.

*Energy Conservation Approaches:* Local projects may deal with any energy conserving approaches, measures, and technologies appropriate to the applicant's situation. Because of the diversity in factors such as the local needs, climate, and housing stock, HUD has not limited this competition to any single approach or technology. Applications may propose to accomplish energy savings through education and outreach, loan and grant programs or through such physical measures as building retrofit and renewable energy equipment installations. Applicants are urged to consider projects which promise to assist large segments of the public over more limited approaches.

If an applicant chooses to apply for funds to support a particular equipment technology, it must meet the following criteria:

1. Be technologically proven and demonstrated;

2. Lead to substantial energy savings;

3. Promise to pay back or recapture initial investment costs over the long run;

4. Provide for repair and maintenance after installation.

In all cases, the applicant must present a detailed projection of energy savings to be achieved through proposed approaches, including estimates on how and when the project can be expected to "payback" on the initial investment in terms of energy dollars saved. In addition, applicants should attempt to describe the expected impact of the energy savings on the local economy over time.

*Coordinated With Other Resources:* Applicants are encouraged to coordinate other Federal, State, local and private resources to support a wide array of local activities comprising the energy conservation program. These resources may be in the form of financial assistance, technical information, services, and shared staff. Possible Federal opportunities are described in separate Information Kits for this competition (See "Sources of Information").

Special emphasis should be placed on coordination of the proposed activities with the applicant's community development strategy. Applicants must identify the activities and programs which address their housing and community development needs.

*Eligible Activities:* Proposed activities must meet the eligibility requirements of 24 CFR 570, Subpart C., *Eligible Activities.* Applicants are reminded that planning and administrative costs may not exceed 20 percent of an Innovative Grant. Consequently, applicants should expect to commit 80 percent or more of the innovative grant for program activities, e.g., operational staff, financing measures, materials, labor, or other eligible activities, to carry out the local conservation program. Applicants with questions about eligible activities should contact their Area Office contact person for this competition as listed in the Information Kit (See "Sources of Information").

*Eligible Applicants:* For this competition, eligible applicants are States and units of general local government as defined in 24 CFR 570.3(u)(v).

*Approval Procedure:* The procedure for selection of Innovative Grants will be as follows:

(A) Initial Screening—Pre-applications that address the following requirements will be accepted for consideration:

1. Innovation, i.e., they propose activities which are untried, unique, test existing processes and techniques in a different environment, or advance the state of the community development art.

2. Address one or more of the Program Objectives.

3. Sustainability, i.e., they propose activities and/or firm funding commitments to continue the program after the Innovative Grant closes out.

4. Fully meet the pre-application guidelines established in this Notice.

5. Transferability, i.e., they propose activities which can be effectively used by communities with similar characteristics.

6. Contain a statement of the applicant's comprehensive energy strategy. (See "Comprehensive Energy Strategy").

(B) Rating, Ranking, and Selection—Pre-applications that satisfy initial screening requirements will be divided according to the Program Objective or Objectives they address. Panels of experts from the fields described in the three Program Objectives will review the pre-applications. Selection of finalists under the competitive will be made by the Assistant Secretary for Community Planning and Development, based upon the recommendation of a selection board of senior HUD staff. For those pre-applications that are accepted, HUD will use the following factors to select finalists for Innovative Grants:

1. Extent to which the local program directly addresses one or more of the Program Objectives.

2. Extent to which the proposed program is feasible.

3. The extent of public and private commitment and the comprehensiveness of the community energy plans and strategies. (See "Comprehensive Energy Strategy").

4. Extent to which the local program promotes energy savings or a reduction in the consumption of non-renewable energy resources.

5. Extent of public/private partnership implementing the innovative grant activities

6. The technical and financial feasibility of the processes, activities, and alternative energy technologies being proposed.

7. Organizational capacity and personnel qualifications.

8. Relationship between the proposed activities and the applicant's community development and energy strategies.

9. Other State, Federal, and private funding available for the proposed program.

10. Extent to which the proposed activities will be continued after the Innovative Grant closes out.

11. Extent to which the proposed activities are transferable.

(c) Final Applications—Finalists will be required to develop complete, final applications. It is expected that all final applications will be funded; however, the Department may elect *not* to fund some or all of the proposals if they are deemed inadequate to achieve the purposes of this competition.

*Pre-Application Requirements:* The pre-application shall contain:

(1) Standard Form 424.

(2) A one-page abstract, specifically summarizing the proposed program purpose, activities, and budget.

(3) A narrative description of the program. This description shall have three to five sections: one section for General Program Information; one-to-three sections that relate to Specific Program Objectives; and one section for appendices. The number of Specific Program Objective sections will vary according to whether one, two or all three of the Program Objectives listed under Community Energy Conservation Guidelines are addressed. Each of the one-to-three Specific Program Objective sections must be totally separable, so that each may be assigned to different review panels for rating. Pre-applications concerned with just one Program Objective will complete only one of the Specific Program Objective sections. If all three Program Objectives are addressed, three such Specific Program Objective Sections, one for each program objective, will be completed.

*Applications that exceed the maximum number of pages stated below will be returned without comment.* Pre-applications must be typed on lettersize paper using standard size type face (e.g., pica or elite). Pre-applications which have reduced size type face, through the use of a reduction process or non-standard typewriters, will not be accepted.

The applicant must addres the following items in their pre-applications:

(1) *General Program Information Section*—Maximum 5 pages. In this section, the applicant must:

(a) Identify the goals of the proposed program.

(b) Identify the proposed organizational arrangement including key personnel and their qualifications and participating public and private groups.

(2) *Specific Objective Sections*—Maximum 10 pages each.

(a) Delineate the proposed program activities, provide a work plan that includes a program timetable and a list of major milestones, and identify the manner in which the proposed activities meet the energy conservation problems identified in the General Program Information Section.

(b) Identify Innovative aspects of the program.

(c) Describe the manner in which the program will be sustained after the Innovative Grant closes out.

(d) Identify target groups.

(e) Describe how the proposed activities fit into the applicant's community development and energy strategies.

(f) Indicate elements of the program that could be replicated in other jurisdictions.

(g) If the proposed program involves the use of other sources of funding, identify the specific activities which will be funded from the Innovative Grant.

(3) Appendices Section:

(a) Line Item Budget.

(b) Letters, agreement or other documentation affirming and describing the specific public or private resources that will be co-funded or co-targeted.

(c) Cooperative agreements, if a State or country is applying on behalf of other units of general local government.

(d) Certificates that the applicant has provided an opportunity for comment by citizens, especially low- and moderate-

income persons, likely to be affected by the project.

(e) Copies of State and substate clearinghouse comments, and any supporting documentation, required pursuant to OMB Circular A–95.

(f) Energy strategy, including milestones and letters or statements of commitment. (See "Comprehensive Energy Strategy").

Special Note: The provisions of OMB Circular A–95 are applicable to this competition. Clearinghouses are to be notified by submission of the pre-application at least 30 days prior to the closing date of the competition and provided 30 days to review and comment on the pre-application. All materials described above must be completed and submitted no later than the closing date in order for HUD to consider the pre-application.

Post Approval Requirements: As conditions to accepting an Innovative Grant under this competition, recipients will be expected to:

1. send at least one representative to two national workshops of finalists, during the project period and after closeout;

2. present oral presentations of Innovative Grant funded activities, as needed;

3. prepare a final report for national distribution;

4. submit recommendations to HUD for revisions to basic CDBG policy and regulations that will enhance local capacity to carry out energy conservation strategies; and

5. develop a plan for monitoring of the program during the implementation of the activities and assessment of the program after the Innovative Grant closes out.

Authorization: The Innovative Grant Program is authorized by Section 107(a)(4) of the *Housing and Community Development Act of 1974,* as amended, and is published pursuant to 24 CFR 570.406(b)(3)(i), *CDBG Innovative Funds.*

Numerous Federal agencies, and national interest groups for local governments, State energy conservation agencies, and small businesses, were consulted informally prior to the design of this competition. A finding of Inapplicability has been made, with respect to the environmental review of this Notice, pursuant to 24 CFR Part 50. A copy of the Finding is available for inspection in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

Submission Requirements: The original and three copies of the pre-applications must be received no later than 5:00 p.m. ED(S)T on June 23, 1980 to: Community Energy Conservation Competition, Office of Policy Planning, Room 7134, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Late Submission Warning: The conditions applicable to late pre-applications as stated in the Information Kit will be strictly applied.

Issued at Washington, D.C., February 12, 1980.

Robert C. Embry, Jr.,

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 80-5189 Filed 2-19-80; 8:45 am]

BILLING CODE 4210-01-M

Friday
February 22, 1980

# Part V

# Department of the Interior

## Geological Survey

## Natural Gas Category Determination; Notice to Lessees for Implementation of the Natural Gas Policy Act of 1978

## DEPARTMENT OF THE INTERIOR

### Geological Survey

### Natural Gas Category Determination; Notice to Lessees for Implementation of the Natural Gas Policy Act of 1978 (NGPA)

**AGENCY:** Geological Survey, Department of the Interior.

**ACTION:** Amended notice.

**SUMMARY:** A Notice to Lessees for purposes of implementing the NGPA on Federal, Indian, and Outer Continental Shelf (OCS) lands was issued by the Director, July 13, 1979, and was published in the Federal Register, July 19, 1979 (44 FR 42510). It became effective on September 4, 1979. An Interim Notice to Lessees served for implementation purposes prior to September 4, 1979. These Notices were issued in accordance with the provisions of the NGPA and the Federal Energy Regulatory Commission (FERC) regulation 18 CFR 274.104, Notice to the Commission.

Since issuance of the Notice on July 13, 1979, FERC has amended several regulations involving category determination under the NGPA. These amended FERC regulations have affected the support data required by the Geological Survey (GS) form, Supplementary Application for Natural Gas Category Determination, such that some of the enclosure pages to the form necessarily are being modified.

In the narrative portion of the Notice, only one minor clarification change is being made. The Amended Notice, complete with instructions and revised form requirements for submittal of an NGPA application, is set forth below in its entirety.

**DATE:** Effective February 22, 1980. A comment period is unnecessary since the revisions are essentially the result of FERC regulations listed below.

**ADDRESS:** Chief, Conservation Division, Geological Survey, MS 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

**FOR FURTHER INFORMATION CONTACT:** Price McDonald, telephone (703) 860-7517. For information concerning field operations, contact the appropriate Oil and Gas Supervisor, as follows:

*Name, area, and phone*

Charles Curtis, Casper, Wyoming, (307) 265-5550
Virgil Pauli, Washington, D.C., (202) 634-6654
Rogers Pearcy, Metairie, Louisiana, (504) 837-4720
Fred Schambeck, Los Angeles, California, (213) 688-2846
Rodney Smith, Anchorage, Alaska, (907) 265-4376
Floyd Stelzer, Tulsa, Oklahoma, (918) 581-7631
Wallace Sutherland, Albuquerque, New Mexico, (505) 766-2841

**SUPPLEMENTARY INFORMATION:** The narrative portion of the Notice to Lessees, published in the Federal Register, July 19, 1979, (44 FR 42510) is being modified for clarification purposes in one place only. The word "succeeding" has been inserted in the first sentence, paragraph (9)a, Preliminary Determinations. The sentence now reads as follows:

The Oil and Gas Supervisor shall forward the preliminary determination to the applicant and to all parties who submitted comments on the application in such a manner that the copy will be received by the first day of the succeeding month.

FERC regulations which comprise the basis for the earlier Notices, as well as the Amended Notice below, and which have a bearing on the data requirements as stipulated in the enclosure pages to the GS form, are as follows:

Interim regulations implementing the NGPA, 18 CFR 270, 271, 273, 274, 275, 276, and 284, effective December 1, 1978. (43 FR 56448, December 1, 1978)

New onshore production wells, 18 CFR 274, effective May 1, 1979, published in the Federal Register, April 9, 1979. (44 FR 21008)

New natural gas and certain natural gas produced from the OCS, 18 CFR 271, effective August 14, 1979, and published in the Federal Register, August 17, 1979. (44 FR 48180)

Determinations by jurisdictional agencies, 18 CFR 274, effective August 1, 1979, published in the Federal Register, August 20, 1979. (44 FR 48664)

New onshore production wells, 18 CFR 271 and 274, effective August 20, 1979, published in the Federal Register, August 24, 1979. (44 FR 49651)

Stripper-well natural gas, 18 CFR 271 and 274, effective August 22, 1979, published in the Federal Register, August 24, 1979. (44 FR 49656)

Defining and deregulating certain high-cost natural gas, 18 CFR 272 and 274, effective November 1, 1979, published in the Federal Register, October 29, 1979. (44 FR 61950)

Defining the term "produced" as associated with stripper wells, 18 CFR 271, effective November 9, 1979, published in the Federal Register, November 21, 1979. (44 FR 66783)

Withdrawal of Notices and withdrawal of Applications, 18 CFR 275, effective November 19, 1979, published in the Federal Register, November 21, 1979. (44 FR 66786)

Wells within existing proration units, 18 CFR 271 and 274, effective November 16, 1979, published in the Federal Register, November 23, 1979. (44 FR 67108)

Defining "commercially producible" for new onshore reservoirs, 18 CFR 271 and 274, effective November 29, 1979, published in the Federal Register, December 4, 1979. (44 FR 69642)

Filing requirements, 18 CFR 274, effective February 4, 1980, published in the Federal Register, January 21, 1980. (45 FR 3890)

The form "Supplementary Application for Natural Gas Category Determination" has been approved by the Office of Management and Budget through January 1982. The respective changes to the enclosure pages to the form of July 24, 1979, are itemized and explained as follows:

*Section 102(c)(1)(B), New Onshore Wells*

5b. For clarification of the requirements involving a plat and the marker wells, the phrasing has been changed to give more emphasis to those marker wells which may be critical to the application.

*Section 102(c)(1)(C), New Onshore Reservoirs*

11. The reference "See 18 CFR 274.202(d)" has been added to be sure that the support data required by virtue of the applicant's statements are supplied.

*Section 102(d), New Reservoirs on Old OCS Leases*

5. (Now omitted.) The required statement giving the effective date of the lease agreement has been eliminated since the lease number itself gives the necessary clue as to its issue date.

*Section 103(c), New Onshore Production Well*

8. The support data requirement for an additional well drilled in an existing proration unit has been rephrased to conform with the regulation 18 CFR 271.305.

*Section 107(c), High-Cost Natural Gas*

5 thru 8. The requirements for a new well completed below 15,000 feet have not changed; however, three categories of high-cost natural gas have been added through the regulation 18 CFR 274.205, making necessary the support data indicated.

*Section 108(b), Stripper-Well Natural Gas*

5. This requirement has been added to make clear the number of completions in

the well bore and, for tracking purposes, to know if applications have been submitted previously.

7a and b. (Formerly 6a and b.) This requirement has been modified to include an oath statement when no crude oil is produced, as per 18 CFR 274.206.

8. (Formerly 7.) This requirement has been changed in order to conform with 18 CFR 274.206 concerning the nonproducing days and the reasons for a well not producing, and a count of the producing days.

9. (Formerly 8.) This requirement has been revised to include the term "by completion location" to assure that all well bore production is submitted in accordance with 18 CFR 274.206. Also, the requirement for production data with an enhanced recovery application has been added.

11. (Formerly 12.) This requirement has been changed to include the inventory requirement verbatim in 18 CFR 274.206.

12. (Formerly 13.) This requirement has been revised to add a production-rate graph and certain averages so as to better determine seasonal fluctuations, if any.

The principal author of the amended enclosure pages is Price McDonald, Conservation Division, Reston, Virginia, telephone (703) 860-7517.

NGPA Activity: During calendar year 1979, the respective Oil and Gas Supervisors of the GS docketed 8,557 applications and issued determinations on 6,234 applications. During the last quarter, applications were filed at the rate of 320 per month. Percentagewise, the applications for the year were distributed as follows:

| | Percent |
|---|---|
| Southern Rocky Mountain Area | 68.6 |
| Northern Rocky Mountain Area | 16.7 |
| Mid-Continent Area | 0.7 |
| Gulf of Mexico Area | 14.0 |

The applications and the support data and correspondence on file with the Supervisors will remain in an active file for at least 1 year following the respective final determinations by FERC.

**Notice to Lessees for Implementation of the Natural Gas Policy Act of 1978 (NGPA)**

(1). *Who may file.* An operator of a Federal lease, either on public lands or on the Outer Continental Shelf (OCS) or on Indian allotted or tribal lands except for the Osage Reservation, Osage County, Oklahoma, may make application for a natural gas category determination to the appropriate Oil and Gas Supervisor as provided under the NGPA and the Federal Energy Regulatory Commission (FERC) regulation 18 CFR 274. The operator shall make application for any colessees, except that a colessee may make application if the operator refuses to take such action upon written request. Each application submitted shall be for one well bore (stripper-well) or for one well completion and shall reflect one category preference. More than one application per well completion may be submitted if in each case the category preference is clearly marked and support data is furnished.

(2) *Where to file.* The application shall be filed with the appropriate Oil and Gas Supervisor as indicated by the addressees listed in 18 CFR 274.501. For those Federal leases involved with State or other leases through a unit or communitization agreement or by a State boundary-line condition, the appropriate Oil and Gas Supervisor shall make the determination if the completion location of a well is on a Federal, Indian, or OCS lease. For those cases where the completion location of a well is on a divided-interest lease (i.e., divided royalties) involving Federal or Indian and State or private ownerships, the Oil and Gas Supervisor shall make the determination if the majority interest is Federal and/or Indian. Where a 50-50 split interest lease occurs, the State shall make the determination.

(3) *Form, signature, and affidavit.* The applicant shall make application using Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, as the base instrument. The well's API number shall be entered as well as other information, and the signature on the application shall be in compliance with 18 CFR 274.201(c).

Further, to assure that the oath requirements of 18 CFR 274.202, 203, 204, 205, and 206 are fulfilled, the applicant shall submit a notarized affidavit with each application. The affidavit shall be responsive to and shall follow the guidelines of the applicable FERC regulation. It shall be signed by the appropriate company official or person.

Sample blank affidavits for filings under each category are enclosed and may be used.

(4) *GS Form.* With each application, the operator shall complete and submit the enclosed form, titled "Supplementary Application for Natural Gas Category Determination." Note that the first page must be submitted with each application, plus an additional page or pages as appropriate for the category requested.

(5) *Support data.* With each application, the applicant shall submit four copies of Form FERC 121 and two copies of all support type information required by 18 CFR 274.202, 203, 204, 205, and 206, and/or by the GS Form. If the applicant wishes to have a copy of such information returned upon filing, an additional copy should be submitted with a note requesting that it be returned.

The applicant shall include support data beyond the mimimum requirements of FERC regulations and the GS Form if he relies on such data in making application. Also, the applicant shall supply such additional information if so requested by the Oil and Gas Supervisor in making the category determination. The minimum data required for each category determination shall be in accordance with the data required on the GS Form enclosed.

All copies of record relied on by the applicant shall be certified, except for the conventional GS agreements and forms already certified. The certification statement shall include language on the authenticity of the document and the limitations of the data it provides. The statement shall be signed by a responsible company official or representative.

(6) *Support data considered to be proprietary.* In accordance with the provisions of 18 CFR 275.206, all information submitted in support of the application shall be marked appropriately if believed to be proprietary and therefore confidential in nature. Such information may be considered as confidential if it falls within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b). [OCS Order No. 12 is an acceptable "proprietary" guide for operations under the Oil and Gas regulations 30 CFR 221 and 30 CFR 250, but the regulatory authority as to confidentiality under the NGPA is pursuant to 18 CFR 275.206(b).]

(7) *Notice to purchaser and others.* With each application, the applicant shall forward a copy of Form FERC 121 to the purchaser and to the colessees (and/or working interest owners) and shall so indicate this action with a statement or affidavit attached to the application. Also, the applicant shall give notice of each application to the public for at least 1 day through one daily newspaper common to the well area and generally circulated. For sparsely populated and small-town onshore areas, the operator should choose a newspaper published in the nearest city with a minimum population of 20,000 people or in the capital city. For the OCS, the operator should choose a newspaper published in a large nearby coastal city or in the city of the Oil and Gas Supervisor's office. A newspaper

should be published at least 5 days a week to be considered a daily newspaper.

The notice shall include complete well indentity, the location information, and category preference. The notice shall state that written comments will be accepted by the Oil and Gas Supervisor commencing with the publication date and continuing for 15 days beyond the date that the Supervisor determines the application to be complete. The Oil and Gas Supervisor may require submittal of the notice. The Oil and Gas Supervisor may approve an extension of the 15-day holding period upon written request. The 15 days referred to here and below shall be considered as calendar days.

(8) *Receipt of application.* Upon receipt of an application, the Oil and Gas Supervisor shall enter the date and other appropriate information into a log. Upon establishing that the application is acceptable for processing, a copy of Form FERC 121 will be placed in the Supervisor's Public Records Office, and the above-mentioned 15-day holding period will begin. Until the 15-day holding period or an approved extension expires, the Oil and Gas Supervisor will continue receiving written comments (in triplicate) on the notice of application from other operators and lessees, the purchasers, and the public. All such comments will be filed with the appropriate application, and copies will be placed in the Supervisor's Public Records Office.

(9) *Preliminary determination.* The Oil and Gas Supervisor shall make a preliminary category determination following the 15-day holding period mentioned above and the review and evaluation of the application and all comments submitted. The preliminary determination will be entered in a log, and a copy will be placed in the Supervisor's Public Records Office. Notice shall be given as follows:

a. The Oil and Gas Supervisor shall forward the preliminary determination to the applicant and to all parties who submitted comments on the application in such a manner that the copy will be received by the first day of the succeeding month. Also, for a negative determination, a copy shall be forwarded to the colessees and/or the working interest owners.

b. On the first working day of each month, the Oil and Gas Supervisor shall place in the Public Records Office a copy of all preliminary determinations made during the previous month.

c. The Oil and Gas Supervisor shall receive written comments (in triplicate) on all preliminary determinations on file in the Public Records Office for a 15-day period or for such extended period as he may approve.

d. For those cases where the applicant or commenter requests oral discussion, the Oil and Gas Supervisor shall comply with the request (provided it is reasonable) and shall schedule a conference soon thereafter. With each conference, the Oil and Gas Supervisor shall give notice to the applicant, the purchaser, and the commenter or commenters as the case may be. With each conference involving a protest, the commenter shall submit (in triplicate) a signed statement identifying the application in question and indicating the basis for protest at least 1 day ahead. The Oil and Gas Supervisor or his/her representative shall conduct the conference on an informal basis but shall exercise discretion in guiding the participants and limiting the time for a particular discussion. A transcript, by court reporter or otherwise, shall be made of all conferences.

(10) *Final determinations.* Upon review and study of the application and all written comments and conferences, the Oil and Gas Supervisor shall make a final determination and shall forward the determination with the application and a copy of the preliminary determination to FERC within 15 days of making the determination. The final determination must be designed to be in compliance with 18 CFR 274.104. The determination shall be entered in the log, and a copy shall be filed with the application. Also, a copy shall be filed with the preliminary determination in the Public Records Office, and additional copies shall be forwarded to the applicant, the purchasers, and all parties who commented in writing on the application. The preliminary determination may be removed from the Public Records file at this time except when it differs from the final determination.

In the event of a negative determination, the Oil and Gas Supervisor shall forward to FERC a notice of the determination together with Form FERC 121. Copies of such a determination shall also be forwarded to the aforementioned parties, to the colessees, and/or working interest owners, and shall be placed on file in the Public Records Office. If so requested by the applicant or any aggrieved party within 15 days following the determination, the Oil and Gas Supervisor shall forward to FERC all the information specified under 18 CFR 274.104.

Any relief sought by an applicant or other interested party from a Supervisor's final decision should be in the form of a protest to FERC, as provided in 18 CFR 275.201 through 275.205.

(11) The public shall be notified through the Federal Register of any changes of substance in the above procedure. Commencing with January 1980 and periodically thereafter, the public shall be informed through the Federal Register as to the procedure in effect and the information on file in the Public Records Office.

Dated: February 14, 1980.

Henry W. Coulter,

*Acting Director.*

BILLING CODE 4310-31-M

Form 9-2009 (Jan. 1980)

OMB 42-R 1775

UNITED STATES
DEPARTMENT OF THE INTERIOR
Geological Survey

SUPPLEMENTARY APPLICATION FOR NATURAL GAS CATEGORY DETERMINATION
(See reverse side for instructions)

This form is required by the Oil and Gas Supervisor, Conservation Division, Geological Survey, the jurisdictional agency charged with determinations under the Natural Gas Policy Act of 1978, P.L. 95-621, for Federal, Indian, and OCS Lands. The data requested is a requirement of the Federal Energy Regulatory Commission regulation 18 CFR 274, Determination by Jurisdictional Agencies. All such data must be forwarded to the Federal Energy Regulatory Commission by the Supervisor

11. APPLICANT

ADDRESS

TELEPHONE

12. REQUEST CATEGORY FOR DETERMINATION:

- ☐ Section 102(c)(1)(A), New OCS Leases
- ☐ Section 102(c)(1)(B), New Onshore Wells
- ☐ Section 102(c)(1)(C), New Onshore Reservoirs
- ☐ Section 102(d), New Reservoirs on Old OCS Leases
- ☐ Section 103(c), New Onshore Production Well
- ☐ Section 107(c), High-Cost Natural Gas
- ☐ Section 108(b), Stripper-Well Natural Gas

13. PERSON RESPONSIBLE FOR ANSWER QUESTIONS

ADDRESS

TELEPHONE NO.

1. API WELL NO.

2. LEASE NO.

3. LEASE NAME AND WELL NO.

4. SEC., T. & R.

5. AREA AND BLOCK (OCS)

6. FIELD

7. RESERVOIR

8. COUNTY AND STATE

9. OPERATOR

10. TYPE OF WELL: ☐ OIL WELL ☐ GAS WELL

14. NEWSPAPER, CITY, STATE, AND DATE (OR EXPECTED DATE) OF NOTICE

15. GAS PURCHASER

ADDRESS

GAS PURCHASER

ADDRESS

16. COLESSEE AND/OR WORKING INTEREST OWNER

ADDRESS

COLESSEE AND/OR WORKING INTEREST OWNER

ADDRESS

17. ATTACH THE APPROPRIATE CHECKLIST AND SUPPORT DATA (See instructions)

I CERTIFY THAT THE FOREGOING AND THE CHECKLIST ATTACHED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AS DETERMINED FROM AVAILABLE RECORDS.

18. NAME TITLE

SIGNATURE DATE

INSTRUCTIONS TO COMPLETE FORM 9-2009

1. The API well number of the well of interest. If not known for onshore wells, ask the State or one of the petroleum information organizations.

2. The lease number as it appears on the lease agreement for a Federal, Indian, or OCS lease.

3. The lease name (onshore) and well number, including the appropriate designation for a multiple completion.

4. The section, township, and range of the well location (onshore).

5. The designated OCS area and block number.

6. The name of the field bounding the well.

7. The name of the reservoir being produced by the well.

8. The name of the county and State bounding the well. For the OCS, enter the nearby State.

9. The designated operator of the lease.

10. Check one in accordance with the following:

- An oil well produces crude oil as defined under 18 CFR 270.102(b)(5).

- A gas well produces hydrocarbons that exist as a gas in the reservoir.

For those cases where formation samples or other reservoir data for the reservoir of interest or for similar neighboring reservoirs are not available to make a type-of-well determination, the choice between an oil well and a gas well may be based on the measured API gravity with these qualifications:

- Any well producing a liquid with an API gravity of 50° or higher, regardless of the color, shall be considered to be a gas well.

- Any well producing a liquid with an API gravity of 45° or lower, regardless of color, shall be considered to be an oil well.

- Any well producing a liquid with an API gravity more than 45° but less than 50° shall be considered to be a gas well if the liquid is light, neutral, or straw colored and not dark in appearance.

11. The name, address, and telephone number of the applicant.

12. The requested category for determination. Check one.

13. The name, address, and telephone number of the person responsible for questions. If same as applicant, mark "same."

14. The daily newspaper requested to publish the notice of filing. Also, the city, State, and the date or expected date of publication.

15. The name and address of the gas purchasers. If more than two, attach a listing.

16. The name and address of the colessees and/or working interest owners. If more than two, attach a listing.

17. Fill out and attach the enclosed checklist headed the same as the requested category checked under item 12. Also, attach the support data appropriate to the checklist.

18. The name, title, and signature of the person or official responsible for the application.

[FR Doc. 80-5419 Filed 2-21-80; 8:45 am]
BILLING CODE 4310-31-C

For Section 102(c)(1)(A), New OCS Leases

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. Lease agreement. ____

6. Form 9-330, Well Completion or Recompletion Report and Log. ____

7. Other: _____ ____

For Section 102(c)(1)(B), New Onshore Wells

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5a. 2.5-mile test:

Form 9-330, Well Completion or Recompletion Report and Log. ____

Directional drilling survey. ____

A plat locating and identifying the well of interest and any other well within a 2.5-mile radius which produced natural gas after January 1, 1970, and before April 20, 1977. ____

5b. 1,000 feet deeper test:

Form 9-330, Well Completion or Recompletion Report and Log. ____

Directional drilling survey. ____

A plat locating and identifying the well of interest and any other well within a 2.5-mile radius which produced natural gas after January 1, 1970, and before April 20, 1977, including identification of all marker wells and specific identification of the deeper marker wells which may be critical to the application. ____

A listing of the deeper marker wells with elevations and completion locations. ____

6. Other: _____

_____ ____

For Section 102(c)(1)(C), New Onshore Reservoirs

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. Supporting geological information if reasonably available: (Not required if submitted previously with an application to the Supervisor and the application and the Supervisor's determination are on file with FERC. In such case, a statement may be submitted identifying the particular data and the application in lieu of submitting the data.)

   Well log heading plus a section sufficiently long to clearly define the top and bottom of the reservoir. ____

   Bottom-hole or surface-pressure surveys. ____

   Well potential tests. ____

   Formation structure map. ____

   Subsurface cross-section chart. ____

   Gas analysis. ____

6. Form 9-330, Well Completion or Recompletion Report and Log. ____

7. Directional drilling survey. ____

8. Statement on the date of reservoir penetration. ____

9. Form 9-329, Lessee's Monthly Report of Operations-Public and Other Lands, showing first commercial production from reservoir. ____

10. Statement on the date that suitable facilities for production and delivery were in existence, considering 18 CFR 271.204(d). ____

11. Other (see 18 CFR 274.202(d)): _____

_____ ____

For Section 102(d), New Reservoirs on Old OCS Leases

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. Statement on the date of reservoir penetration. ____

6. Directional drilling survey.

7. Form 9-330, Well Completion or Recompletion Report and Log. ____

8. Supporting geological information if reasonably available: (Not required if submitted previously with an application to the Supervisor and the application and the Supervisor's determination are on file with FERC. In such case, a statement may be submitted identifying the particular data and the application in lieu of submitting the data.)

   Well log heading plus a section sufficiently long to clearly define the top and bottom of the reservoir. ____

   Bottom-hole or surface-pressure surveys. ____

   Well potential tests. ____

   Formation structure map. ____

   Subsurface cross-section chart. ____

Gas analysis. ____

9. If the date of reservoir penetration is prior to July 27, 1976, then to the extent such tests were performed on or before July 27, 1976:

The results of any production test and any production capability evidence under OCS Order No. 4 with respect to the reservoir. ____

Any induction-electric logs, sidewall cores and core analyses, or wire line formation tests with respect to the reservoir. ____

A statement by the applicant under oath that no such tests were performed and that no evidence existed before July 28, 1976, that the reservoir was capable of producing in paying quantities. ____

10. Other: _____

_____ ____

For Section 103(c), New Onshore Production Well

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. Form 9-330, Well Completion or Recompletion Report and Log. ____

6. A plat locating and identifying the well of interest and the outline of the proration unit. Also, identification and explanation of any other wells within the proration unit. ____

7. A copy of the State Spacing Order, or, as applicable, the appropriate reference to a State regulation and/or a Federal unit agreement. ____

8. For a new well which was spudded on or after February 19, 1977, and drilled as an additional well into an existing proration unit, a copy of the record developed prior to the commencement of drilling (as reasonably possible to do so), with geological and engineering support data included, sufficient to support a finding that the new well is necessary. Also, support data acquired after commencement of drilling, as appropriate. ____

9. Other: _____

_____ ____

For Section 107(c), High-Cost Natural Gas

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. For a new well with the completion location below 15,000 feet:

   All Form 9-330's, Well Completion or Recompletion Report and Log. ____

   Well log heading with the relevant log section, or service company reports, or other such information corroborating the well completion depth. ____

   Directional drilling survey. ____

   Water depth at well location (OCS leases). ____

   Other: _____

   _____ ____

6. For a well producing geopressured brine:

   Form 9-330, Well Completion or Recompletion Report and Log. ____

   A bottom-hole pressure test report and other information to establish the initial pressure gradient. ____

A bottom-hole sample report reflecting the reservoir gas-liquid ratio and the surface gas-liquid ratio, and any other evidence which would establish the reservoir gas as being in solution. ____

A water analysis showing the parts per million of the various chlorides. ____

Other: _____

_____ ____

7. For a well producing from coal seams:

Form 9-1147, Logs of Prospect Bore Holes. ____

A gamma-ray log. ____

Further evidence such as a stratographic cross section of the seam and a lab report on the methane content. ____

Other: _____

_____ ____

8. For a well producing from Devonian Shale:

Form 9-330, Well Completion or Recompletion Report and Log. ____

A gamma-ray log. ____

A statement fully identifying a stratigraphic chart or test, or the enclosure of such a chart or text, which establishes the producing interval as Devonian Shale. ____

Other: _____

_____ ____

For Section 108(b), Stripper-Well Natural Gas

Mark below to indicate the materials reviewed and relevant to the request. Attach accordingly.

*In conformance with Office of Management and Budget Guidelines, data of a specific nature such as a Geological Survey form, a directional drilling survey, etc., which has already been submitted to the Supervisor for another purpose, shall not be submitted again as a requirement but may be submitted voluntarily. If such data is not submitted, the applicant shall so indicate below that the data is on file with the Supervisor. (In choosing not to submit the data, the applicant must understand that processing of the application may be delayed several days and perhaps weeks while the Supervisor locates and reproduces the data.)*

1. Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act. ____

2. A statement(s) under oath as required by FERC for each application, including answers to certain questions as applicable. ____

3. A statement that completed copies of Form FERC 121 have been forwarded to the purchaser(s) and to the colessees and/or the working interest owners. ____

4. A statement of certification for each of the supporting documents, except for the conventional Geological Survey agreements and forms already certified. ____

5. A statement to indicate if the well is a single or multiple completion. Also, a statement to indicate if the application being submitted is the initial application or if it is the second, third, fourth, etc., stripper-well application for the well of interest. ____

6. Form 9-330, Well Completion or Recompletion Report and Log. ____

7. As applicable, complete a. or b. below:

   a. When applying under 18 CFR 274.206(a)(4)(i), natural gas production (MCF's) in table form by month for 12 preceding months using a 14.73 psia base pressure. Also, for oil wells the oil production (bbls) by month for the last 3 months. (If no crude oil is produced, submit a statement under oath to that effect.) ____

   A statement on the average per production day for the last 3 months of production. (Note the production day definition under the Natural Gas Policy Act and the regulation 18 CFR 271.803.) ____

A statement on the maximum efficient rate of flow based on the average per production day of the 12 preceding months of production. ____

An explanation of any zero production months during the 12-month period. ____

For producing wells with a zero production rate for more than 270 producing days during the 12 preceding months, a listing of the production by month for a maximum of 36 preceding months or for as long as the well has existed. ____

b. When applying under 18 CFR 274.206(a)(4)(ii), natural gas production (MCF's) in table form by month for 3 preceding months using a 14.73 psia base pressure. Also, for oil wells, the oil production (bbls) by month. (If no crude oil is produced, submit a statement under oath to that effect.) ____

A statement on the average per production day for the above 3 months of production. (Note the production day definition uner the Natural Gas Policy Act and the regulation 18 CFR 271.803.) ____

Copies or a listing of continuous 24-hour production tests for the 3 preceding months showing by day the production, the choke size, the wellhead pressure upstream of the choke, and the flow line meter pressure. ____

A statement on the maximum efficient rate of flow based on the average of the nonzero daily production tests for the 3 preceding months. ____

A statement on the length and size of flow line from well to meter and on the approximate flow line pressure loss at the maximum efficient rate. (Consult the Oil and Gas Supervisor as needed for several wells connected to a single common meter.) ____

8. A statement on the number of days the well was not produced during the 3 preceding months with reasons respectively by day or groups of days and, as applicable under 274.206, a description of the State law or conservation practice pursuant to which the well on a given day did not produce. Also, a statement on the number of days the well was produced. ____

9. Form 9-152, Monthly Report of Operations-Outer Continental Shelf, or Form 9-329, Monthly Report of Operations-Public and Other Lands, by completion location for 12 months preceding this application (or for 3 months if applying under 18 CFR 274.206(a)(4)(ii), or for 3 months or longer if applying for a stripper-well enhanced recovery.) ____

10. For a well with increased production not due to enhanced recovery but which requires giving notice, submit the information required by 18 CFR 274.206(b). ____

11. For a well with increased production resulting from enhanced recovery techniques:

Names and addresses of the applicant and purchasers. ____

Well identification, reference to the determination qualifying the well as a stripper well, and the notice, if any, filed by the purchaser pursuant to 18 CFR 271.805. ____

A description with dates of all processes used and equipment installed, which constitute enhanced recovery techniques. See the definition under 18 CFR 271.803. ____

An inventory of the lease and production equipment used, such as compression facilities, pumps, chokes, intermitters, etc., for the well for the past 24 months or, if less, the period the well has been in production prior to initiation of recovery techniques. ____

A sworn statement in compliance with 18 CFR 274.206(c)(6). ____

12. For a seasonally affected well:

Names and addresses of the applicant and purchasers. ____

Well identification, reference to the original stripper well qualification, and any notice filed by a purchaser pursuant to 18 CFR 271.805. ____

Production records for a period of 24 months, including the 90-day or 12-month production period which is the subject of the notice by the operator or the purchaser. Also, a production rate graph for the 24-month period and production rate averages for the 13 12-month periods within the 24-month period. ____

A description of the nature of the seasonal fluctuations. ____

A sworn statement in compliance with 18 CFR 274.206(d)(5). ____

13. Other: _____

_____ ____

SAMPLE

APPLICATION PURSUANT TO
SECTION 102(c)(1)(A) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared _____(name)_____, who, being by me first duly sworn, deposed and said:

That he is the _____(title)_____ for _____(company)_____, the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That the natural gas from the well _____, API No. _____, is, or is to be, produced from a new Outer Continental Shelf lease which is a lease of submerged acreage, entered into with the Secretary of the Interior after April 19, 1977.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____
Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____
Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 102(c)(1)(B) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared _____(name)_____, who, being by me first duly sworn, deposed and said:

That he is the _____(title)_____ for _____(company)_____, the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That he has made, or has caused to be made, pursuant to his instructions, a diligent search of all records (including but not limited to production, severance tax, royalty payment, and jurisdictional agency determination records) which are reasonably available and contain information relevant to the determination eligibility. Said search was made in the following manner:

_____(describe the search made)_____

The following records were examined and reviewed:

_____(name and describe all records examined and state the location)_____

The following records may also contain relevant information to this application but were not searched by him or at his direction because he determined that they were not reasonably available to him:

_____(list records, locations, and state reasons for being unavailable)_____

2.5 Mile-Test: Based upon the search and examination described above, he has concluded to the best of his information and knowledge that there is no marker well within a 2.5-mile radius of the well _____, API No. _____, and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

1,000 Feet Deeper Test: Based upon the search and examination described above, he has concluded to the best of his information and knowledge that there is no marker well within a 2.5 mile radius of the well _____, API No. _____, which has a completion location less than 1,000 feet above the completion location of the new well, and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____
Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____
Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 102(c)(1)(C) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared (name), who, being by me first duly sworn, deposed and said:

That he is the (title) for (company), the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That he has made, or has caused to be made, pursuant to his instructions, a diligent search of all records (including but not limited to production, severance tax, royalty payment, and jurisdictional agency determination records) which are reasonably available and contain information relevant to the determination eligibility. Said search was made in the following manner:

(describe the search made)

The following records were examined and reviewed:

(name and describe all records examined and state the location)

The following records may also contain relevant information to this application but were not searched by him or at his direction because he determined that they were not reasonably available to him:

(list records, locations, and state reasons for being unavailable)

Based upon the search and examination described above, he has concluded to the best of his information and knowledge that the gas to be produced and for which he seeks a determination is from a new onshore reservoir, and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

That, to the best of his knowledge, information, and belief and on the basis of the results of the search and examination, he answers the following questions:

(1) Was natural gas produced in commercial quantities from the reservoir before April 20, 1977? Answer: _____

(2) If (1) above was answered in the negative, was the reservoir penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities from any reservoir? Answer: _____

(3) If the answer to (2) above was in the affirmative, could gas have been produced in commercial quantities from the reservoir before April 20, 1977, from any old well described in said question (2)? Answer: _____

(4) If the answer to (3) above was in the negative, were any sales and deliveries of natural gas made from any other reservoir through any old well described in (2) above prior to April 20, 1977, and were any sales and deliveries of natural gas made from the subject reservoir through such old well after April 19, 1977, and before November 9, 1978? Answer: _____

[If unable to answer both questions in (4) above in the negative, the applicant shall provide the information required under 18 CFR 274.202(d)(2)(ii)(D).]

(5) If the natural gas is to be produced through an old well, were suitable facilities for the production and delivery to a pipeline of such natural gas in existence on April 20, 1977? Answer: _____

(6) If the answer to (5) above was in the affirmative, were such suitable facilities installed to carry out sales and deliveries of natural gas under section 6 of the Emergency Natural Gas Act of 1977 or under emergency sales authority pursuant to Opinion 699-B? Answer: _____

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____
Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____
Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 102(d) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared (name), who, being by me first duly sworn, deposed and said:

That he is the (title) for (company), the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

(Include the following only if applicable under FERC regulation 18 CFR 274.203(e)(2).)

That the date of penetration of the reservoir was before July 27, 1976, and that no production tests or capability evidence such as those described in 18 CFR 274.203(e)(1) were in existence, nor was any other evidence in existence, before July 28, 1976, to indicate that the reservoir was capable of producing in paying quantities.

That he has made, or has caused to be made, pursuant to his instructions, a diligent search of all records (including but not limited to production and royalty payment records) which are reasonably available and contain information relevant to the determination eligibility. Said search was made in the following manner:

(describe the search made)

The following records were examined and reviewed:

(name and describe all records examined and state the location)

The following records may also contain relevant information to this application but were not searched by him or at his direction because he determined that they were not reasonably available to him:

(list records, locations, and state reasons for being unavailable)

Based upon the search and examination described above, he has concluded to the best of his information and knowledge that the natural gas for which this determination is being sought is produced (or will be produced) from a new OCS reservoir, and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____

Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____

Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 103(c) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared _____ (name) _____, who, being by me first duly sworn, deposed and said:

That he is the _____ (title) _____ for _____ (company) _____, the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That to the best of his information and knowledge the surface drilling of the well for which he seeks a determination was begun after February 18, 1977, and that the well satisfies any applicable Federal or State well-spacing requirements.

He further states that application is made pursuant to 18 CFR 274.204(d) and that

a. The well is not within a State law proration unit:

(1) Which was in existence at the time the surface drilling of the well began; and

(2) Which was applicable to the reservoir from which natural gas is produced; and

(3) Which applied to any other well which either produced natural gas in commercial quantities or the surface drilling of which began before February 19, 1977, and was thereafter capable of producing natural gas in commercial quantities.

[For applications submitted pursuant to 18 CFR 274.204(f) for wells added within an existing proration unit, the provisions of "a" above are not appropriate and therefore are not a part of the sworn statement.]

That he has concluded that to the best of his information and knowledge the natural gas for which he seeks a determination is produced from a new onshore production well; and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____
Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____
Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 107(c) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared _____(name)_____, who, being by me first duly sworn, deposed and said:

That he is the _____(title)_____ for _____(company)_____, the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That the surface drilling of the well _____, API No. _____, began after February 18, 1977, and that the well completion location from which the subject gas is produced is below a true vertical depth of 15,000 feet; and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____
Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____
Notary Public

My commission expires _____.

SAMPLE

APPLICATION PURSUANT TO
SECTION 108(b) OF
THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

AFFIDAVIT

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared (name), who, being by me first duly sworn, deposed and said:

That he is the (title) for (company), the applicant for the well as described heretofore in this application, and, in that capacity, he is requesting the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey, to determine the eligibility of said well for wellhead pricing purposes pursuant to the rules and regulations of the Geological Survey and the Federal Energy Regulatory Commission and to the NGPA.

That he has made, or has caused to be made, pursuant to his instructions, a diligent search of all records which are reasonably available and contain information relevant to the determination eligibility. Said search was made in the following manner:

(describe the search made)

The following records were examined and reviewed:

(name and describe all records examined and state the location)

The following records may also contain relevant information to this application but were not searched by him or at his direction because he determined that they were not reasonably available to him:

(list records, locations, and state reasons for being unavailable)

Based upon the search and examination described above, he has concluded to the best of his information and knowledge that the well _____, API No. _____, is a stripper well; that the production records, tax records, billing statements, or summaries of such records or billing statements relied upon in the application are correct; and that he has no knowledge of any other information not described in the application which is inconsistent with this conclusion.

Also, he has concluded that the well produced no crude oil.

He further states that he has mailed, or caused to be mailed, postage prepaid, a copy of the completed Form FERC 121, Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act, to the purchaser(s) and to the colessee(s) and/or working interest owners, which are listed separately.

To the best of his knowledge and belief, all information contained in this application for category determination, pursuant to the NGPA, is true and correct including all documents, testimony, and evidence submitted with the application.

Signed _____

_____

_____

Title

Subscribed in my presence and duly sworn to before me, this _____ day of _____, 19___.

_____

Notary Public

My commission expires _____.

[FR Doc. 80-5419 Filed 2-21-80; 8:45 am]

BILLING CODE 4310-31-C

Friday
February 22, 1980

Part VI

# Architectural and Transportation Barriers Compliance Board

## Minimum Guidelines and Requirements for Accessible Design; Intent To Issue Proposed Rules

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Part 1190

### Minimum Guidelines and Requirements for Accessible Design

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of intent to issue proposed rules.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board issues a notice of intent to issue proposed rules to carry out section 502(b)(7) of the Rehabilitation Act as amended in 1978. The Rehabilitation Act directs the Board to establish minimum guidelines and requirements ("guidelines") for standards issued by four other Federal agencies under the Architectural Barriers Act. The standards issued under the Architectural Barriers Act are to insure that certain categories of Federal or federally-funded buildings and facilities are accessible to physically handicapped persons. Therefore the minimum guidelines are designed to serve as a basis for more detailed standards by the four standard-setting agencies.

**DATES:** Comments must be received on or before April 7, 1980.

**ADDRESS:** Send comments to: Charles Goldman, General Counsel, Rulemaking Docket 79-1, ATBCB, Room 1014, 330 C Street, SW., Washington, D.C. 20201. Comments received will be available for public inspection in room 1014 from 9 a.m. to 5:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Irene Bowen, Attorney (202) 245-1801 (Voice or TTY). John Weber, Architect, (202) 472-3237 (Voice), 245-1801 (TTY).

**SUPPLEMENTARY INFORMATION:**

### A. Background

The Architectural Barriers Act of 1968 ("Barriers Act") (Pub. L. 90-480), as amended (42 U.S.C. 4151 *et seq.*), directs four Federal agencies to "prescribe standards for the design, construction, and alteration of (certain federally-assisted) buildings * * * to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings." The four agencies, the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service, have issued standards. (GSA: 41 CFR 101-19.6, effective September 2, 1969; HUD: 24 CFR Part 40, effective September 24, 1969; DoD: DoD 4270.1-M, "Construction Criteria," June 1, 1978, para. 5-6; USPS: Postal Contracting Manual, Publication 41, § 18-518.4, 39 C.F.R. § 601.100). Section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, established the Architectural and Transportations Barriers Compliance Board ("Board"), an independent agency, and charged the Board with insuring compliance with the standards.

In November 1978 Congress enacted the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602), in part amending section 502. The amendments direct the Board to "establish minimum guidelines and requirements ("guidelines") for the standards issued pursuant to the * * * Architectural Barriers Act" by the four agencies listed above. This notice is a first step toward establishing these guidelines.

The 1978 amendments also changed the composition of the Board. Prior to November 1978 the Board consisted of the heads of nine Federal agencies. The new Board consists of the heads of ten Federal agencies [1] plus eleven members recently appointed by the President from the general public.

In preparation for issuing minimum guidelines and requirements, the Board has begun compiling technical information to help in setting design specifications. For example, the Board participated in the revision of the "American National Standards Institute's (ANSI) Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," also referred to as the "A117.1 Standard" or "ANSI Standard." This standard, written in 1961 and reaffirmed in 1971, essentially unchanged, has been the Nation's most prominent standard for accessibility—it has been adopted by many national code writing authorities and by Federal, State, and local governments as part of their building regulations or building codes.

Although this old standard pioneered the field of accessibility design standards, it is thought by many disabled persons, experts, and other interested persons to be inadequate—it is very brief, contains many specifications which are only recommended rather than mandatory, and is not comprehensive in that it lacks coverage of housing and dwelling units and does not even specify accessible curb cuts.

The ANSI Standard has now been revised after five years of research and development funded by the Department of Housing and Urban Development and with the participation of associations of and for disabled persons, architects, engineers, manufacturers, building code administrators, and builders; State and Federal agencies; and other interested organizations and persons. Publication of the new standard is anticipated in Spring of 1980. It is important to note that the Institute's final revision to the 1961 standard will not automatically become a Federal standard. However, the Board is considering using the new standard as a basis for technical specifications in the minimum guidelines and welcomes comments on this approach and the specific requirements of the ANSI Standard. After publication the standard will be available for purchase from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018 and will be available for public inspection in Room 1014, 330 C Street S.W., Washington, D.C.

In addition, the Board has entered into a contract with the National Bureau of Standards to compile technical information and recommend further research which would improve upon present design standards for accessibility. This project is being done with the help of architects and others who have been involved in the development and implementation of the standards.

The Board is issuing this notice in the interest of expediting the process of gathering information before proposed guidelines are drafted. The purpose of this notice is to focus public attention on some of the issues basic to implementation of the statutes, and to elicit comment on key issues which any proposed regulation would in all likelihood address.

The Board wishes to emphasize that the notice merely raises issues and provides some background information; none of the statements or questions should be interpreted to represent legal or policy positions of the Board members or staff.

In this context the Board invites public comment for the next 45 days on the issues identified below. Comment is also invited on any additional issues which members of the public believe are

[1] The nine original members were the heads of the Departments of Health, Education, and Welfare; Transportation; Housing and Urban Development; Labor; Interior; and Defense; General Services Administration; Veterans' Administration; and United States Postal Service. The 1978 amendments added the Department of Justice as the tenth Federal member.

important and whose resolution would contribute to effective administration and enforcement.

**B. Invitation To Comment**

Persons or organizations wishing to submit comments or suggestions on the matters raised in this Notice of Intent should write to the address above.

Written comments and information may be submitted in any form, such as letters, position papers, or memoranda. There are no special rules concerning format, although it will be helpful if comments on specific issues raised below refer to the issues by number. All written comments submitted on or before April 7, 1980, will be considered in drafting proposed guidelines. Those received after that date will be considered to the extent possible.

This 45-day period will not provide the sole opportunity for members of the public to comment on the issues raised by the statute and this notice. The Board will issue a Notice of Proposed Rulemaking inviting comment on specific proposed rules for at least 60 days during which meetings and briefings will held if necessary.

The Board is most anxious to expedite the administration and enforcement of the Architectural Barriers Act and section 502. The Board hopes that this notice will elicit guidance in this task and promote understanding of the issues.

**C. Issues**

*General: Scope, Coverage*

Section 1 of the Architectural Barriers Act, 42 U.S.C. 4151, defines "building" as:

* * * any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in employment or residence therein of physically handicapped persons, which building or facility is—

(1) To be constructed or altered by or on behalf of the United States;

(2) To be leased in whole or in part by the United States after August 12, 1968;

(3) To be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) To be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

Section 5 of the act requires that:

Every building designed, constructed, or altered after the effective date of a standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with the standard.

Should uniform specifications apply to all categories of buildings covered? Specifically,

1. Should the specifications for new construction also apply to alterations of an existing building or element of an existing building? Or should the standards for alterations be less stringent than those for new construction?

2. Should the same specifications apply to new construction as apply to existing buildings to be leased by the United States? (See question 12.)

3. Should the same standards apply to federally-owned buildings as apply to federally-assisted buildings?

4. How should it be determined if a building is one "the intended use for which * * * may result in employment or residence therein of physically handicapped persons"? Are there particular buildings or portions of buildings which by definition would not be included in this category?

*Alterations to Existing Buildings*

5. Should certain types of work on a building be considered maintenance or repairs, rather than alterations, and therefore not be subject to accessibility standards? Or should accessibility standards be met with respect to any work on a building which presents the opportunity to provide improved accessibility?

6. At what point, if any, should alterations to an existing building be considered so extensive that the entire building should meet accessibility standards, *e.g.*, if the alteration involves 50 percent or more of the floor space, or if the cost of alterations exceeds 50 percent of the value of the building?

*Elements or Portions of Altered Buildings Required To Be Accessible: General*

7. If only one portion—*e.g.*, office, floor, section, wing—of a building is altered with Federal funds, or if a new section is added to an existing building, must the entire facility be made accessible? If not, must essential elements and spaces be made accessible and/or an accessible path be provided from the entrance to the new section and essential facilities? (An accessible path is a continuous accessible route connecting accessible elements and spaces, such a primary entrances, corridors, restrooms, elevators, telephones, and water fountains.)

8. If only one portion of a building is altered with Federal funds, must common areas, *e.g.*, a cafeteria, be made accessible?

9. If only a particular element of a building is altered—*e.g.*, stairs, doors, toilets, telephones—is only that element required to comply with accessibility standards? Should an accessible path to the altered element be required?

*Particular Altered Element: Entrance*

10. If work is performed on an entrance, must the entrance be made accessible? For example, if an entrance has stairs and an inaccessible doorway, and the entrance doors are altered, must the entrance be ramped or otherwise made accessible? If a building can be entered only by stairs, and the stairs are altered, do the stairs need to meet only the accessibility requirements for stairs (e.g. 7" risers, 32" high handrails), or must the entrance be ramped or otherwise made accessible?

*Particular Altered Element: Vertical Access*

11. If work is performed on the vertical access features of a building, in what circumstances must accessible elevators be provided for ambulatory impaired persons? In which, if any, of the following circumstances should an accessible elevator be required:

a. Stairs are modified or replaced;

b. Power-driven vertical access equipment, *e.g.*, an escalator, is contemplated to replace stairs;

c. An escalator is contemplated to replace an existing escalator;

d. A floor is added to a building.

*Leased Buildings*

12. What is the most reasonable means of balancing the need to acquire accessible space with the fact that accessible space may not be available? Under GSA's current rules, leased buildings are required to meet only selected requirements of its accessibility standard. These requirements relate to stairs, telephones, controls (such as light switches and fire alarms), identification (*e.g.*, using raised letters or numbers to identify rooms), warning signals, and hazards. The standard does not apply at all if no bids or offers are received which meet the selected portions of the standard. (See 41 CFR 101-19.604 (e), 43 FR 16478, 16480 (April 19, 1978).) Is this approach acceptable and consistent with the Barriers Act?

13. If only one portion of a building is leased with Federal funds, must the entire facility be accessible? If not, must

an accessible path be provided from the entrance to the leased portion and essential facilities?

14. If only one portion of a building is leased with Federal funds, must common areas, *e.g.*, a cafeteria, be accessible?

*Cost or Practical Difficulty*

15. In what way, if at all, should cost or practical difficulty affect accessibility specifications?

*Exceptions/Waivers*

The Barriers Act states that the standard-setting agencies shall prescribe standards "to insure *whenever possible* that physically handicapped persons will have ready access to, and use of, [covered] buildings." 42 U.S.C. 4152–4154(a). (*Emphasis added.*) With respect to the buildings under its jurisdiction each of the four agencies

is authorized to modify or waive any such standard, on case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that such modification or waiver is *clearly necessary.* (*Emphasis added.*)

It is the staff's preliminary view that by using the language "whenever possible" Congress qualified the requirement of total access by recognizing that some exceptions are necessary but that they should be rare. This concept is reinforced by the provisions narrowly limiting cases in which waivers may be granted. Through this notice we are seeking comments on how the terms "whenever possible" and "clearly necessary" should be interpreted and criteria for (1) exceptions to be included within the minimum technical provisions of the guidelines and which the standard-setting agencies may or must recognize and (2) waivers of the standards based on the guidelines. Several competing policy considerations must be reconciled: Exceptions should not defeat the standards; some agency oversight is necessary to ensure that exceptions and waivers are granted only when justified; some exceptions should be written into the standards so that recipients and agencies should not be overly burdened with case-by-case requests and reviews. The Board therefore seeks the public's views on (1) which conditions should justify exceptions to the technical requirements and be included within a standard and (2) which should require scrutiny by the agency on a case-by-case basis through the waiver procedure.

16. Which if any of the following should serve as the basis of exceptions to be included within the standards themselves? Which should serve as a basis for case-by-case waivers:

a. Structural impossibility/infeasibility;

b. If modification would cause weakening of structure;

c. Safety/security;

d. To preserve historic features or value;

e. Operational needs;

f. Cost—*e.g.*, if cost of accessibility exceeds 10 percent, 25 percent, or total cost of construction or alteration;

g. Maintenance difficulties or costs;

h. In cases of practical difficulty or unnecessary hardship where it is clearly evident that equivalent facilitation and protection are provided;

i. Substantial compliance.

17. To what extent should any of the following factors or other factors be considered when a waiver is requested:

a. Type of business conducted in the facility;

b. Potential number of disabled people who may be employed in or visit the facility;

c. Nature of disabilities of persons who may be employed in or visit the facility.

18. What procedure should be followed for granting waivers or exceptions to the guidelines or subsequent standards?

*Accessibility for Communication-Impaired Persons*

Existing standards do not generally detail means of making buildings accessible to and usable by the millions of communication-impaired persons—including speech-impaired, deaf, and hearing-impaired persons—in the United States. For example, requirements for visual or vibrating alarms and telephone modifications are generally vague or non-existent.

19. What is the best way to inform deaf and hearing-impaired persons of emergencies such as fire? What technology currently exists and what possibilities should be researched? Would any of the following approaches be feasible:

a. Flashing exit signs;

b. Strobe lights adjacent to exit signs or elsewhere;

c. Portable alarms which can be plugged into outlets near work stations of hearing-impaired persons;

d. Requiring that building management personnel develop procedures by which hearing persons inform hearing-impaired persons of emergencies.

20. Which, if any, pay telephones should be equipped with amplifiers? Should they be equipped with TDDs (telecommunications devices for deaf people)? Should they be compatible with hearing aids equipped for use with telephones?

21. Should the guidelines provide that telephone facilities which take incoming calls from the public be equipped with TDDs?

22. Which, if any, telephones in a covered building should be required to be compatible with hearing aids?

23. What other barriers prevent ready access to and use of buildings by communication-impaired persons? How can current technology be used to eliminate these barriers?

*Accessibility for Visually Impaired Persons*

24. Are there general principles that should guide the development of requirements aimed at facilitating the movement of visually-impaired persons?

25. Should the guidelines require the use of contrasting colors to serve as directional cues for persons who are not totally blind?

26. How should information which identifies facilities be provided? For example, should each office room be identified by a sign in raised letters and contrasting colors?

27. Should the guidelines require methods of orienting visually-impaired persons to the location of facilities within a building, *e.g.*, tactile maps, contrasting floor textures, contrasting wall colors?

28. How can hazards to visually-impaired persons be eliminated or visually-impaired persons be warned of them?

*Number*

29. Which if any of the following approaches to the number of particular elements—*e.g.*, accessible restrooms per building or floor, accessible stalls per restroom, telephones per bank, elevators per bank—should be used:

a. A number or percentage should be specified;

b. The standard should require a "reasonable number" or "appropriate number";

c. The standard should require a reasonable number or appropriate number and specify a minimum number.

*Research Needs*

30. The Board has contracted with the National Bureau of Standards to conduct research on specifications for doors. In what other areas is research needed? Should the Board postpone development of particular portions of the guidelines

or issue recommendations, rather than requirements, with respect to some areas?

*ANSI Standard*

31. Should the Board adopt the technical specifications of the 1979 revision to the ANSI A117.1 Standard or portions of it, as the basis for its minimum guidelines and requirements?

Dated: February 19, 1980.

**Max Cleland,**

*Chairperson, Architectural and Transportation Barriers Compliance Board.*

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Friday
February 22, 1980

Part VII

# Department of Health, Education, and Welfare

## Public Health Service

## Health Systems Agencies and State Health Planning and Development Agencies; Certificate of Need Reviews

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Public Health Service**

**42 CFR Parts 122 and 123**

## Health Systems Agencies and State Health Planning and Development Agencies; Certificate of Need Reviews

**AGENCY:** Public Health Service, HEW.

**ACTION:** Notice Regarding Certificate of Need Programs.

**SUMMARY:** This Notice sets forth advance information regarding amendments to the regulations governing certificate of need reviews by health systems agencies and State health planning and development agencies. This Notice is intended to provide early guidance to States prior to publication of interim final regulations implementing the amendments to certificate of need provisions of the Public Health Service Act made by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79). This early guidance will assist the States in beginning to revise their certificate of need laws. Under the amended provisions of the Public Health Service Act, the planning agencies are required to review and determine the need for proposed capital expenditures, institutional health services and major medical equipment. The Secretary intends to publish these interim final regulations within a few weeks. Following consideration of comments which will be solicited with regard to the interim regulations, the Secretary will publish an analysis of the comments and will revise those regulations as appropriate.

**FOR FURTHER INFORMATION CONTACT:** Carol M. Larson, Chief, Certification Programs Branch, Division of Regulatory Activities, Bureau of Health Planning, 3700 East-West Highway, Room 6–50, Hyattsville, Maryland 20782, (301) 436–6140.

**SUPPLEMENTARY INFORMATION:** The present regulations governing certificate of need programs must be revised to implement recent changes in Title XV of the Public Health Service Act ("the Act") that affect the requirements for those programs. These changes were enacted by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79). The Secretary of Health, Education, and Welfare intends to develop the interim final regulations governing State certificate of need programs (42 CFR 122.301 *et seq.* and 123.401 *et seq.*, 44 FR 19315–26) as indicated in this Notice.

As amended, the Act requires that each State health planning and development agency (State Agency) administer a certificate of need program which applies to (1) the obligation of capital expenditures by or on behalf of a health care facility, (2) the offering of new institutional health services provided through a health care facility, and (3) the acquisition of major medical equipment.

Certain health maintenance organizations (HMOs), combinations of HMOs, and health care facilities controlled or leased by HMOs may obtain exemptions from review of specific proposals. In addition, the Act now provides for a limited review of proposals to eliminate safety hazards and to comply with accreditation and State licensure standards. See generally section 1527 of the Act, added by section 117(a) of Pub. L. 96–79. Pub. L. 96–79 also revised the procedural requirements and the criteria applicable to certificate of need reviews.

The Secretary has decided to publish this information, prior to publication of interim regulations, in order to provide immediate assistance to State legislatures in their development of certificate of need legislation. Because many legislatures are currently in session and have a limited period of time during which new legislation may be introduced, the Secretary is providing this guidance to States at this time. Therefore, the Secretary suggests that State legislatures begin to develop (or revise) their certificate of need legislation on the basis of the statutory language of Pub. L. 96–79 and the material provided in this Notice, pending issuance of the interim regulations.

Interim final certificate of need regulations will be published within a few weeks. Although these interim regulations will be effective upon publication, the Secretary will invite comment on them and will consider those comments in deciding whether to revise the interim regulations. Interim final rules, rather than proposed rules, are being published in order (1) to provide States with a definitive statement of the Federal requirements on which they may rely in developing or revising their certificate of need programs and (2) to meet the requirement contained in section 117(d) of Pub. L. 96–79 that the Secretary publish certificate of need regulations by April 1, 1980.

State Agencies are required to administer satisfactory certificate of need programs in order to be fully designated under section 1521(b)(3) of the Act. The State's continued eligibility for certain Federal health funding depends on there being a fully designated State Agency by a date determined by the State's legislative schedule. This date, hereafter referred to as the "effective date," is for most States one year after the start of the first legislative session which begins after October 4, 1979, so that this effective date may be as early as January 1981.

To be eligible for full designation in the first year after a State's effective date, the State will be required to comply with the interim regulations. The State will be given a reasonable period of time to comply with any changes made to those regulations resulting from public comments. There have been, over time, several statutory and regulatory amendments modifying the requirements for satisfactory certificate of need programs, each amendment with its own effective dates. Because of the confusion which this may engender, the Secretary has attached to this document an appendix (Appendix I) which describes each set of requirements, discusses how they are related to each other, and explains how these requirements relate to requirements for designation of State Agencies under section 1521 of the Act.

The Secretary has identified several areas in which the present regulations will be changed to conform to the amendments to the Act. The major changes to be made are discussed below. For those amendments identified in the appended annotated statute (Appendix II) which are not discussed below, the Secretary intends to follow the substance of the statutory provisions in regulation without expanding on their scope.

### 1. Scope of Certificate of Need Review Programs

A. *Major Medical Equipment.* Section 1527 specifies that a certificate of need is required for the acquisition of major medical equipment that will be owned by or located in a health care facility. In addition, any person who acquires major medical equipment that will not be owned by or located in a health care facility must notify the State Agency of an intent to acquire the equipment and the use to be made of it. A certificate of need is also required for the acquisition of major medical equipment not owned by or located in a health care facility (1) if the State Agency finds within thirty days of the date it receives this notice that the equipment will be used to provide services for inpatients of a hospital or (2) if the person fails to submit the required notice, regardless of

the purpose for which the equipment is used. See section 1527(a) (1) and (e).

Section 1531(7) of the Act defines "major medical equipment" as medical equipment which is used to provide medical and other health services and which costs in excess of $150,000. The term does not include medical equipment acquired by or on behalf of a clinical laboratory if the laboratory (1) is independent of a physician's office and a hospital and (2) meets certain requirements under Title XVIII of the Social Security Act.

The Act as amended limits a State's authority to expand coverage of major medical equipment not owned by or located in a health care facility beyond the minimum Federal statutory requirements. A State may not change its certificate of need program after September 30, 1982, to include additional requirements for coverage of this equipment. (See section 1527(e)(1)(B).) Any State which acts before that date to expand coverage of this equipment, however, may have its expanded coverage continue in effect.

The Secretary intends to specify in regulations that the acquisition of major medical equipment not owned by or located in a health care facility will not be subject to review if the equipment will be used to provide services to inpatients of a hospital only on an "occasional and irregular" basis. This approach recognizes that extraordinary circumstances could arise which would require that major medical equipment originally acquired without the intent of providing services to inpatients of a hospital be diverted for a period of time to provide services for inpatients of a hospital. These circumstances may arise as a result of natural disasters, major accidents, or equipment failures. Other situations in which use of the equipment is both occasional *and* irregular might also satisfy this requirement. This approach permits the use of equipment for inpatients under these circumstances without requiring prior certificate of need approval.

B. *Health Service.* Additions and terminations of health services must in certain cases be reviewed under a State's certificate of need program. In general, (1) the addition of a new service must be reviewed if it constitutes the offering of a new "institutional health service" as defined by section 1531(5); and (2) a capital expenditure must be reviewed if it "substantially changes the services of a facility" (see section 1531(6)(B)(ii)(III)).

Section 1531(5) defines an "institutional health service" as a health service which is provided through a health care facility and which entails an annual operating cost of at least $75,000 (which figure is subject to adjustment on a yearly basis). The Secretary intends to define a "health service" as a clinically related (i.e., diagnostic, treatment or rehabilitative) service. In addition, the offering of a new institutional health service would mean the addition of a health service not provided through the facility within the previous twelve months. Because administrative services and other non-clinical services are not "health services," the offering of these non-clinically related services would not be required to be subject to review as an "institutional health service" under section 1527(a)(1)(A). Capital expenditures for non-clinical purposes, however, may be reviewable under a different review threshold as a capital expenditure in excess of $150,000 (see section D below).

The Secretary intends to define a capital expenditure which "substantially changes the services of a facility" as any capital expenditure which results in the addition of a clinically related service not provided through the facility within the previous twelve months, or the termination of a service which had previously been provided through the facility.

In summary, the required certificate of need coverage of health services would be as follows:

(a) The addition of a health service must be subject to review if it involves either a capital expenditure (in any amount) or entails an annual operating cost of at least $75,000.

(b) The termination of a health service must be subject to review if it involves a capital expenditure (in any amount).

A State may, of course, impose stricter coverage requirements and subject a health service to certificate of need review regardless of whether it involves a capital expenditure or an annual operating cost of at least $75,000. In addition, a State may broaden its definition of health service to include non-clinically related services.

C. *Bed Capacity.* The Act as amended specifies that any capital expenditure which "substantially changes the bed capacity" of a health care facility is subject to certificate of need review. (See section 1531(6)(B)(ii)(II).) The Secretary intends to define a capital expenditure which "substantially changes the bed capacity" of a facility as a capital expenditure which increases or decreases the total number of beds (or distributes beds among various categories, or relocates beds from one physical facility or site to another) by ten beds or ten percent. This definition would retain the existing requirement of 42 CFR 123.404(a)(3) that increases of more than ten beds or ten percent, whichever is less, over a two-year period, must be reviewed, and would use the same standard of ten beds or ten percent for bed decreases.

D. *Capital Expenditures That Exceed $150,000.* Capital expenditures that exceed $150,000 (which figure is subject to adjustment on an annual basis) made by or on behalf of a health care facility are included within the definition of "capital expenditure" under section 1531(6) and must be subject to review under a State's certificate of need program.

E. *Acquisitions, Leases and Donations.* A State may choose not to cover the acquisition of a health care facility as a "capital expenditure" under certain circumstances. (See section 1527(d).) A person must, however, notify the State Agency of an intent to enter into a contract to acquire the facility. A notice of intent must be in writing and must be provided at least 30 days before contractual arrangements are entered into to acquire the facility. The proposed acquisition is not required to be subject to review unless the State Agency finds within thirty days that the acquisition will result in a change in the services or bed capacity of the facility to be acquired. The Secretary intends to require each State Agency (in accordance with the provisions of sections 1527(d) and (e)) to establish procedures for submission of the notice of intent, but to allow each State the discretion as to what information must be submitted in the notice of intent. The Secretary notes that States may, if they choose, cover additional (or all) acquisitions of health care facilities, in which case a notice of intent would not be required. In addition, capital expenditures for acquisitions of health care facilities are reviewable under section 1122 of the Social Security Act in States that participate in the section 1122 program.

The Act now provides that under certain circumstances States are required to review leases or comparable arrangements and donations. Section 1527(e)(3) states that leases of major medical equipment shall be considered acquisitions of such equipment. In addition, leases or comparable arrangements and donations are included under section 1531(6) within the definition of "capital expenditure." The same provision for not covering the acquisition of existing facilities, mentioned in this section applies to the lease of those facilities, although States may impose broader coverage requirements.

F. *Commitments for Financing.* Section 1527(a) requires that a

certificate of need be obtained before capital expenditures are "obligated." The Secretary intends to include within the definition of "obligation" commitments for financing. Thus, a person would be required to obtain a certificate of need before making a commitment for the financing of the project.

**2. Definition of Health Care Facilities**

To be reviewable, "capital expenditures" must be made by or on behalf of health care facilities. Similarly, "institutional health services" are reviewable if they are provided through health care facilities. The Secretary intends to define "health care facilities" to mean public and private hospitals, rehabilitation facilities, intermediate care facilities and skilled nursing facilities, ambulatory surgical facilities, and kidney disease treatment centers. This definition provides the same coverage as the definition of health care facility currently used in the certificate of need regulations. States may review proposals by other facilities if they wish to do so.

**3. Health Maintenance Organizations (HMOs)**

A. *Limited Coverage.* Under section 1527(a), a certificate of need program must provide for the review and determination of need for major medical equipment, institutional health services, and capital expenditures. With respect to certain HMOs and certain HMO facilities, section 1527(b) limits this coverage and section 1527(b)(1) states conditions which, if met, requires the State to exempt a project from review. Set forth below is a discussion of review requirements which apply to exempt and nonexempt projects, respectively. Under section 1527(b)(4), a State may not require the review of outpatient services or the obligation of a capital expenditure for outpatient services of an HMO or an ambulatory care facility or health care facility controlled, directly or indirectly, by an HMO or combination of HMOs.

B. *Exempt Projects of HMOs.* States are required to provide an exemption from required coverage under certificate of need for HMOs and HMO-related facilities which meet certain requirements. These requirements for an exemption are identified in section 1527(b)(1) of the Act. To be exempt from review, the HMO, combination of HMOs, or health care facility meeting the requirements specified in the statute must submit an application for an exemption to the State Agency before the proposed offering, obligation, or expenditure is made. After reviewing the application, the State Agency must determine whether the requirements for an exemption have been met, and if they have, must exempt the project from review.

C. *Nonexempt Projects of HMOs.* With respect to HMO projects that are not exempt under section 1527(b), the Secretary intends to require that States make subject to certificate of need coverage; (1) The offering of inpatient institutional health services; (2) to the extent required in section 1527(e), the acquisition of major medical equipment; and (3) the obligation of capital expenditures by or on behalf of an inpatient health care facility. In a review of these activities, the State would be required to employ specific criteria applicable to HMOs, to be prescribed by the Secretary as required by section 1527(b)(5). In this regard, the Secretary intends that the criteria be those specified in § 123.409(a)(10) (i) and (ii) of the present certificate of need regulations. State Agencies may not use other criteria not authorized by the certificate of need regulations in reviewing applications by HMOs. As mentioned earlier, after September 30, 1982, States may not enact legislation to cover the review of the acquisition of major medical equipment which is (1) not owned by or located in a health care facility and (2) not used to provide services to inpatients of a hospital.

**4. Special Review of Certain Applications**

Section 1527(c) specifies that if an application for a certificate of need for a capital expenditure is made to (a) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, (b) comply with State licensure standards, or (c) comply with accreditation standards for purposes of reimbursement under Titles XVIII or XIX of the Social Security Act, the application must be approved unless the State Agency finds that (1) the facility or service with respect to which the capital expenditure is proposed is not needed, or that (2) the obligation of the capital expenditure is not consistent with the State health plan. Those portions of a proposed project which are not essential for compliance with licensure, certification, or accreditation standards are subject to the usual review criteria and procedures.

**5. Maximums on Capital Expenditures**

New section 1527(a)(4) requires that, in issuing a certificate of need, the State must specify the maximum expenditure which may be obligated under the certificate. The State's program must prescribe, in accordance with Federal regulations, the extent to which an authorized project is subject to further review if the capital expenditure maximum is exceeded. This provision requires (1) determination of capital expenditure maximums, and (2) development of procedures to monitor capital expenditures obligated under certificates and to review projects if the capital expenditure maximum is exceeded. The Secretary intends to issue guidelines on when a State should re-review a project exceeding its expenditure maximum.

**6. Batching of Applications**

Section 1532(b)(13)(A) states that for certificate of need reviews by health systems agencies and State Agencies, review procedures must include a provision that all completed applications for similar types of services; facilities, or equipment which affect the same health service area be considered in relation to each other (i.e., batched) at least twice a year. The Secretary believes that the focus of a State's batching procedures should be on similar services, regardless of the type of health care facility proposing them. The Secretary intends to establish by regulation broad minimum categories of services for batching.

The Secretary intends to establish in regulation that the State Agency will have the responsibility for establishing the review schedule for applications which are batched.

Section 1532(b)(12)(C) states that if, after the review has begun, the State Agency or the health systems agency requires an applicant to submit information on the proposal, the review period, at the applicant's request, shall be extended fifteen days. This extension would apply to all other applications which have been batched with the application for which additional information is required.

**7. Timely Notice**

Section 1532(b)(13) requires agencies to establish a timetable for the submission of applications and to begin reviews in a timely fashion. Section 1532(b)(1), as amended, requires health systems agencies and State Agencies to provide timely written notification to affected persons of the beginning of a review. In addition to these requirements the Secretary intends to specify that persons directly affected by the review be given at least 30 days after notice of the start of the review is sent in which to request a public hearing on the application.

**8. Failure To Reach a Decision Within the Required Time**

Section 1532(b)(12)(B) states that any decision of a State Agency to issue or not to issue a certificate of need shall be based solely on the review of the State Agency and on the record established in administrative proceedings. In addition, section 1532(b)(12)(C)(ii) states that if the State Agency fails to approve or disapprove an application within the applicable time limit, the applicant may bring an action in State court to require the State Agency to do so. These provisions prohibit the automatic disapproval or approval of an application due to the failure of the State Agency to reach a decision.

**9. Requirements for Hearings**

Section 1532(b)(12)(A) requires that the agency that conducts the hearing during the course of review maintain a record of the proceeding. The Secretary intends that (1) these agencies will be required to maintain a verbatim record, and (2) the manner in which the record is made, e.g., by a court reporter or tape recorder, be left to the discretion of the State Agency.

**10. Administrative Appeals and Judicial Review**

The statute now requires that *any* person directly affected must be allowed to request an administrative review of the State Agency's certificate of need decision. Section 1532(b)(12)(D) states that decisions to approve, disapprove, or withdraw a certificate of need must, upon the request of any such person, "be administratively reviewed under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies or, if there is no such State law, by an entity (other than the State Agency) designated by the Governor."

For States that have an appeals mechanism for the administrative review of a State Agency's decision, the appeals entity (or person) must have independent authority to review the certificate of need decision. The Secretary intends that a State may satisfy this requirement by having the appeals entity (or person) be either (1) an entity of the State other than the State Agency or (2) if permitted by State law, a person within the State Agency who, or a component of the State Agency which, did not participate in the certificate of need decision, provided that the reviewing person or component has authority to make a final decision on the appeal. If the State does not have a law that establishes such an appeals mechanism, then the appeals entity must be an entity, other than the State Agency, designated by the Governor.

The Secretary intends to establish for States that do not have a time period provided for under State law (1) that the appeal must begin within 30 days after the request is submitted, and (2) that the reviewing agency must reach a decision within 45 days after the conclusion of the review.

The addition of the term "administratively" to the statute makes unacceptable the current practice in some States of designating a State court as the reviewing agency. Thus, the Governors of those States will be required to designate an administrative agency to perform this function.

Section 1532(b)(12)(E) provides that after a decision is made (and any administrative review is completed), any "person adversely affected" by the decision and the health systems agency must be allowed to obtain a judicial review of the decision in an appropriate State court. The Secretary intends to adopt the definition of "person adversely affected" which is contained in the Report of the Senate Committee on Labor and Human Resources. See S. Rep. No. 96-96, 96th Cong., 1st Sess., p. 72 (1979). Under this definition an "adversely affected" person includes any person residing within the geographic area served or to be served by the provider involved in the certificate of need decision, as well as any person who regularly uses health facilities within that geographic area. Further, the term would include any provider in the health service area affected by an agency action, a provider in a different health service area if the proposal under review could adversely affect that provider, and any other person (including, of course, the applicant) who participated in a proceeding before the agency.

**11. Access**

Section 1532(c)(6)(E) specifies that States must include in their review criteria for new institutional health services an additional criterion which addresses the extent to which the proposed services will be accessible to all the residents of the area to be served by the proposed new service. The Secretary initially addressed the problem of access in certificate of need regulations issued on April 2, 1979. However, because of the increased emphasis which Pub. L. 96-79 places on ensuring accessibility through the review process, the Secretary intends to elaborate upon this criterion in the regulations as well as to specify certain related procedures.

**12. Competition**

Section 1502(b) of the Act as amended provides that for health services for which competition does not or will not appropriately allocate supply consistent with health systems plans and State health plans, health systems agencies and State Agencies should, in the exercise of their functions, take actions to allocate the supply of those services. However, for health services for which competition does appropriately allocate supply consistent with these plans, health systems agencies and State Agencies should give priority to actions which would strengthen the effect of competition. The Secretary notes that Congress found in amended section 1502(b)(1) that the effect of competition on decisions of providers respecting the supply of health services and facilities is diminished. Furthermore, Congress found that "the primary source of the lessening of such effect is the prevailing methods of paying for health services by public and private health insurers, particularly for inpatient health services and other institutional health services. As a result, there is a duplication and excess supply of certain health services and facilities, particularly in the case of inpatient health services."

The Secretary believes that the effect of competitive forces may vary from location to location and from service to service, and that analyzing these effects may be best accomplished in the planning process at the State or local level. Therefore, the Secretary intends to require that States identify in State health plans those services for which competition adequately allocates supply. The Secretary intends to issue further guidace as to the criteria to be used in identifying these services and areas. Individual applications for certificate of need are to be reviewed against criteria developed in accordance with section 1532(c). In addition to other changes to section 1532(c), the Amendments add two considerations for criteria which deal specifically with competition (see sections 1532(c)(11) and (12)). The Secretary may also issue further guidance about the application of these criteria to the certificate of need process.

Dated: February 19, 1980.

**Patricia Roberts Harris,**

*Secretary.*

**Appendix I.—Effective Dates**

Because there have been, over time, a number of different sets of regulations identifying the requirements for satisfactory certificate of need programs, each set with its own effective dates, the Secretary discusses

each of these below, together with Pub. L. 96–79 and an analysis of how the requirements for State health planning and development agency designation under section 1521 of the Public Health Service Act (the "Act") are related to compliance with the certificate of need requirements. There are involved three sets of certificate of need requirements:

*1. The original regulations.* These were published on January 21, 1977 (42 FR 4002), and amended slightly (with respect to required reviews of changes in bed capacity) on April 8, 1977 (42 FR 18605).

*2. The amended regulations.* On April 2, 1979 (44 FR 19306), the original regulations were republished, with significant amendments applying to certificate of need reviews of proposals by health maintenance organizations (HMOs). These regulations required that State Agencies consider certain specific criteria and make certain findings in regard to HMO proposals.

The April 2 regulations also specified that States may not review expenditures for feasiblity surveys for HMOs which are funded under section 1303 of the Act or expenditures for planning of HMOs which are funded under section 1304 of the Act.

The April 2, 1979, regulations also added two other important provisions. State Agencies were required (1) to consider the special circumstances of health care facilities and HMOs with respect to the need for conserving energy and (2) to give special consideration to (a) the health related needs of medically underserved groups and in particular members of groups which have traditionally experienced difficulties in obtaining equal access to health services, such as minorities, women, and the handicapped, and (b) the contribution of the proposal being reviewed in meeting those needs.

On April 25, 1979 (44 FR 24428), the regulations were further amended to specify that the offering of certain computed tomographic (CT) scanner services must be considered the offering of a health service, as defined by § 123.404(a)(3) of the regulations.

The dates by which the States were required to implement the amendments made by the April 2 and April 25, 1979, regulations were discussed in the preambles to those documents. These dates were to be determined by whether State legislative changes were required to implement those amendments. See 44 FR 19315, April 2, 1979, and 44 FR 24429–30, April 25, 1979.

Some of these regulations have been superseded by the 1979 statutory amendments. These are discussed below, as is the Secretary's decision to revise these required implementation dates.

*3. The 1979 statutory amendments.* As noted above, Title XV of the Act was amended on October 4, 1979, by Pub. L. 96–79, so that the statutory requirements for certificate of need programs are substantially changed. The present regulations will be revised to implement the statutory amendments.

Under Section 129 of Pub. L. 96–79, the new certificate of need requirements that *do not require State legislative action* for their implementation were effective on October 4, 1979.[1] Under her authority to review the operation of and the performance of the functions of State Agencies, the Sectretary is asking State Agencies, after consulting with their legal counsel, to identify the portions of Pub. L. 96–79 that do not require legislative change. Each State Agency should submit this proposed list to the appropriate DHEW Regional Office by April 1, 1980. The Secretary is also requiring State Agencies to prepare a timetable for State implementation of these requirements. This timetable must show that the State will implement these requirements within six months of publication of the interim revised certificate of need regulations.

The effective date for those portions of the amendments that *require legislative changes* is determined as follows: (1) If the legislature of the State was in regular session on October 4, 1979, and the legislature will be in session for at least twelve months from that date, the effective date is October 4, 1980; (2) For all other States, the effective date is twelve months from the date of the beginning of the first regular legislative session of the legislature beginning after October 4, 1979. Each State is required to enact by the effective date applicable to it whatever legislation is needed to implement the remaining requirements of the amendments.

The Secretary intends to require that each State complete the administrative action necessary to implement its legislation (i.e., have a functioning certificate of need program meeting the new requirements) within six months after the date of enactment of its legislative amendments, or by the effective date (as described in the preceding paragraph) applicable to that State, whichever is later. This deadline is referred to below as the "implementation date."

*Applicability of April 2, 1979, and April 25, 1979, Regulations*

The Secretary has concluded that it would be unreasonable to require States to implement those portions of the amendments made by the April 2 and 25 regulations which will in effect be superseded or replaced by the new regulations which will implement Pub. L. 96–79. In addition, as to those portions of the April regulations which will not be superseded or replaced, the Secretary has decided not to require their implementation according to the dates originally set for their implementation. Rather, the Secretary intends to incorporate those portions into the new regulations to be published and will require their implementation in accordance with the schedule for implementation of the new regulations.

As noted in the discussion above, the amendments made by Pub. L. 96–79 allow some HMOs to receive an exemption from review for certain proposals and to have their proposals which are not exempt reviewed under limited criteria. Accordingly, some of the special provisions of the April 2 regulations pertaining to HMO proposals are no longer necessary or appropriate. The only HMO provisions added by the April 2 regulations which the Secretary intends to include in the new regulations are those which (1) prohibit States from reviewing expenditures for HMO feasibility surveys or planning activities under section 1303 and 1304 of the Act, respectively, and (2) elaborate upon the criteria for review of HMO proposals. In addition, the Secretary intends to retain the provisions respecting energy conservation and the needs of the medically underserved groups. The Secretary also intends to retain the provision in the April 25 regulations pertaining to reviews of CT scanner services.

*Designation Requirements Which Apply Prior to a State's Effective Date*

The Secretary will review applications for full designation under section 1521(b)(3) of the Act from most States prior to the date on which those States are required to enact legislation necessary to implement the new certificate of need requirements of Pub. L. 96–79 ("effective date"). In that review (and until that date), as a condition for full designation, the Secretary will require that States satisfy any of the following: (1) The requirements effective prior to the April

[1] A number of provisions were revised by Pub. L. 96–79, effective on October 4, 1980. States may, however, act in accordance with these changes immediately.

1979 amendments to the certificate of need regulations; (2) the certificate of need regulatory requirements, as amended by the April 2 and April 25, 1979, regulations; (3) the statutory requirements of the Act, as amended by Pub. L. 96-79; or (4) the requirements of the interim regulations soon to be published. The Secretary strongly urges States which must either amend their certificate of need legislation, or enact new legislation, in order to qualify for full designation, to enact legislation that satisfies the new statutory certificate of need requirements (option 3 above). By so doing, the legislatures of these States will not be required to amend their certificate of need laws an additional time.

As noted above, the Secretary is asking State Agencies, after consulting with their legal counsel, to identify in writing the portions of their certificate of need programs which can be revised to conform with Pub. L. 96-79 without legislative change. Under the authority to review the operation of and the performance of their functions by the State Agencies, the Secretary is also requiring State Agencies to prepare a timetable for State implementation of these portions of their programs, as well as other requirements for conforming certificate of need programs. Each State Agency must submit this timetable as part of its designation application, i.e., by April 1, 1980. The Secretary strongly requests that States implement these requirements as soon as possible. As a condition for full designation, the Secretary is requiring, at a minimum, that the timetable provide that the State will implement these requirements within 6 months of publication of the interim revised certificate of need regulations.

Finally, the Secretary calls attention to section 152(d) of the Act. This section provides that the Department must reduce by 25 percent (for the first twelve months, and more thereafter), the amount of each allotment, grant, loan, loan guarantee, and contract awarded in the State under the Public Health Service Act and certain related Acts if the State Agency is not fully designated on the date by which legislation to implement the amendments must be enacted (the effective date). These related Acts are the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, and the Drug Abuse Office and Treatment Act of 1972.

**Appendix II.—Legislative Amendments and Annotations Relating to State Certificate of Need Programs (New Legislative Language Italicized)**

Section 1512.(b)(3)(F)—*Conflicts of interest—No member of a governing body, executive committee, or any entity appointed by a governing body, or executive committee may, in the exercise of any function of the agency described in subsection (e), (f), or (g) of section 1513, vote on any matter before the governing body, executive committee, or any such entity respecting any individual or entity with which such member has (or, within the twelve months preceding the vote, had) any substantial ownership, employment, medical staff, fiduciary, contractual, creditor, or consultative relationship. A governing body, executive committee, and any entity appointed by a governing body or executive committee shall require each of its members who has or has had such a relationship with an individual or entity involved in any matter before the governing body, committee, or entity to make a written disclosure of such relationship before any action is taken by the body, committee, or entity with respect to such matter in the exercise of any function of the agency described in section 1513 and to make such relationship public in any meeting in which such action is to be taken.*

This provision applies to the performance of certificate of need reviews by health systems agencies. (Section 1513(f))

Section 1513.(d)(2)—*Each health systems agency which has all or part of its health service area within a part of a standard metropolitan statistical area (as determined by the Office of Management and Budget) shall coordinate its activities with the activities of any other health systems agency which has any part of its health service area within such standard metropolitan statistical area. Such coordination shall at least provide that each health systems agency designated for a health service area within any part of a single standard metropolitan statistical area shall review (A) each HSP and AIP for each such health service area, (B) the criteria used in accordance with section 1532 for reviews affecting any such area, and (C) each decision under certificate of need programs which affect any such area.*

The required coordination includes, at a minimum, permitting each HSA to review and comment on the health systems plan, annual implementation plan, and criteria used for certificate of need reviews of any other HSA that is located within the same standard metropolitan statistical area. The other HSAs also must have the opportunity to review and comment on certificate of need decisions that affect this area.

Section 1522.(b)—The State Program of a State must—

(13)—Provide that if the State Agency makes a decision in the performance of a function under paragraph (4), (5), or (6) of section 1523(a) or under title XVI which is inconsistent with a recommendation made under subsection (f) *or (g)* of section 1513 by a health systems agency within the State—

(A) Such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed *in a timely manner,* under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies *or, if there is no such State law,* by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

(B) The decision of the reviewing agency *under subparagraph (A)* shall for purposes of this title and title XVI be considered the decision of the State health planning and development agency.

The references to paragraph (4) of section 1523(a) and subsection (f) of section 1513 apply these provisions to decisions and recommendations under State certificate of need programs.

Section 1523.(a)—Each State Agency of a State designated under section 1521(b)(3) shall, except as authorized under subsection (b), perform within the State the following functions:

(4)(B)—Administer a State certificate of need program which applies to *the obligation of capital expenditures within the State and the offering within the State of new institutional health services and the acquisition of major medical equipment* and *which is consistent with standards established by the Secretary by regulation. A certificate of need program shall provide for procedures and penalties to enforce the requirements of the program.* In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 1513(f).

This section, as amended, requires that certificate of need programs cover proposals in three areas: "capital expenditures", "institutional health services", and "major medical equipment". These three replace the single review of "new institutional health services" previously contained in this section. A State program is required

to cover all three areas. A State may satisfy this requirement within its existing framework of coverage of new institutional health services.

Section 1527.(a)—*The certificate of need program required by section 1523(a)(4)(B) shall, in accordance with this section, provide for the following:*

*(1) Review and determination of need under such program for—*

*(A) Major medical equipment and institutional health services, and*

*(B) Capital expenditures,*

*Shall be made before the time such equipment is acquired, such services are offered, substantial expenditures are undertaken in preparation for such offering, or capital expenditures are obligated.*

See text of Notice (Scope of Certificate of Need Review Programs).

Section 1527.(a)(2)—*The acquisition and offering of only such equipment and services as may be found by the State Agency to be needed; and the obligation of only those capital expenditures found to be needed by the State Agency. Except as otherwise authorized by this section, review under the program of an application for a certificate of need may not be made subject to any criterion and the issuance of a certificate of need may not be made subject to any condition unless the criterion or condition directly relates to—*

*(A) Criteria prescribed by section 1532(c),*

*(B) Criteria prescribed by regulations of the Secretary promulgated under section 1532(a) before the date of the enactment of the Health Planning and Resources Development Amendments of 1979, or*

*(C) Criteria prescribed by regulation by the State Agency in accordance with an authorization prescribed by State law.*

*The Secretary may not require a State to include in its program any criterion in addition to criteria described in subparagraphs (A) and (B).*

The conference report for Pub. L. 96–79 defines the terms "criteria" and "condition": In this section, the term criterion means a standard or rule which may be applied to certificate of need applicants during the review process; the term condition means a required action applied to a specific applicant and established as part of a certificate of need decision following the review. These general definitions would apply regardless of what term is used in State Law or regulation which describes these concepts. See S. Rep., No. 96–309, 96th Cong., 1st sess. 82–83 (1979).

The criteria referred to in (B) above are those embodied in the Federal regulations of April 2, 1979.

Section 1527.(a)(3)—*An application for a certificate of need for an institutional health service, medical equipment, or a capital expenditure shall specify the time the applicant will require to make such service or equipment available or to obligate such expenditure and a timetable for making such service or equipment available or obligating such expenditure. After the issuance of a certificate of need, the State Agency shall periodically review the progress of the holder of the certificate in meeting the timetable specified in the approved application for the certificate. If on the basis of such a review the State Agency determines that the holder of a certificate is not meeting such timetable and is not making a good faith effort to meet it, the State Agency may, after considering any recommendation made by the health systems agency which received a report from the State Agency on such review, withdraw the certificate.*

The State Agency is not required to agree to the times proposed by the applicant and may establish different time requirements.

Section 1527.(a)(4)—*In issuing a certificate of need, the State shall specify in the certificate the maximum amount of capital expenditures which may be obligated under such certificate. The program shall, in accordance with regulations promulgated by the Secretary, prescribe the extent to which a project authorized by a certificate of need shall be subject to further review if the amount of capital expenditures obligated or expected to be obligated for the project exceed the maximum specified in the certificate of need.*

See text of Notice (Maximums on Capital Expenditures).

Section 1527.(a)(5)—*The program shall provide that (A) the requirements of section 1532 shall apply to proceedings under the program, and (B) each decision to issue a certificate of need (i) may only be issued by the State Agency, and (ii) shall, except in emergency circumstances that pose a threat to public health, be consistent with the State health plan in effect for such State under section 1524 (c).*

This provision requires that State Agencies, in making certificate of need decisions, must apply the procedures and criteria of section 1532. Section 1527(a)(5)(B)(i) prohibits others, such as State legislatures, from issuing certificates of need. See also section 1532(b)(12)(B) below.

Section 1527.(b)(1)—*Under the program a State shall not require a certificate of need for the offering of an inpatient institutional health service or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by—*

*(A) a health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least 50,000 individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination;*

*(B) a health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least 50,000 individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least 75 percent of the patents who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination, or*

*(C) a health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least 50,000 individuals and on the date the application is submitted under paragraph (2) at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization, if with respect to such offering, acquisition, or obligation, the State Agency has, upon application under paragraph (2), granted an exemption from such requirement to*

*the organization, combination or organizations, or facility.*

A State must exempt from review a proposal by a health maintenance organization (HMO) or combination of HMOs if an application for exemption has been submitted and the following requirements are met:

1. The HMO or combination of HMOs has within its service area an enrollment of at least 50,000 individuals;

2. The facility in which the service is provided is or will be geographically located so that the service will be reasonably accessible to enrolled individuals; and

3. At least 75 percent of the patients who are expected to receive the service are enrolled in the HMO or combination of HMOs.

A State must exempt from review a proposal by a health care facility if an application for exemption has been submitted and all of the following requirements are met:

1. The facility primarily provides or will provide inpatient health services;

2. The facility is or will be directly or indirectly controlled by an HMO or combination of HMOs with an enrollment of at least 50,000 individuals;

3. The facility is or will be geographically located so that the service will be reasonably accessible to enrolled individuals; and

4. At least 75 percent of the patients who are expected to receive the service are enrolled in the HMO or combination of HMOs.

A State must exempt from review a proposal by a health care facility that is or will be leased by an HMO or combination of HMOs if an application for an exemption has been submitted and the following requirements are met:

1. The HMO or combination of HMOs has within its service area an enrollment of at least 50,000 individuals;

2. On the date of the application for exemption from review at least 15 years remain in the term of the lease;

3. The facility is or will be geographically located so that the service will be reasonably accessible to enrolled individuals; and

4. At least 75 percent of the patients who are expected to receive the service are enrolled in the HMO or combination of HMOs.

A "combination of health maintenance organizatioins" is allowed to meet the 50,000 enrollee minimum in order to permit two or more HMOs to join together to own, or control a corporation or other entity which owns, or leases a health care facility. In order for an institutional health service which is owned, controlled, or leased by a combination of HMOs to be exempt from review, each of the HMOs in the combination must use the institutional health service. See text of Notice (Health Maintenance Organizations—*Exempt Projects of HMOs)* for further discussion of HMO exemptions.

Section 1527.(b)(2)—*A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under paragraph (1) from obtaining a certificate of need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless—*

*(A) it has submitted, at such time and in such form and manner as the State Agency shall prescribe, an application for such exemption.*

*(B) the application contains such information respecting the organization, combination, or facility and the proposed offering, acquisition, or obligation as the State Agency may require to determine if the organization or combination meets the requirements of paragraph (1) or the facility meets or will meet such requirements, and*

*(C) the State Agency approves such application.*

*In the case of a proposed health care facility (or portion thereof) which has not begun to provide institutional health services on the date an application is submitted under this paragraph with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of paragraph (1) when the facility first provides such services.*

*The State Agency shall approve an application submitted under this paragraph if it determines that the applicable requirements of paragraph (1) are met.*

See text of Notice (Health Maintenance Organizations—*Exempt Projects of MHOs).*

Section 1527.(b)(3)—*Nothwithstanding subsection (d), a health care facility (or any part thereof) or medical equipment with respect to which an exemption was granted under paragraph (1) may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired and a health care facility described in subparagraph (C) of paragraph (1) which was granted an exemption under paragraph (1) may not be used by any person other than the lessee described in such subparagraph unless—*

(A) *the State Agency issues a certificate of need approving the sale, lease, acquisition, or use, or*

(B) *the State Agency determines, upon application, that (i) the entity to which the facility or equipment is proposed to be sold or leased, which intends to acquire the controlling interest or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of clause (i) of subparagraph (A) of paragraph (1) and (ii) with respect to such facility or equipment, the entity meets the requirements of clauses (ii) and (iii) of such subparagraph (A) or the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (1).*

Once an organization or facility is granted an exemption, the health care facility or equipment for which the exemption was granted may not be leased or sold unless certain requirements are satisfied. To purchase or lease the equipment or facility, the person must either receive a certificate of need approving the purchase or lease or receive an exemption for that purpose. In the latter case, the person must apply for an exemption and satisfy the requirements of section 1527(b)(3)(B).

Section 1527.(b)(4)—*In the case of a health maintenance organization or an ambulatory care facility or health care facility which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, a State may under the program apply its certificate of need requirements only to the offering of inpatient institutional health services, the acquisition of major medical equipment, and the obligation of capital expenditures for the offering of inpatient institutional health services and then only to the extent that such offering, acquisition, or obligation is not exempt under paragraph (1).*

See text of Notice (Health Maintenance Organizations—*Nonexempt Projects of HMOs).*

Section 1527.(b)(5)—*Notwithstanding section 1532(c), if a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization apply for a certificate of need, such application shall be approved by the State Agency if the State Agency finds (in accordance with criteria prescribed by the Secretary by regulation) that—*

(A) *approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll, and*

(B) *the health maintenance organization is unable to provide, through services or facilities which can*

*reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.*

*Except as provided in paragraph (1) and notwithstanding subsection (d), a health care facility (or any part thereof) or medical equipment with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired unless the State Agency issues a certificate of need approving the sale, acquisition, or lease.*

An example of indirect control of a health care facility is the situation in which a majority of the members of the board of a hospital corporation are employees, officers or directors of a health maintenance organization.

See text of Notice (Health Maintenance Organizations—*Nonexempt Projects of HMOs*).

Section 1527.(c)—*Notwithstanding section 1532(c), an application for a certificate of need for a capital expenditure which is required—*

*(1) To eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations,*

*(2) To comply with accreditation standards compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a State plan for medical assistance approved under title XIX of such Act, shall be approved unless the State Agency finds that the facility or service with respect to which such capital expenditure is proposed to be made is not needed or that the obligation of such capital expenditure is not consistent with the State health plan in effect under section 1524. An application for certificate of need approved under this subsection shall be approved only to the extent that the capital expenditure is required to eliminate or prevent the hazards described in paragraph (1) or to comply with the standards described in paragraph (2) or (3).*

For this purpose, "accreditation" means accreditation under one of the programs of the Joint Commission on Accreditation of Hospitals, accreditation by the American Osteopathic Association, or certification under the Department's conditions of participation for reimbursement under the Medicare and Medicaid programs.

See text of Notice (Special Review of Certain Applications) for further discussion.

Section 1527.(d)(1)—*Under the program a certificate of need shall, except as provided in subsection (b), be required for the obligation of a capital expenditure to acquire (either by purchase or under lease or comparable arrangement) an existing health care facility if—*

*(A) The notice required by paragraph (2) is not filed in accordance with that paragraph with respect to such acquisition, or*

*(B) The State Agency finds, within thirty days after the date it receives a notice in accordance with paragraph (2) with respect to such acquisition, that the services or bed capacity of the facility will be changed in being acquired.*

*(2) Before any person enters into a contractual agreement to acquire an existing health care facility which arrangement will require the obligation of a capital expenditure, such person shall notify the State Agency of the State in which such facility is located of such person's intent to acquire such facility and of the services to be offered in the facility and its bed capacity. Such notice shall be made in writing and shall be made at least 30 days before contractual arrangements are entered into to acquire the facility with respect to which the notice is given.*

This provision requires entities that wish to acquire or lease existing health care facilities to provide notice of this intent to the State Agency. These entities must receive a certificate of need to acquire or lease the facility if they (1) fail to provide notice of this intent in accordance with section 1527(d)(1)(B) or (2) intend to change the services or bed capacity of the facility. HMOs or combinations of HMOs would be exempt from this requirement if they satisfy the exemption requirements of section 1527(b)(1) or 1527(b)(3)(B). See the above discussion of these sections and text of Notice (Scope of Certificate of Need Review Programs—*Capital Expenditures that Exceed $150,000*).

Section 1527.(e)(1)(A)—*Except as provided in subsection (b) and subparagraph (B), under the program a certificate of need shall not be required for the acquisition of major medical equipment which will not be owned by or located in a health care facility unless—*

*(i) The notice required by paragraph (2) is not filed in accordance with that paragraph with respect to such acquisition, or*

*(ii) The State Agency finds, within thirty days after the date it receives a notice in accordance with paragraph (2) with respect to such acquisition, that the equipment will be used to provide services for inpatients of a hospital.*

*(B) The certificate of need program of a State may include a requirement for a certificate of need for an acquisition of major medical equipment which requirement is in addition to the requirement for a certificate of need established by subparagraph (A), except that after September 30, 1982, the certificate of need program of a State may not be changed to include any such additional requirement.*

*(2) Before any person enters into a contractual arrangement to acquire major medical equipment which will not be owned by or located in a health care facility, such person shall notify the State Agency of the State in which such equipment will be located of such person's intent to acquire such equipment and of the use that will be made of the equipment. Such notice shall be made in writing and shall be made at least thirty days before contractual arrangements are entered into to acquire the equipment with respect to which the notice is given.*

*(3) For purposes of this subsection, donations and leases of major medical equipment shall be considered acquisitions of such equipment, and an acquisition of medical equipment through a transfer of it for less than fair market value shall be considered an acquisition of major medical equipment if its fair market value is at least $150,000.*

See text of Notice (Scope of Certificate of Need Review Programs—*Major Medical Equipment* and *Capital Expenditures That Exceed $150,000*).

*Section 1527.(f)—Notwithstanding section 1532(c), when an application is made by an osteopathic or allopathic facility for a certificate of need to construct, expand, or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services shall be considered on the basis of the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The State Agency shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.*

This provision seeks to ensure that the need for and availability of services and

facilities for osteopathic physicians and patients will be considered.

Section 1527.(g)—*In approving or disapproving applications for certificates of need or in withdrawing certificates of need under such a program, a State Agency shall take into account recommendations made by health systems agencies within the State under section 1513(f).*

Section 1531.(5)—*The term "institutional health services" means health services which (A) are provided through private and public hospitals, rehabilitation facilities, nursing homes, and other health care facilities, as defined by the Secretary by regulation, and (B) entail annual operating costs of at least the expenditure minimum. For purposes of this paragraph, the term "expenditure minimum" means $75,000 for the twelve-month period beginning with the month in which this paragraph is enacted and for each twelve-month period thereafter, $75,000 or, at the discretion of the State, the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index maintained or developed by the Department of Commerce and designated by the Secretary by regulation for purposes of making such adjustment.*

See text of Notice (Definition of Health Care Facilities, Scope of Certificate of Need Review Programs).

Section 1531.(6)—*For purposes of sections 1523 and 1527, the term "capital expenditure" means an expenditure—*

*(A) Made by or on behalf of a health care facility (as such a facility is defined in regulations prescribed under paragraph (5)); and*

*(B)(i) Which (I) under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or (II) is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part, and*

*(ii) Which (I) exceeds the expenditure minimum, (II) substantially changes the bed capacity of the facility with respect to which the expenditure is made, or (III) substantially changes the services of such facility.*

*For purposes of subparagraph (B)(ii)(I), the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure described in subparagraph (B)(i) is made shall be included in determining if such expenditure exceeds the expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under section 1527 shall be considered capital expenditures for purposes of sections 1523 and 1527, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of such sections if a transfer of the equipment or facilities at fair market value would be subject to review under section 1527. For purposes of this paragraph, the term "expenditure minimum" means $150,000 for the twelve-month period beginning with the month in which this paragraph is enacted and for each twelve-month period thereafter, $150,000 or, at the discretion of the State, the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index maintained or developed by the Department of Commerce and designated by the Secretary by regulation for purposes of making such adjustment.*

See text of Notice (Scope of Certificate of Need Review Programs).

Section 1531.(7)—*For purposes of sections 1523 and 1527, the term "major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of $150,000, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such Act. In determining whether medical equipment has a value in excess of $150,000, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.*

Unlike the provisions for institutional health services and capital expenditure, this provision does not allow a State to use an index to adjust the dollar amount for the acquisition cost of major medical equipment.

See text of Notice (Scope of Certificate of Need Review Programs).

Section 1531.(8)—*The term "health maintenance organization" means a public or private organization, organized under the laws of any State, which—*

*(A) Is a qualified health maintenance organization under section 1310(d); or*

*(B) (i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out of area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in clause (i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (I) directly through physicians who are either employees or partners of such organization, or (II) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).*

Section 1531.(9)—*For purposes of paragraph (5) of this section and sections 1523(a)(4)(B) and 1527, the term "rehabilitation facility" means an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent professional supervision. For purposes of the remaining provisions of this title, the term "rehabilitation facility" means an inpatient facility described in the preceding sentence and, in addition, an out-patient facility which is operated as described in such sentence.*

For certificate of need programs, required coverage of rehabilitation facilities is limited to inpatient facilities. For other health planning purposes outpatient rehabilitation facilities are also to be included.

Section 1531.(11)—*Any reference to the term "health" includes physical and mental health.*

Section 1531.(12)—*The term "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by a State.*

Section 1532.(a)—In conducting reviews pursuant to subsections (e), (f), and (g) of section 1513 or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; in performing its review functions under section 1523, a State Agency shall (except to the extent

approved by the Secretary) follow procedures and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies, *State Agencies, and Statewide Health Coordinating Councils* may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed; *and in performing its review functions a Statewide Health Coordinating Council shall (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the Council in accordance with regulations of the Secretary. Health systems agencies, the State Agency, and, if appropriate, the Statewide Health Coordinating Council within each State shall cooperate in the development of procedures and criteria under this subsection to the extent appropriate to the achievement of efficiency in their reviews and consistency in criteria for such reviews. The Secretary shall review at least annually regulations promulgated under this section and provide opportunity for the submission of comments by health systems agencies, State Agencies, and Statewide Health Coordinating Councils on the need for the revision of such regulations. At least forty-five days before the initial publication of a regulation proposing a revision in a regulation of the Secretary under this section, the Secretary shall, with respect to such propsed revision, consult with and solicit the recommendations from health systems agencies, State Agencies, and Statewide Health Coordinating Councils.*

Section 1532.(b)—Each health systems *agency, State Agency, and Statewide Health Coordinating Council* shall include in the procedures required by subsection (a) at least the following:

(1) *Timely written* notification to affected persons of the beginning of a review *and, if a person asked the entity conducting the review to place the person's name on a mailing list maintained by the entity, such notification shall be sent to such person.*

See text of Notice (Timely Notice).

Section 1532.(b)(2)—Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made, or in the case of non-substantive reviews, provision for a shortened review period. *If, after a review has begun, a State Agency, health systems agency, or Statewide Health Coordinating Council requires, in accordance with paragraph (3), the person subject to the review to submit information respecting the subject of the review, such person shall be provided at least fifteen days to submit the information.*

This amended section requires State Agencies to extend the review period when the Agency requests additional information during the course of review. See section 1532(b)(12)(C)(i) for the time period during which certificate of need decisions must be made.

Section 1532.(b)(3)—Provision for persons subject to a review to submit to the *agency, State Agency, or Statewide Health Coordinating Council* (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review. *Each health systems agency, State Agency, and Statewide Health Coordinating Council shall develop procedures to assure that requests for information in connection with a review under this title are limited to only that information which is necessary for the agency, State Agency, or Statewide Health Coordinating Council to perform the review.*

Section 1532.(b)(7)—*Timely Notification* of providers of health services and other persons subject to *agency, State Agency, or Statewide Health Coordinating Council* review of the status of the agency or State Agency review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

Section 1532.(b)(10)—Access by the general public to all applications reviewed by the *agency, State Agency, and Statewide Health Coordinating Council* and to all other written materials *essential* to any *agency, State Agency, or Statewide Health Coordinating Council* review.

Section 1532.(b)(12)—*The following procedural requirements with respect to proceedings under a certificate of need program:*

*(A) Hearings under a certificate of need program shall be held before a State Agency or a health systems agency to which the State Agency has delegated the authority to hold such a hearing. In a hearing under the program, any person shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing, any person directly affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matter, and a record of the hearing shall be maintained. The requirements of this subparagraph do not apply to hearings held by a health systems agency in the performance of a review under section 1513(f).* This provision applies to the hearings conducted during the course of review that are required by section 1532(b)(8). If the health systems agency has been delegated hearing responsibility by the State, only one formal hearing is required. If a health systems agency has not been delegated hearing responsibility, the health systems agency may also hold a hearing which may be either formal or informal.

See Text of Notice (Requirements for Hearings) for further discussion of this issue.

Section 1532.(b)(12)(B)—*Any decision of a State Agency to issue or to not issue a certificate of need or to withdraw a certificate of need shall be based solely (i) on the review of the State Agency conducted in accordance with procedures and criteria it has adopted in accordance with this section and regulations promulgated under this section, and (ii) on the record established in administrative proceedings held with respect to the application for such certificate or the Agency's proposal to withdraw the certificate, as the case may be. Any decision of a State Agency to approve or disapprove an application for an exemption under section 1527(b) shall be based solely on the record established in the administrative proceedings held with respect to the application.*

This provision requires that State Agencies base certificate of need decisions on the information developed pursuant to the review and contained in the review record and not on any other factors. This provision would not be satisfied if State legislatures enacted legislation which directs a State Agency to approve specific projects. (Section 1527(a)(5)(B)(i) prohibits legislatures from themselves issuing certificates of need.)

Certificate of need applications which are exempt under section 1527(b) (referred to above) are those applications submitted by health maintenance organizations (HMOs), combinations of HMOs, or health care facilities controlled or leased by HMOs which meet the exemption requirements of section 1527(b).

Section 1532.(b)(12)(C)(i)—*The State Agency shall establish the period within which approval or disapproval by the State Agency of applications for certificates of need and for exemptions under section 1527(b) shall be made. If, after a review has begun by the State Agency, the State Agency or health*

*systems agency requires, in accordance with section 1532(b)(3), an applicant to submit information respecting the subject of the review, the period prescribed pursuant to the preceding sentence shall, at the request of the applicant, be extended fifteen days.*

Section 1532.(b)(12)(C)(ii)—*If the State Agency fails to approve or disapprove an application within the applicable period under clause (i), the applicant may, within a reasonable period of time following the expiration of such period, bring an action in an appropriate State court to require the State Agency to approve or disapprove the application.*

See text of Notice (Failure to Reach a Decision within the Required Time).

Section 1532.(b)(12)(D)—*The program shall provide that each decision of the State Agency to issue, not to issue, or to withdraw a certificate of need or to approve or disapprove an application for an exemption under section 1527(b) shall, upon request of any person directly affected by such decision, be administratively reviewed under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies or, if there is no such State law, by an entity (other than the State Agency) designated by the Governor.*

See text of Notice (Administrative Appeals and Judicial Review).

Section 1532.(b)(12)(E)—*Any person adversely affected by a final decision of a State Agency with respect to a certificate of need or an application for an exemption under section 1527(b) and a health systems agency if the decision respecting the certificate of need is inconsistent with a recommendation made by the agency to the State Agency with respect to the certificate of need may, within a reasonable period of time after such decision is made (and any administrative review of it completed), obtain judicial review of it in an appropriate State court. The decision of the State Agency shall be affirmed upon such judicial review unless it is found to be arbitrary or capricious or not made in compliance with applicable law.*

See text of Notice (Administrative Appeals and Judicial Review).

Section 1532.(b)(12)(F)—*There shall be no ex parte contacts—*

*(i) In the case of an application for a certificate of need, between the applicant for the certificate of need, any person acting on behalf of the applicant, or any person opposed to the issuance of a certificate for the applicant and any person in the State Agency who exercises any responsibility respecting the application after the commencement of a hearing on the applicant's application and before a decision is made with respect for it; and*

*(ii) In the case of a proposed withdrawal of a certificate of need, between the holder of the certificate of need, any person acting on behalf of the holder, or any person in favor of the withdrawal and any person in the State Agency who exercises responsibility respecting withdrawal of the certificate after commencement of a hearing on the Agency's proposal to withdraw the certificate of need and before a decision is made on withdrawal.*

*The requirements of this paragraph are in addition to the requirements of the other paragraphs of this subsection and may, as appropriate, apply to other review programs.*

This section requires State certificate of need programs to prohibit ex parte contacts between proponents or opponents of the issuance or withdrawal of a certificate, and any person in the State Agency who exercises responsibility for the review, from the time the State's hearing is held until a decision is reached.

Section 1532.(b)(13)(A)—*In the case of reviews by health systems agencies under section 1513(f) and by State Agencies under paragraphs (4) and (5) of section 1523(a)—*

*(i) Provision for applications to be submitted in accordance with a timetable established by the reviewing agency,*

*(ii) Provision for such reviews to be undertaken in a timely fashion, and*

*(iii) Provision for all completed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area to be considered in relation to each other (but no less often than twice a year).*

See text of Notice (Batching of Applications).

Section 1532.(c)—Criteria required by subsection (a) for health systems *agency, State Agency, and Statewide Health Coordinating Council* review shall include consideration of at least the following:

(1) The relationship of the health services being reviewed to the applicable HSP, *AIP, and State health plan.*

Section 1532.(c)(6)—*In the case of health services proposed to be provided—*

*(A) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services,*

*(B) The effect of the means proposed for the delivery of such services on the clinical needs of health professional training programs in the area in which such services are to be provided,*

*(C) If such services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes,*

*(D) The availability of alternative uses of such resources for the provision of other health services, and*

*(E) The extent to which such proposed services will be accessible to all the residents of the area to be served by such services.*

See text of Notice (Access).

Section 1532.(c)(8)—The special needs and circumstances of health maintenance organizations.

This provision requires that the special needs and circumstances of health maintenance organizations be used as a consideration in the development of review criteria. Since the language "for which assistance may be provided under Title XIII" has been deleted, this special consideration applies to all health maintenance organizations as defined in section 1531(8).

Section 1532.(c)(9)—In the case of a construction project—

(A) The costs and methods of the proposed construction, including the costs and methods of energy provision, and

(B) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project *and on the costs and charges to the public of providing health services by other persons.*

Section 1532.(c)(11)—*In accordance with section 1502(b), the factors which affect the effect of competition on the supply of the health services being reviewed.*

Under section 1502(b) health systems agencies and State Agencies are to take actions to allocate the supply of health services for which competition does not or will not appropriately allocate supply consistent with health systems plans and State health plans.

See text of Notice (Competition).

Section 1532(c)(12)—*Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with section 1502(b), and serve to promote quality assurance and cost effectiveness.*

Section 1532.(c)(13)—*In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed.*

Section 1532.(c)(14)—*In the case of existing services of facilities, the quality of care provided by such services or facilities in the past.*

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# Part VIII

# Department of Energy

## Economic Regulatory Administration

## Solar Energy and Renewable Resources; Voluntary Guidelines

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[Docket No. ERA-R-79-46]

### Voluntary Guideline for Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of Voluntary Guideline.

**SUMMARY:** On June 20, 1979, the President directed the Department of Energy (DOE) to develop and publish within 120 days a voluntary guideline, applying specifically to solar energy and renewable resources, for the ratemaking and other regulatory policy standards established under Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA).

On October 12, 1979, the Department of Energy (DOE) issued a Notice of Proposed Voluntary Guideline and Public Hearings for Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978 (PURPA) (44 FR 60236, October 18, 1979). This Notice summarizes in the Preamble the public comments DOE received and presents the voluntary guideline in its final form as the Appendix hereto.

**FOR FURTHER INFORMATION CONTACT:** Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 4016D, Washington, D.C. 20461, telephone (202) 254-8209. William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, telephone (202) 634-2170. Mary Ann Masterson, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2109, Washington, D.C. 20461, telephone (202) 376-4684.

**SUPPLEMENTARY INFORMATION:**

## I. Background.

On June 20, 1979, the President directed DOE to develop and publish within 120 days a voluntary guideline, applying specifically to solar energy and renewable resources, for the 11 standards established in Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*). These 11 standards apply to those electric utilities whose annual retail sales exceed 500 million kilowatt-hours in any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. The 11 standards, specified in detail by sections 111(d) and 113(b) of PURPA, are summarized as follows:

(1) *Cost-of-Service Standard:* Rates to each class of consumers shall be designed to the maximum extent practicable to reflect the costs of providing service to that class;

(2) *Declining Block Rates Standard:* Declining block energy charges that are not cost-based shall be eliminated;

(3) *Time-of-Day Rates Standard:* Time-of-day rates shall be established, if cost-effective, where costs vary by time-of-day;

(4) *Seasonal Rates Standard:* Seasonal rates shall be established where costs vary by season;

(5) *Interruptible Rates Standard:* Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers;

(6) *Load Management Techniques Standard:* Load management techniques shall be offered to consumers where practicable, cost-effective, reliable and useful to the utility for energy or capacity management;

(7) *Master-Metering Standard:* Master metering shall be prohibited or restricted for new buildings to the extent necessary to carry out the purposes of Title I of PURPA;

(8) *Automatic Adjustment Clauses Standard:* Automatic adjustment clauses shall not be allowed unless they provide efficiency incentives and are reviewed in a timely manner;

(9) *Consumer Information Standard:* All consumers shall receive a clear and concise explanation of applicable and proposed rate schedules, and annual consumption, upon request;

(10) *Procedures for Termination of Service Standard:* Service shall not be terminated except pursuant to certain enumerated procedures; and

(11) *Advertising Standard:* Political or promotional advertising shall not be charged to ratepayers.

PURPA requires State regulatory authorities and certain nonregulated electric utilities to consider the standards within the time frames, procedures and other requirements established by PURPA and to make a specific determination with respect to the implementation or adoption of each standard.

Section 131 of PURPA gives the Secretary of Energy the authority to prescribe voluntary guidelines respecting consideration of the standards. Congress intended that, in formulating these guidelines, the Secretary utilize a procedure involving significant input from concerned persons.

On August 20, 1979, DOE issued a Notice of Intent (44 FR 49998, August 24, 1979) setting forth, among other things, its intentions with respect to the exercise of its authority under PURPA to promulgate voluntary guidelines for the standards. On August 24, 1979, DOE issued a Notice of Inquiry (44 FR 50635, August 29, 1979) to solicit public comments for consideration in developing a guideline for applying the PURPA standards to solar energy and renewable resources.

On October 18, 1979, DOE published the proposed guideline in the Federal Register (44 FR 60236) and solicited public comment for consideration in the development of the final guideline. At a public hearing held in Kansas City, Missouri on November 29, 1979, testimony was received from 10 speakers. Testimony was also received from 10 speakers at a public hearing held in Washington, D.C. on December 4, 1979. In all, oral and/or written comments were received from 48 respondents. Among those responding were State public utility commissions (2), a State energy commission, electric utilities (19), public interest groups (4), industrial trade associations (3), electric utility industry associations (2), concerned individuals (11), energy research and development firms (3), a builder/developer, a magazine publisher, and a labor union.

DOE evaluated the proposed guideline in light of each of the comments received. When, after review, DOE determined that a comment warranted changes in the proposed guideline, the guideline was modified accordingly. When the rationale supporting the proposed guideline was stronger than the arguments challenging it, the guideline was left unchanged. Part III of the Preamble describes by section the more significant comments received and DOE's responses.

## II. Purpose

The purpose of this voluntary guideline is to assist State regulatory authorities and nonregulated utilities in their consideration of the ratemaking and other regulatory policy standards established under Title I of PURPA as they apply specifically to solar energy and renewable resource systems. The voluntary guideline addresses each of the 11 standards presented in sections 111(d) and 113(b) of PURPA.

The policy guidance set forth herein is voluntary in nature and is not legally binding. It constitutes DOE's opinions

on the ratemaking and other regulatory policy standards as they apply specifically to solar energy and renewable resource systems. Moreover, the guideline complements and is fully consistent with the other activities undertaken by DOE pursuant to PURPA.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines for the standards established under Title I of PURPA for electric utilities. The decisions made by State regulatory authorities and nonregulated utilities with respect to the standards can affect, in some cases significantly, the benefits obtained nationally and locally from solar energy and renewable resource systems. For this reason DOE believes that the guideline should be of interest to and useful to State regulatory authorities and nonregulated utilities in their consideration processes.

## III. Discussion of Comments and DOE's Response

The following is a discussion of comments received on the proposed voluntary guideline, and DOE's response to these comments. The discussion is organized according to general issues, coverage of the guideline, definitions, and issues relating to application of each of the 11 PURPA standards to solar energy and renewable resources.

### *A. General Comments*

(1) Voluntary Nature of the Guideline. Several commenters indicated that there was insufficient emphasis on the voluntary, nonbinding nature of the guideline. Further, some commenters suggested that the guideline did not recognize the flexibility and discretion traditionally accorded to State regulatory authorities and nonregulated utilities, particularly in the areas of rate design and cost-of-service.

The voluntary and nonbinding nature of DOE's guidance was clearly indicated in the proposed guideline and has been reemphasized in the final guideline. DOE recognizes, subject to the requirements contained in PURPA, the legal authority and discretionary powers of State regulatory authorities and nonregulated utilities over utility ratemaking and regulatory policy. PURPA requires State regulatory authorities and certain nonregulated utilities to consider the 11 standards within the time frames, procedures and other requirements established by PURPA and to make a specific determination with respect to the implementation or adoption of each standard.

(2) Specific Guidance in the Guideline. Several commenters indicated that the guideline should include specific guidance—in the form of description and analysis—on factors such as marginal costing methodologies, revenue related rate adjustment methodologies, criteria for identifying or assessing rate discrimination, and quantification of nonfinancial costs. On the other hand, one commenter suggested that the guideline should be more results oriented rather than procedurally oriented.

In this guideline DOE's intent is to provide general policy guidance. Voluntary guidelines which DOE plans to issue on several of the PURPA standards individually will treat the standards in more depth. Furthermore, DOE intends to prepare technical assistance materials and studies which will treat specific issues relating to the PURPA standards in more detail than provided in the guideline.

(3) Consistency of the Guideline With Other Federal Laws and Rules. Some commenters indicated that certain provisions in the guideline are in conflict with or are not consistent with other Federal laws and rules—specifically, various sections of PURPA, the Federal Power Act, and final or proposed rules and regulations issued by the Federal Energy Regulatory Commission (FERC) on sections 133 and 210 of PURPA. Some of these comments addressed conflicts or inconsistencies in definitions and are treated in section III.C. of the Preamble. One commenter indicated that section E of the guideline (cost-of-service) is in direct conflict with FERC section 133 rules, although no specific conflicts were cited. Other commenters suggested that since the section 133 rules did not advocate a specific costing methodology, the guideline should reaffirm the discretion of State regulatory authorities and nonregulated utilities in the choice of an appropriate cost methodology. Another commenter viewed as inconsistent DOE's advocacy of marginal cost pricing in the guideline and the section 133 rules which require collection of both marginal and embedded cost data.

A commenter felt the discussion of the information requirements of Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*, was inappropriate in the treatment of the advertising standard. Another commenter suggested that rates for solar energy and renewable resource backup service should include provisions for "avoided costs" as described in the proposed PURPA section 210 rules as a means of providing solar discounts.

After reviewing these comments DOE has not identified any conflicts which warrant changes in the voluntary guideline. With respect to FERC section 133 rules, DOE does not consider there to be any inconsistency between the FERC requirements to collect both embedded and marginal cost data and DOE's advocacy of marginal costing principles. Furthermore, section 115(a) requires that marginal costing principles be taken into account in considering the cost-of-service standard. DOE can simultaneously recommend marginal costing yet recognize that it is ultimately the State regulatory authorities' and nonregulated utilities' decisions as to which costing methodologies are implemented.

The reference to NECPA merely calls attention to the information requirements concerning solar energy and renewable resources. DOE believes that it is appropriate to include these references in the guideline for purposes of coordination.

This guideline does not apply to situations regarding either the sale of electric energy to qualifying cogenerators and small power producers or the purchase of electrical energy from such facilities since they are subject to the provisions of section 210 of PURPA and any rules promulgated by FERC under section 210.

(4) Separate Application of Marginal Cost Pricing to Solar Energy and Renewable Resource System Auxiliary Power. Several commenters expressed concern that application of marginal cost pricing principles solely to solar energy and renewable resources customers and not to other utility customers could be discriminatory and could inhibit the market penetration of solar energy and renewable resource systems. Some of these commenters indicated that such separate treatment could penalize the user of solar energy and renewable resource systems.

DOE agrees with this concern. Both in the proposed and the final forms, the guideline states that marginal cost pricing should apply to all customers, not only to solar energy and renewable resource customers. As discussed more fully in section III.D. (1) below, DOE believes that all rates for electric utility customers should be based on marginal costs. Such rates are nondiscriminatory, promote efficient energy use decisions by all customers, and provide an environment in which solar energy and renewable resources are neither subsidized nor penalized by electric utility rates.

Another group of commenters expresed the view that the guideline was too broad and should have focused exclusively on issues relating to solar energy and renewable resources. DOE's

advocacy of marginal cost-based rates for all customers was cited specifically. The principal purpose of the guideline, as directed by the President, is to address the PURPA standards as they relate to the implementation of nondiscriminatory rates for solar energy and renewable resources. Rate discrimination can be assessed from an economic perspective only with respect to the costs incurred in providing a kilowatt-hour or a kilowatt of electricity. For this reason the guideline advocates the use of marginal cost pricing as a means of designing rates which are nondiscriminatory not only to solar energy and renewable resource customers but also to all other customers. The discussions of certain standards in the guideline reflect this generic consideration.

(5) DOE's Authority to Issue the Guideline. Several commenters questioned DOE's authority to issue a guideline applying the 11 PURPA standards to solar energy and renewable resources. They asserted, among other things, that (1) issuance of this guideline exceeds the scope of section 131 of PURPA by establishing a twelfth standard; (2) the presidential directive lacks the specificity necessary for the development of a meaningful guideline; and (3) the proposed solar guideline, without adequate notice and public participation, becomes the generic guideline for each of the 11 PURPA standards.

Section 131 of PURPA provides that voluntary guidelines prescribed by the Secretary "may not expand the scope or legal effect" of the PURPA standards or establish additional standards. The proposed guideline does not expand the scope or legal effect of the PURPA standards; neither does the guideline establish additional standards for solar energy and renewable resource systems. The guideline addresses the 11 PURPA standards in the context of solar energy and renewable resource use. It does not advocate that solar energy and renewable resource systems be accorded special treatment outside the scope of the PURPA provisions relating to the standards. It is DOE's opinion that the guideline carries out the intent of the Presidential directive; that is, to provide guidance for consideration of the PURPA standards with particular reference to solar energy and renewable resources.

Finally, the solar guideline is not intended to take the place of generic guidelines respecting each of the 11 PURPA standards. While the guideline necessarily addresses generic consideration of the PURPA standards, its primary purpose is identifying the implications of each of the PURPA standards for the introduction and use of solar energy and renewable resources within a utility's service area. DOE plans to issue generic guidelines respecting certain of the PURPA standards, including cost-of-service. Public participation in the form of written and oral comments will be a necessary part of this process.

*B. Coverage of the Guideline*

A few comments were received on issues relating to buy-back rates for utility purchases of electricity generated by dispersed solar energy and renewable resource systems. Buy-back rates are not addressed in the final guideline. This guideline does not apply in situations involving either the sale to or purchase of electric energy by an electric utility from qualifying cogenerators and small power producers covered by the section 210 rules promulgated by the FERC. Section B, "Coverage of the Guideline," in the appendix has been changed to reflect this. As indicated in the proposed guideline, DOE has, in the past, submitted its opinions to FERC on cost-of-service and buy-back rates.

*C. Definitions*

(1) Inclusion of Waste Heat in the Definition of Solar Energy and Renewable Resources. One commenter indicated that waste heat generated by air conditioning/refrigeration systems should be included in the definition of solar energy and renewable resources presented in section C of the guideline, since waste heat can be used—among other possible end-uses—to heat water for commercial establishments. DOE believes that the productive use of waste heat should be encouraged to the extent that it increases the efficiency of energy use and promotes conservation. However, because waste heat is a by-product of energy consumption it does not qualify as a solar energy or renewable resource. Accordingly, the definition of solar energy and renewable resources has not been changed to include waste heat.

(2) Inclusion of Air-Source Heat Pump Systems in the Definition of Solar Energy and Renewable Resources. A second commenter observed that the definition of solar energy and renewable resources would cover the use of air-source heat pumps since the definition includes "energy received by the sun indirectly in the form of stored radiant energy in . . . the atmosphere. . . ." DOE does not consider mechanical, air-source heat pumps to be included in the definition of solar energy and renewable resources.

(3) Conflict in the Guideline Definition of Class With the Definition of That Term in Other Federal Laws and Regulations. A third commenter indicated that the definition of class used in the guideline was in conflict with the use of the term in the Federal Power Act, PURPA, and the PURPA section 133 and section 210 rules. Since the guideline definition of class is identical to the PURPA definition of that term, DOE does not agree that there is any conflict in the use of the term "class."

*D. Cost-of-Service Standard and Rate Design Standards*

A majority of the comments on the guideline addressed DOE's treatment of the cost-of-service standard and the rate design standards. Because the issues addressed are closely related, the comments on these standards and DOE's responses have been combined in this section. The discussion is organized as follows:

(1) Advocacy of Marginal Costs as a Basis for Ratemaking.
(a) General comments.
(b) Economic efficiency.
(c) Nondiscriminatory rates.
(d) Energy savings.
(2) Application of Marginal Cost Pricing Principles.
(a) General comments.
(b) Measurement of marginal costs.
(c) Adjustments to marginal costs.
(d) Volatility of marginal costs and revenue recovery.
(3) Structure of Marginal Cost-Based Electric Rates.
(a) General comments.
(b) Time-of-day and seasonal rates.
(c) Interruptible rates.
(d) Time varying fuel costs.
(4) Customer Class.

(1) Advocacy of Marginal Costs As a Basis for Ratemaking.

(a) *General comments.* Several comments were received relating to DOE's advocacy of the use of marginal costs as the cost basis for electric ratemaking. Several commenters agreed with DOE's position. However, some commenters felt that advocacy of a single costing approach is not consistent with section 115(a) of PURPA and restricts or usurps the discretionary powers of State regulatory authorities and nonregulated utilities in making such determinations. Related to this, some commenters indicated that the guideline should allow State regulatory authorities and nonregulated utilities maximum flexibility in specifying appropriate costing methodologies and other factors important to ratemaking.

Other comments were received indicating that a principal purpose of the guideline—the establishment of nondiscriminatory rates for solar energy and renewable resource system backup power—can be accomplished by basing rates on costs other than marginal costs. Several commenters indicated that application of marginal cost pricing to solar energy and renewable resource backup power, but not to other classes of service, could result in discriminatory, higher rates for solar customers than for other customers.

As noted earlier, the guideline should not be interpreted as advocating that marginal cost-based rates should be applied only to customers using solar energy or renewable resource systems. Rather, DOE believes that pricing electricity to all customers based on marginal costs will lead to end-use conservation of electricity, efficient use of scarce fuels and capacity by utilities, and equitable rates to customers (i.e., the three purposes of Title I of PURPA). The use of average, or embedded costing principles is less likely to promote the PURPA goals to the same extent. Moreover, nondiscriminatory rates for solar energy and renewable resource customers are, in an economic sense, most likely to occur if all rates are based on marginal costs.

The adoption of marginal costing principles is consistent with section 115(a) of PURPA. Although Title I of PURPA does not specifically mention marginal costs (nor does it mention accounting methods or embedded costs), DOE interprets section 115(a) as requiring consideration of marginal costing principles. Section 115(a) requires that when a State regulatory authority or nonregulated utility prescribes methods for undertaking cost-of-service determinations, it must take into account the extent to which total costs to an electric utility are likely to change if additional capacity is added to meet peak demand relative to base demand, and if additional kilowatt-hours of electric energy are delivered to electric consumers.

In addressing these marginal costing principles in a voluntary guideline, DOE is not restricting or usurping the authority of State regulatory authorities and nonregulated utilities in determining what costing methodologies or other factors should be used to design rates for utility services within their jurisdictions. Under PURPA, State regulatory authorities and nonregulated utilities must consider the use of marginal costing principles in making their considerations and determinations on the cost-of-service standard. Moreover, for the reasons stated in section E of the guideline and immediately below, marginal costing principles are most likely to be consistent with the purposes of PURPA and the objective of nondiscriminatory rates for solar energy and renewable resource customers.

(b) *Economic efficiency.* As discussed in section E of the proposed guideline, the efficient allocation of scarce resources in a market economy is promoted when prices for goods reflect the value of the scarce resources used to produce those goods. In order for scarce fuels and capital to be used efficiently, consumers of electricity should face a price which reflects to the maximum extent practicable the cost of resources used to produce one more or one less kilowatt-hour or kilowatt. That is, they should face a price which reflects the marginal cost of electricity.

Prices which equal the average or embedded cost of electricity do not reflect the cost of an additional kilowatt-hour or kilowatt unless the average cost of production happens to equal the marginal cost of production. Where marginal costs are equivalent to embedded costs, both average and marginal cost-based rates will meet the three purposes of PURPA and be nondiscriminatory in an economic sense. Under many circumstances, however, average and marginal cost-based rates will be different. Average or embedded cost pricing will lead to electricity rates which reflect the accounting costs of (a) past utility investment decisions, and (b) average fuel costs for a billing period, not the current costs actually incurred at any moment in providing one more kilowatt or kilowatt-hour of electricity.

An example may be appropriate. If high cost imported oil is required to generate an extra kilowatt-hour during a period of peak utility demand, the consumer's decision to purchase or not to purchase that kilowatt-hour should be guided by a price which reflects the cost of the oil. Prices which reflect the marginal cost will make electricity consumers aware of the cost implications of their decisions and provide them with strong incentives to conserve scarce fossil fuels by reducing their peak period electricity use. Embedded cost-pricing, which averages the highest fuel costs of the peak period with lower fuel costs (possibly from baseload capacity which is either coal or nuclear), will undervalue electricity in the peak period. More peak period electricity will be consumed than if prices had been based on marginal costs and the need to import those scarce fossil fuels used to generate electricity will be greater. Moreover, offpeak electricity prices, which will also be based on average fuel costs, will not reflect the lower cost of offpeak energy which comes from baseload plant. As a consequence, consumption of offpeak energy will be discouraged by a rate which exceeds the cost of providing that energy.

In addition to energy charges which are too low during the peak period, embedded cost-pricing may also lead to demand charges which are unnecessarily high. Under embedded cost ratemaking, demand costs are determined by averaging the costs of all types of capacity—peaking units, cycling units, nuclear units, coal units, and others. Such an approach fails to recognize the substantial fuel cost savings associated with adding baseload coal and nuclear units. As a result, it implies that capacity is expensive when, in fact, that capacity will reduce consumption of scarce fossil fuels and, in many cases, reduce the total value (and the present value) of consumer rates over the life of the plant.

(c) *Nondiscriminatory rates.* Marginal costs are generally higher in periods of "peak" electric demand (particularly when scarce fossil fuels are used for peak generation) and lower during "offpeak" demand periods. Electric rates are nondiscriminatory when they reflect these variations in cost. For rates to be nondiscriminatory in an economic sense, customers who consume power at the same time should pay the same rates for electricity, subject to cost variation with respect to the characteristics of service received (e.g., voltage level), and the cost-effectiveness of metering and billing consumption by time-of-day.

By basing electricity prices on marginal costs, all customers pay for electricity in proportion to the costs of resources used to produce the electricity. Consumers who use electricity generated by oil-fired units during peak periods pay the cost of imported oil rather than having these costs averaged across the kilowatt-hours consumed by all customers. No individual consumer is "favored," nor is his or her electricity consumption subsidized by others. Economic discrimination, whether favorable or unfavorable to solar energy and renewable resources, does not occur under marginal cost pricing.

For a number of reasons, a precise application of marginal cost pricing for setting electric rates may not be possible. In some cases, the development of rate structures which reflect hourly and daily differences in marginal costs may not be cost-

effective. Rate design requires informed judgment by regulatory authorities and utilities in the consideration of equity issues and other practical matters. However, as will be discussed in section III.D.(2), discrimination can be minimized by designing rate structures with characteristics which deviate least from the characteristics of the schedule of marginal costs.

(d) *Energy savings.* Several comments were received addressing the effects of marginal cost pricing and the introduction of solar energy and renewable resource systems on conservation of electric energy and scarce fossil fuels. A few commenters suggested that there was little or no evidence that marginal cost pricing results in end-use conservation of electricity. One commenter observed that low offpeak electric prices under a time-of-day rate structure could result in an *increase* in electric usage.

Even in cases where only a small reduction in electric usage occurs, significant savings of scarce fossil fuels can result. Marginal cost-based time-of-day prices shift usage from peak demand periods when high fuel cost peaking units are used to generate electricity to offpeak demand periods when baseload units are relied upon for generation. This results in increased utilization and/or expanded capacity of baseload plant. For utilities which use primarily coal and nuclear for baseload generation and gas and oil for peaking generation, there are direct gas and oil savings. For utilities which use gas or oil as a baseload fuel, an increase in baseload capacity requirements can provide additional incentives for building new nuclear- or coal-fired capacity to displace oil usage and lower the total value (and the present value) of consumer rates over the life of the plant.

Finally, the principal objective of marginal cost-based electricity rates is not the minimization of electricity consumption but the economically efficient use of electricity by consumers. Solar energy and renewable resource systems with electric backup may increase electricity consumption if they replace oil heating. However, if the increased electricity consumption is provided from coal or nuclear generating plants, oil imports would be displaced by a plentiful domestic fossil fuel.

Another commenter indicated that pricing electricity at marginal costs could lead to solar auxiliary systems powered by natural gas and oil rather than electricity. In this way, increased market penetration of solar energy and renewable resource systems could lead to increased oil and gas use. This might possibly occur, particularly if oil and gas prices do not reflect marginal costs. However, oil prices are being deregulated and wellhead prices of gas are due to be deregulated under the Natural Gas Policy Act of 1978. Both of these changes should result in a better relationship between prices and marginal costs for these fuels. Moreover, even in the short run, marginal cost-based time-of-day rates could make the use of offpeak electricity more competitive with gas and oil as a backup source of energy. The lower capital costs for electric backup systems and the general availability of electricity will also provide incentives for installation of electric rather than oil and gas backup systems.

One commenter indicated that the displacement of conventional electric end-use technologies with solar or renewable resource technologies would not necessarily decrease oil and gas usage in electricity generation, but could displace coal and nuclear-powered generation instead. This comment is accurate for utilities which have very little oil and gas generation, and section E.3 of the guideline has been revised to indicate this possibility. However, for other utilities, the displacement of conventional electric end-use technologies with solar energy and renewable resource technologies would tend to reduce utility consumption of these scarce fossil fuels. Furthermore, the use of storage with solar energy and renewable resource systems will shift loads from peak demand periods to offpeak demand periods and tend to advance the PURPA purpose of efficient use of utility resources.

(2) Application of Marginal Cost Pricing Principles.

(a) *General comments.* Several commenters addressed issues associated with the application of marginal cost pricing principles, particularly with regard to the measurement of marginal costs and constraints on the use of marginal costs in electric rate design. DOE recognizes that the realities of utility ratemaking and market conditions preclude a strict, precise application of marginal cost pricing in setting electric rates.

Electric utility ratemaking will always involve judgments, practical considerations and a careful review of the impacts of alternative rate designs. These judgments and considerations should, however, be applied with the aim of furthering the purposes of PURPA—end-use conservation, utility efficiency, and equity.

(b) *Measurement of marginal costs.* Comments were received indicating that there is little consensus on the definition of marginal cost and a lack of consistency in the application and results of various marginal costing methodologies. Two much discussed issues are whether short run or long run marginal costs are the more appropriate measure and how to quantify short and long run marginal costs. In concept, the more appropriate measure will depend upon the characteristics of the utility system under study. Short run marginal costs would be more appropriate for systems which have more generating capacity than required to meet reliability targets and/or for which the mix or generating capacity is perfectly adjusted to demand (i.e., the system is in equilibrium). For systems which are short of capacity, either an estimate of short run marginal costs which includes a congestion charge or an estimate of long run marginal costs which reflects both the congestion costs of inadequate capacity and operating and maintenance costs would be the more appropriate measure.

In practice, the distinction may be of little importance if short run and long run marginal costs do not differ by much or if the *structure* of rates based on long run marginal costs approximates the *structure* of rates based on short run marginal costs. Experience suggests that one or the other of these conditions is likely to hold. DOE has included the elements of a definition of marginal cost in section E of the guideline.

In general, DOE does not believe that debates concerning the appropriate definition of marginal costs should impede or prevent the useful application of marginal costs in rate design. Controversy exits over many concepts used in utility rate regulation. For example, the debates over how to determine the cost of equity capital to a utility do not prevent or make inappropriate rate of return regulation. Similarly, debates over what items should be allowed in a utility's rate base do not prevent the definition of a rate of return on rate base for use in determining utility revenue requirements.

Furthermore, different estimates of marginal costs are attributable primarily to the features of the different methods used to calculate marginal costs and the application of these methods, not to differences in definitions of marginal costs. Many marginal costing methodologies are of recent vintage and are still evolving. As these methodologies evolve, some inconsistencies will be eliminated and the effects of remaining inconsistencies on estimates of marginal costs will be better understood.

To date, several utilities have conducted or have commissioned the

conduct of marginal cost studies and have designed rates based on these studies. The choice of method should be at the discretion of the State regulatory authority or nonregulated utility. While comparative evaluations of alternative methods for calculating marginal costs have been made (e.g., and evaluation by the California Energy Commission and an evaluation of four methodologies prepared for the Electric Power Research Institute), there is no consensus on a "best" method. The choice of method must reflect many factors, including the ability of the method to model specific operating characteristics of utilities and their resulting cost structure (e.g., the use of hydro power as peaking generation), data requirements and data availability, and costs of application. Section E.2. of the guideline has been added to reflect this position.

(c) *Adjustments to marginal costs.* As mentioned above, the application of marginal cost pricing to electric utilities may require adjustments to marginal costs in developing rates for implementation. These adjustments relate principally to market imperfections which either are introduced by the regulatory process or are not accounted for in the measurement of marginal costs.

Commenters specifically cited the following related issues: (i) marginal costs must be adjusted to rate levels consistent with an embedded cost-based revenue requirement and this adjustment must be done subjectively; (ii) inconsistencies in the application of marginal cost principles between electric and other energy markets will result in losses in efficiency if rates are not adjusted to reflect these inconsistencies; and (iii) results of marginal costing methodologies which measure only marginal private (utility) costs must be adjusted to reflect marginal social costs (real resource costs).

(i) Revenue related rate adjustments. Several commenters asserted that rate adjustments reflecting embedded cost-based revenue requirements result in rates which are no longer equal to marginal costs, and which are, therefore, discriminatory. One commenter noted that such rate adjustments would inject an "intolerable measure of subjectivity" into ratemaking. Several commenters had views on various specific methods of making rate adjustments (e.g., application of the inverse elasticity rule), and some commenters suggested that few data were available to evaluate these alternative methods. One commenter interpreted the guideline as suggesting that the discriminatory nature of revenue-related rate adjustments should be reviewed solely in terms of the consequences with regard to solar energy and renewable resources. Another commenter suggested that rate adjustments should not discourage the use of solar energy and renewable resource systems in favor of other uses such as thermal energy storage systems.

Under rate of return regulation, it may be necessary in many cases to adjust marginal costs up or down in order to obtain rates which will recover an embedded cost-based revenue requirement. The need to make such adjustments should not limit the application of marginal costing principles in determining the structure of electric rates. Marginal costs for some utilities may result in small amounts of excess revenue. Adjustments to rates to eliminate these excesses will result in small changes and have insignificant effects on consumers' decsions to invest in solar energy and renewable resource systems. In addition, rate adjustments made to meet a revenue requirement can be done in a manner which balances the efficiency and conservation goals of PURPA with the equity goal and applicable State laws.

However, any adjustments to marginal costs should be made in recognition of the impacts of rate structures on scarce fuel usage, peak demands, rate stability, and consumers. Adjustments which lead to reduced reliance on scarce fossil fuels, greater rate stability and which result in gradual rather than abrupt changes in rates are preferred to rate adjustments which do not promote such goals. In general, for cases in which rate *levels* must be consistent with embedded cost-based revenue requirements, DOE advocates that rate *structures* be determined based on marginal costs, and that rates reflect the pattern of marginal costs to the maximum extent practicable (i.e., in a manner which results in the least deviation from the structure of marginal costs).

Judgment and subjective considerations have always influenced rate design decisions made under embedded cost procedures. The guideline emphasizes that State regulatory authorities and nonregulated utilities should attempt, in making adjustments to marginal cost-based rates, to minimize any possible rate discrimination not only with regard to solar energy and renewable resource users but also with respect to other electric customers. Section F.4. of the guildline has been revised to reflect this emphasis.

(ii) Inconsistency in the application of marginal cost pricing among energy markets. Some commenters suggested that the inconsistent application of marginal cost pricing among energy markets will result in allocative inefficiencies through distortion of fuel use choices. Specifically, the contention is that if electricity is priced at marginal cost while gas, oil and coal—substitutes and complements for electricity—are not, consumers will be given improper price signals and will substitute other energy sources for electricity in an economically inefficient manner. With regard to solar energy and renewable resources, this problem could manifest itself in a relative increase in gas and oil backup systems.

These commenters proposed either that marginal cost prices for electricity should be adjusted to counter this problem, or that marginal cost pricing should be abandoned. DOE does not believe that a significant inconsistency problem associated with marginal cost pricing of electricity has been demonstrated. Currently coal prices are not subject to governmental price controls and prices for gas and oil are moving toward marginal costs due to decontrol. Common sense and sound economic policy suggest that rather than adjust electric rates to accommodate remaining market imperfections in all energy markets, these imperfections should be corrected.

(iii) Measurement of marginal social costs. Several commenters observed that social costs such as air pollution and decreased safety should be reflected in electricity rates. As a result of both Federal and State environmental and safety regulation, some very important social costs are taken into account when electric utility rates are set. The marginal costs that a utility incurs in producing electricity will reflect the social costs of pollution abatement and the maintenance of public health and safety. The opportunity to include other social costs in electricity rates depends upon the ability to measure these costs precisely. However, at this time precise measurement of these costs does not appear to be feasible.

(d) *Volatility of marginal costs and revenue recovery.* A commenter asserted that, under marginal cost pricing, a utility would be less able to recover allowed revenues because marginal costs vary much more than embedded costs.

Marginal costs may vary more than embedded costs since changes in conditions affecting costs (particularly

changes in electric usage patterns) will be reflected more quickly and fully in marginal cost calculations than in embedded cost calculations. However, rather than being a disadvantage, this can be a benefit. Stability of utility earnings is improved with marginal cost pricing because changes in revenues, brought about by a change in sales, are more closely related to the changes in costs which also occur as sales change.

(3) Structure of Marginal Cost-Based Electric Rates.

(a) *General comments.* Several comments were made on the treatment of time-of-day, seasonal, and interruptible rates in the guideline. Some commenters suggested that nondiscriminatory rates for solar energy and renewable resources could be designed based on (i) inverted block rate structures, or (ii) rates that utilities use to buy electricity from small power producers and cogenerators.

Several rate structures are consistent with marginal cost pricing. Where marginal costs vary by time-of-day, DOE proposes that time-of-day rates be implemented where cost-effective. However, where utility costs do not vary significantly by time-of-day or where implementation of time-of-day rates otherwise would not be cost-effective, other marginal cost-based rate structures may be appropriate. For example, where utility marginal costs vary seasonally, rates should reflect this cost variation.

While the PURPA rate design standards do not specifically address inverted block rates, they, along with other innovative rate forms which are made to reflect marginal costs, can be consistent with the purposes of PURPA.

As indicated previously this guideline does not address situations regarding either the sale of electric energy to qualifying cogenerators and small power producers or the purchase of electric energy from such facilities if the sale and purchase are subject to the provisions of section 210 of PURPA and FERC regulations.

(b) *Time-of-day and seasonal rates.* Several commenters indicated that time-of-day and seasonal rates can be developed from embedded costs and do not necessarily have to be based on marginal costs of service.

Time-of-day and seasonal rates can be developed without reference to marginal costs, but unless—by coincidence—these rates happen to reflect marginal costs-of-service, there are no reasons in theory or in practice to assume that they will achieve the purposes of PURPA or result in nondiscriminatory rates for solar energy and renewable resource customers. In general, embedded cost rates cannot be determined to be consistent with the purposes of PURPA or be deemed nondiscriminatory unless they are compared with and found similar to marginal cost-based rates.

(c) *Interruptible rates.* One comment received indicated that the discussions of interruptible rates in the proposed guideline extended the coverage of the PURPA standard on interruptible rates from commercial and industrial customers to solar energy and renewable resource customers more generally. Another commenter suggested that offering interruptible rates to solar energy and renewable resource customers but not to other customers would be discriminatory.

DOE did not intend to extend the coverage of the interruptible rate standard in PURPA. Section F.3. of the guideline has been revised to emphasize that public utility commissions and nonregulated utilities are required by PURPA to consider the interruptible rate standard only with respect to commercial and industrial customers.

(d) *Time varying fuel costs.* Several commenters indicated that the determination of time-differentiated fuel surcharges on a marginal cost basis would require costly analyses, administrative procedures, and regulatory procedures. This is due in large part to the variability of fuel costs and purchases from period to period and the need to adjust marginal cost-based fuel surcharges so as not to over-collect allowable costs. One commenter suggested that a time-differentiated, cost-based fuel surcharge might produce no major change in the price signals provided to customers. Another commenter indicated that billing for time-differentiated fuel adjustment clauses would require time-of-day metering and additional administrative expenses and may not be cost-effective. The commenter also pointed out that if time-of-day metering can be justified only for certain customers, application of time-differentiated fuel adjustment clauses might lead to intra-class or inter-class discrimination and would change the relation between rates and marginal costs.

DOE agrees that a time-differentiated fuel adjustment clause may not be cost-effective if frequent and costly analyses and special metering are required to implement it. In addition marginal-based fuel adjustment clauses could lead to over-collection of revenue. DOE recommends that where time-of-day rates based on marginal costs are used, the fuel cost surcharge be structured in a manner so as to preserve the economic significance of time of day rates based on marginal costs to the maximum extent practicable between complete rate investigations. In addition, DOE believes that fuel adjustment surcharges should be rolled into base rates on a timely basis. Section F.6. has been revised accordingly.

(4) Customer Class.

Many commenters asserted that solar energy and renewable resource customers should not be put into separate customer classes. The commenters felt that this would create the potential to discriminate against solar energy and renewable resource customers, for example, by applying marginal cost-based rates to these customers, but not to other customers. Several commenters also noted that sufficient load data for solar energy and renewable resource customrs are not presently available to determine whether separate classes are warranted.

Both the proposed and the final guidelines state that the creation of a separate class for solar energy and renewable resource customers should be done with caution and only under special conditions and that these customers should be treated the same as other customers, in that marginal costing principles should be used as the basis for rate design for all customers. Marginal cost-based rates will minimize the need for separate customer classes where these classes would otherwise reflect diverse customer load patterns. The principal cost differences between customers relate largely to the voltage level at which they are served and the resulting level of costs for serving them. Marginal cost-based rates in general, and time-of-day rates specifically tend to produce electric bills for all customers in direct proportion to the costs of serving them. Thus, solar energy and renewable resource customers could be billed using the same marginal cost-based rate as all other customers at the same voltage level without any discriminatory consequences for or against solar energy and renewable resource users.

For these reasons, it is DOE's position that solar energy and renewable resource customers should not be placed in a separate rate class unless analysis indicates that their load characteristics are substantially differet from the rest of the customer class of which they normally would be a part, and these different load characteristics have a concomitant impact on the cost-to-serve. Section F.5. of the guideline has been revised to indicate that the creation of separate rate classes may not be warranted in the near-term, given the paucity of backup load data and a lack of evidence that discriminatory

treatment would result if solar energy and renewable resource customers are included in an existing rate class. However, where backup load data are available in sufficient quality and quantity to demonstrate that costs of services are significantly different, the guideline offers several conditions which should be considered in establishing separate classes for solar energy and renewable resource customers.

DOE agrees that existing electric load data for solar energy and renewable resource systems may be of limited use in specific utility rate design analyses because: (i) load monitoring programs are new; (ii) data are available only for short time periods from most programs; and (iii) there are uncertainties regarding the representativeness and reliability of the data. However, electric auxiliary load data for solar energy and renewable resource systems are currently being developed and evaluated through publicly- and utility-sponsored demonstration projects and research programs. In addition, solar energy system backup load data will eventually be made available through the National Solar Data Bank.

*E. Load Management Standard*

(1) Energy Conservation. One commenter suggested that onpeak energy conservation rather than load shifting should be promoted for energy constrained utilities. Even though solar energy and renewable resource systems with chargeable storage do shift load, they also use more energy overall partially because of standby losses. The commenter further asserted that only solar energy and renewable resource systems which display peak coincident operation will benefit the customer and utility.

DOE believes that within the definition of load management provided in section 3(8) of PURPA, and the criteria established in sections 111(d)(6) and 115(c), solar energy and renewable resource systems with chargeable storage capability may provide substantial load management and energy conservation benefits. In many cases these solar energy and renewable resource systems will also permit the overall conservation of scarce fossil fuels. However, since the constraints on utilities are different, and the operational characteristics of solar energy and renewable resource systems vary, the potential effects on utility systems should be considered before advocating a particular solar energy and renewable resource system as a load management option.

(2) Impacts on Capacity. One commenter suggested that the impacts of solar energy and renewable resources systems on generating capacity deferral and distribution plant should be assessed.

DOE agrees that this is an important criterion in an evaluation of the load management potential of solar energy and renewable resource systems. An additional item, "Impact on Generating Capacity Deferral and Distribution Plant," has been added to the list of evaluation criteria in section F of the guideline.

(3) Cost-Effectiveness Analysis. One commenter asserted that the criterion in the guideline for cost-effectiveness of load management techniques is too rigid and suggested that the cost-effectiveness analysis must be compatible with ratemaking considerations.

DOE disagrees with this comment since the criterion which is taken directly from the language of section 115(c) of PURPA is considered appropriate and sufficiently flexible.

(4) Interruptible Electric Service. As mentioned above in (3)(c), *Interruptible Rates,* DOE did not intend to extend the interruptible rate standard to include other than commercial and industrial customers. However, DOE considers interruptions to customer requirements for electricity to be a viable load management technique for all customer classes and one which is consistent with the definition of load management provided in section 3(8) of PURPA. Rates which are based on the cost-of-service for providing interruptible power can be an effective way (i) to provide incentives for solar energy and renewable resource investment; (ii) to manage auxiliary loads; and (iii) to limit the effects of auxiliary loads on utility system peaks. In comparison to other rate designs, such rates may produce lower electric bills for solar energy and renewable resource customers, thus providing considerable incentive for investment in these systems. To the extent that these rates promote the use of solar energy and renewable resources, conservation of scarce fossil fuels may result.

For these reasons and because utilities have used this type of load management or interruptible rates in the residential sector to control water heating and air conditioning loads, these rates may be appropriate and might usefully enter into the consideration of rates for residential, agricultural, public or other users of solar energy and renewable resources.

*F. Master Metering Standard*

(1) No Exclusions. One commenter suggested that the guideline should not provide an exemption from the standard for centralized solar energy and renewable resource building heating and cooling systems, since this would result in an inappropriate price signal for customers.

The guideline does not provide a special exemption from the standard for centralized solar energy and renewable resource building heating and cooling systems but rather points out that in such cases the benefits of separate metering may not exceed the costs. For example, greater conservation might result from a master-metered solar energy and renewable resource system with a central energy storage backup system than from separate metering without solar energy and renewable resource systems. Moreover, the guideline recommends that separate metering should be considered for all electricity end-uses which do not involve the centralized building heating and cooling system. Such separate metering would preserve at least in part an appropriate price signal to the consumer.

(2) Data Availability. One commenter suggested that there are insufficient performance and cost data on centralized solar energy and renewable resource building heating and cooling systems to support the standard.

DOE recognizes the paucity of operational data for these systems, but believes that the guideline allows State regulatory authorities maximum flexibility in implementing this standard.

(3) Storage Devices. One commenter suggested that coverage of the standard should be extended to centralized energy storage devices, whether they are used in conjunction with solar energy and renewable resource systems or not. Although cost-effective centralized thermal energy storage applications also may not be possible with separate metering, they are not included under the coverage of this guideline.

(4) Proof of Cost-Effectiveness. One commenter suggested that the guideline indicate that the developer—and not the utility—should be required to show cause whether a variance on the master metering standard is warranted. In DOE's opinion, this aspect of the subject is beyond the intended scope of the guideline.

*G. Automatic Adjustment Clauses Standard*

Several critical comments were received from utilities on the treatment

of the automatic adjustment clauses standard in the proposed guideline. Some indicated that PURPA proceedings were not the proper arena to assess centralized solar energy and renewable resource technology alternatives but that, for example, capacity planning proceedings were more suitable. One comment indicated that the guideline expanded the scope of sections 113(b)(2) and 115(e) of PURPA by conditioning approval of automatic adjustment clauses on the consideration of solar and renewable resource technology alternatives. Another commenter noted that the level of resources which utilities would have to commit to such considerations would be high. Related to this, commenters noted that the basic cost-effectiveness of centralized solar energy and renewable resource technologies had not been established, and to do so would be very expensive and time-consuming. Another commenter suggested that delaying approval of automatic adjustment clauses pending the development of information on and the consideration of solar energy and renewable resource technology alternatives could be counterproductive to national energy policies by increasing costs or imposing other difficulties on a utility's ability to attract capital to build, for example, oil replacement capacity. Further, it was suggested that the proponents of solar energy and renewable resource alternatives—and not the utilities—should bear the burden of proof of the benefits and costs of these alternatives.

Even though Federal- and utility-sponsored projects demonstrating the technical and economic feasibility of centralized solar energy and renewable resource technologies are ongoing, the development and use of these technologies can still be assessed by State regulatory authorities based on information presented by utilities and others. Such technologies may result in significant conservation of nonrenewable energy resources. DOE agrees, however, that the wording of the guideline which conditions approval of automatic adjustment clauses on an evaluation of centralized solar and renewable technologies is premature. Section I of the guideline has been revised accordingly.

*H. Information to Consumers Standard*

Several commenters asserted that the guideline extends section 115(f) of PURPA which requires only that information to consumers include a summary of existing rate schedules. DOE acknowledges that the PURPA requirements do not include information on the potential cost savings of solar energy and renewable resource systems. However, cost savings estimates are required under NECPA, and section J of the guideline has been revised to make a logical connection between the NECPA data requirements and the rate schedule information required under PURPA. Another commenter suggested that dissemination of information on the cost-effectiveness of solar energy and renewable resource systems should be the responsibility of the vendors of these systems. DOE disagrees with this comment. The utility does not have to consider specific system types, but could address the issue generically by providing information on the likely cost savings a customer may experience under the utility's different rate structures.

*I. Advertising Standard*

One commenter suggested that the guideline added NECPA data requirements to a PURPA guideline, which is not appropriate. DOE disagrees with this comment. Section 115(h)(2)(B) of PURPA specifically mentions the advertising required under NECPA. The guideline does not require these data, but rather calls attention to the NECPA data requirements concerning solar energy and renewable resources. Another commenter asserted that utilities should not be required to bear the expense of compliance with the standard. DOE disagrees with this comment because the information is already required under NECPA.

## IV. PURPA Guideline for Solar Energy and Renewable Resources

*A. General*

The appendix to this Notice contains the final guideline. The guideline is adopted as proposed except for the modifications described above and minor clarifying and conforming modifications. This guideline is intended to provide assistance to State regulatory authorities and nonregulated electric utilities in their consideration of the PURPA standards with respect to the use of solar energy and renewable resources by utility customers.

The guideline sets forth DOE's opinion regarding consideration of the PURPA standards by discussing (1) issues which are pertinent to consideration of the standards with respect to solar energy and renewable resources, and (2) particular factors which should be considered in addressing the issues and making the PURPA determinations. DOE intends to supplement this guideline, as necessary, with technical information manuals and other resource materials which address specific analytical issues that may arise in the consideration of these standards as they affect the introduction and use of solar energy and renewable resource technologies.

The final guideline is advisory and contains DOE's opinion on the relationship between consideration of the 11 PURPA standards and the use of solar energy and renewable resources by utility customers. In the final guideline, DOE's concern is focused primarily on ensuring: (1) that utility regulatory and ratemaking policy neither favor nor penalize use of solar energy and renewable resources by customers, and (2) that consideration of the PURPA standards furthers the three purposes of Title I of PURPA (that is, conservation of energy supplied by utilities, optimization of the efficient use of facilities and resources by utilities, and equitable rates to consumers).

*B. Summary of the Final Guideline*

Following is a brief summary of the final solar and renewable resource guideline for each of the PURPA standards:

(1) Cost-of-Service. DOE proposes that marginal costing principles be used in determining cost-of-service. Marginal cost pricing is consistent with the PURPA goals of efficient use of facilities and resources and conservation of energy. In addition, marginal cost pricing is necessary if rates are, in an economic sense, to be nondiscriminatory and therefore equitable for all customers, including solar energy and renewable resource customers.

(2) Rate Design Standards: Declining Block, Time-of-Day, Seasonal and Interruptible. The final guideline advocates the development of rate structures which reflect marginal costs to the maximum extent practicable. Depending upon circumstances unique to a utility, these rate structures may include time-of-day rates (where cost-effective), seasonal rates, and interruptible rates.

(3) Load Management Techniques. Within the context of section 115(c) of PURPA, solar energy and renewable resource systems may be utilized as load management devices. Depending on the type of solar energy or renewable resource system used, particularly its storage capacity, a solar energy or renewable resource system may reduce both energy and maximum kilowatt demand on the utility. The final guideline emphasizes the importance of this effect when a State regulatory authority or nonregulated utility is assessing alternative load management options.

(4) Master Metering. Cost-effective use of solar energy and renewable resource systems in some facilities may not be possible with separate metering, at least for centralized building heating and cooling systems. In such instances, master metering in combination with solar energy and renewable resource systems may be appropriate. The final guideline recommends that the benefits of and costs associated with the installation of individual meters be carefully weighed against the benefits and costs of master metering combined with solar energy and renewable resource systems. This is consistent with the cost-benefit requirements relative to this standard as included in section 115(d)(3) of PURPA.

(5) Automatic Adjustment Clauses. Section 115(e)(1)(A) of PURPA requires that fuel adjustment clauses provide incentives for efficient use of resources, including incentives for economical purchase and use of fuel and electric energy, by a utility. The final guideline emphasizes the potential of solar energy and renewable resources as alternatives to the purchase of conventional fuels and sources of power, but does not condition approval of the automatic adjustment clause on formal consideration of such alternatives.

(6) Information to Consumers. The final guideline points out the importance of consumer knowledge of rate schedules, particularly those pertaining to solar energy and renewable resource customers.

(7) Procedures for Termination of Electric Service. Since specific attention to solar energy and renewable resource systems is not necessary when considering this standard, no treatment of this standard is contained in this guideline. PURPA Guideline No. 1 is DOE's generally applicable interpretation of this standard.

(8) Advertising. The final guideline emphasizes the positive implications of the Residential Conservation Service Program established under the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95–619, 92 Stat. 3206 *et seq.*, for the utilization of solar energy and renewable resource devices by utility customers.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act of 1978, Pub. L. 95–619, 92 Stat. 3206 *et seq.*; Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*).)

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## Appendix.—Purpa Voluntary Guideline No. 2: Solar Energy and Renewable Resources

### *A. Introduction*

This voluntary guideline identifies the implications of each of the rate making and regulatory policy standards, established by Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), for the introduction and use of solar energy and renewable resources within an electric utility's service area. The guideline sets forth the issues and factors the Department of Energy (DOE) considers pertinent to consideration of the PURPA standards as they apply specifically to solar energy and renewable resources. In particular, it addresses the effect that adoption of these standards might have on the utilization of solar energy and renewable resources by utility customers. The guideline, itself, is voluntary and does not in any way modify or condition existing State regulatory authority and nonregulated utility practices or applicable State law.

Although the focus of this guidline is the treatment of solar energy and renewable resources in the consideration of the 11 PURPA standards, utility customers who invest in or employ solar energy and renewable resource systems are, in general, not distinguished from other customers or otherwise treated as a separate customer class.

### *B. Coverage of the Guideline*

The guideline covers the 11 ratemaking and regulatory policy standards established in sections 111 and 113, Title I, of PURPA. The voluntary guideline does not in any way modify or condition the rules and regulations which have been promulgated by the Federal Energy Regulatory Commission (FERC) under section 133 of PURPA for cost-of-service information, or which will be promulgated by the FERC under section 210 of PURPA for small power producers and cogenerators. Consequently, this guideline does not apply in situations regarding either the sale of electric energy to qualifying cogenerators and small power producers or the purchase of electrical energy from such facilities if the sale and purchase are subject to the provisions of section 210 of PURPA and any rules promulgated by the FERC pursuant thereto.

### *C. Definitions*

As provided in this guideline, except as otherwise specifically provided—

"Solar energy and renewable resources" means energy received from the sun directly in the form of radiant energy, including photovoltaics, and energy received from the sun indirectly in the form of stored radiant energy in biomass (i.e., wood, vegetation and organic solid wastes), the atmosphere, heated surface waters, the potential and kinetic energy of water elevated via the hydrological cycle, and the kinetic energy of the wind. The term is restricted to dispersed (on-site) technologies for which solar energy and renewable resource systems provide only a portion of end-use requirements, the remainder being provide through retail purchases of utility generated electricity.

"Class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

"Electric consumer" means any person, State agency or Federal agency, to which electric energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency, which sells electric energy.

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the United States Code).

"Load management technique" means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, organization or entity.

"Rate" means (a) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation, or practice respecting any such rate, charge, or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

"Rate schedule" means the designation of the rates which an

electric utility charges for electric energy.

"Secretary" means the Secretary of Energy.

"State" means a State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

*D. Table of Contents*

1. Cost-of-Service Standard.
2. Rate Design Standards: Declining Block, Time-of-Day, Seasonal, and Interruptible.
3. Load Management Technique Standard.
4. Master Metering Standard.
5. Automatic Adjustment Clauses Standard.
6. Termination-of-Service Standard.
7. Information to Consumers Standard.
8. Advertising Standard.

*E. Cost-of-Service Standard*

Under section 111(d)(1) of PURPA, the following is established as a Federal standard: rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class. In addition, section 115(a) of PURPA requires that when a State regulatory authority or nonregulated utility prescribes methods for determining cost-of-service, it must take into account, if at all possible, the extent to which total costs to an electric utility are likely to change if additional capacity is added to meet peak demand relative to base demand and additional kilowatt-hours of electric energy are delivered to electric consumers.

1. Costing principles. In DOE's opinion, marginal costing principles, rather than embedded costing principles, should be used in determining cost-of-service for all customers for the following reasons:

a. DOE interprets section 115(a) as referring to marginal costing principles and requiring that these be taken into account in considering the cost-of-service standard. In a general sense, for an electric utility, marginal cost is the additional cost required to produce one more unit of electricity or the savings from producing one less unit of electricity (usually kilowatt-hour or kilowatt). This broad definition of marginal cost is consistent with the section 115(a) requirement that, to the maximum extent practicable, the methods to be prescribed by State regulatory authorities or nonregulated utilities take into account the extent to which total costs to an electric utility are likely to change if additional capacity is added or additional kilowatt-hours of electric energy are delivered.

b. Marginal costing methods are more likely to be consistent with the PURPA purposes of efficient use of facilities and resources and energy conservation than embedded costing methods. In an economy where resources, and in particular fossil fuels, are scarce, the production of a good or service must be justified by the satisfaction individuals obtain from the consumption of that good or service. Scarce resources should be used to produce a good, only if consumers are willing to pay a price for it which equals or exceeds the value of the resources needed to produce it. If consumers are not willing to pay such a price, scarce resources should not be used to produce that good but should instead be used to produce other goods for which consumers are willing to pay a price equal to or greater than the value of the resources used in production.

In order for scarce fuels to be used efficiently, consumers of electricity should face a price which reflects to the maximum extent practicable the resource cost of producing one more or one less kilowatt-hour or kilowatt. When confronted with such a price consumers can more accurately determine whether they want additional scarce resources to be used to produce more electricity or whether they would prefer that those resources be used to produce other goods. Under average cost pricing consumers' decisions to purchase or not to purchase an additional unit of electricity are frequently not based on adequate information about real resource costs. As a consequence, in any rating period more (if average costs are less than marginal costs) or less (if average costs are more than marginal costs) electricity is consumed than consumers would be willing to pay for if prices reflected marginal costs. In particular, if average costs are less than marginal costs, not only will more electricity be produced than is justified by its resource costs, but also then is justified by its resource costs. In addition, the need to import those scarce fossil fuels used in generating electricity will be higher than it would be if rates reflected marginal costs.

c. In an economic sense, nondiscriminatory or equitable treatment of both users and nonusers of solar energy and renewable resource systems is more likely to occur if electricity rates for both are based on marginal costs than if rates for both are based on embedded costs. To the extent practicable, marginal costing procedures will result in equal treatment for all customers who impose the same costs (for a kilowatt-hour or a kilowatt of demand) on an electric utility. Customers who impose different levels of cost (for a kilowatt-hour or a kilowatt of demand) will be treated differently but only to the degree indicated by differences in the cost they impose on the utility.

Rates that reflect marginal cost-of-service will encourage use of solar energy and renewable resource systems commensurate with the costs of the resources needed to build an operate these systems, and the costs of alternate approaches to meeting the nation's energy needs. As a consequence, marginal cost pricing of electricity is more likely to lead to nondiscriminatory rates and efficient energy use decisions by all customers.

2. Marginal cost methods. Several methodologies exist for the estimation of electric utility marginal costs. The selection of a marginal costing method and its specific application should be determined by a State regulatory authority or nonregulated utility after a careful analysis of the characteristics of the electric utility and its customers, and the characteristics of each marginal costing methodology.

3. Energy savings. Solar energy and renewable resource systems will reduce the amount of electric energy consumed by conventional electric end-use devices which they displace in whole or in part. As a consequence, scarce fossil fuels may be conserved. In some utility systems solar energy and renewable resource technologies may for a while defer new baseload capacity additions which would have replaced oil and gas-fired plants in the generation of electricity. In the long run, however, even for these utilities, solar energy and renewable resource systems have the potential to reduce the use of oil and gas for the generation of electricity.

To determine the savings in scarce fossil fuels that may accrue to the electric utility as a consequence of the use and introduction of solar energy and

renewable resource systems, the following should be considered:

a. timing of a utility's peak demand;

b. utility fuel mix as a function of load range;

c. local meteorological conditions—how they affect the operation of solar energy and renewable resource systems and thus the utility's load curves;

d. storage capacity of solar energy and renewable resource systems;

e. extent of solar energy and renewable resource end-use market penetration;

f. reliability of solar energy and renewable resource systems; and

g. characteristics of the solar energy and renewable resource system load.

*F. Rate Design Standards: Declining Block, Time-of-Day, Seasonal, and Interruptible*

Subsections 111(d) (2) through (5) of PURPA establish Federal standards with respect to declining block rates, time-of-day rates, seasonal rates, and interruptible rates. These standards provide that declining block rates that are not cost-based shall be eliminated; time-of-day rates shall be established, if cost-effective, where costs vary by time-of-day; seasonal rates shall be established where costs vary by season; and interruptible rates based on the costs of providing interruptible service shall be offered to commerical and industrial customers.

1. Nondiscriminatory rates. Whether time-of-day, seasonal, interruptible, and declining block rates are discriminatory in an economic sense depends on whether and how well they track marginal costs. Rates that do not reflect marginal costs to the maximum extent practicable are likely to be discriminatory in an economic sense, whereas rates that do reflect marginal costs to the maximum extent practicable are likely to be nondiscriminatory in an economic sense.

Two consequences may result from the economic discrimination brought about by rates which do not reflect marginal costs. On the one hand, levels of investment in solar energy and renewable resource systems may be lower and, consequently, savings of oil and gas may be smaller than would result with marginal cost-based rates. That is, fewer customers may invest in solar energy and renewable resource systems and those that do may build systems with smaller energy displacement capability, smaller storage capacity, and more limited control capability for the operation of storage systems than they would under marginal cost-based rates. On the other hand, if rates economically discriminate in favor of solar energy and renewable resource customers, more customers may invest in solar energy and renewable resource systems and may build larger systems than they would with marginal cost-based rates. In this situation, many of those who do not invest in solar energy and renewable resource systems will pay higher bills and subsidize the consumption of electricity by those who do invest in these systems.

2. Time-of-day and seasonal rates. When time-of-day and seasonal rates are based on marginal costs, a customer is provided with an incentive to shift consumption from times of high marginal cost (peak period) to times of low marginal cost (offpeak period). Solar energy and renewable resource systems in many cases will permit a customer to maintain energy consumption during the peak period and yet avoid the high costs of electrical energy. Inclusion of chargeable storage capability in these systems will permit further displacement of onpeak electricity consumption (if meteorological conditions affect functioning) and may permit displacement of offpeak consumption.

As provided in section 115 of PURPA, time-of-day rates are determined to be cost-effective if the long-run benefits to the electric utility and its electric customers are likely to exceed metering and other associated costs. Where metering costs for time-of-day rates are not justified by the benefits, seasonal rates which track marginal costs may be an appropriate alternative. such rates do not require the installation of special meters and may permit nondiscriminatory treatment, in an economic sense, of customers.

3. Interruptible rates. Interruptible rates and/or offpeak storage rates which are based on marginal costs may also be effective rate designs for solar energy and renewable resource systems. These rates provide incentives for solar energy and renewable resource investments and provide a means of limiting the effect high levels of market penetration by these systems may have on utility peak demand. In comparison with other rate designs, interruptible rates may produce lower electric bills for solar energy and renewable resource customers. In addition, they can assure peak period capacity savings from these customers.

4. Revenue related rate asjustments. With rate-of-return regulation, it may not be possible to set prices equal to marginal costs without exceeding or falling short of a utility's allowed revenue level. Under these circumstances adjustments to marginal cost-based rates may be required. These adjustments should be made in a manner which minimizes any losses in the efficient use of resources and facilities. DOE recognizes that the adjustments to be made in any instance will also be influenced by equity considerations; however, the adjustments should be reviewed in terms of their discriminatory consequences, for or against all customers, including solar energy and renewable resource users.

5. Customer class. In DOE's opinion, the creation of separate rate classes for solar energy and renewable resource customers may not be warranted in the near term. Few data are available on the costs-of-service imposed by such customers, and the market penetration of such devices is likely to be low in the near term. Therefore, DOE recommends that solar energy and renewable resource customers not be considered for separate classification unless the load curves and costs-of-service imposed by such customers can be determined to be significantly different from the load curves and costs-to-serve of the customers in the existing rate class. For ratemaking purposes, separate rate classes should be created only if it can be established that undue economic discrimination for or against solar energy and renewable resource customers would occur between customers in an existing rate class and solar energy and renewable resource customers which are part of that class.

In general, the creation of a separate rate class or modification of an existing one for application to customers using solar energy and renewable resource systems should satisfy the following conditions:

a. the costs of serving the solar group load pattern differ substantially from those imposed by the existing customer class;

b. there is no reasonably available method of reflecting these cost differences within the existing classes;

c. the solar energy and renewable resource group is discretely identifiable; and

d. the costs of administration (including separate billing or special metering equipment) are not excessive.

Consistent with these criteria, a separate customer class may be established if solar energy and renewable resource systems possess special characteristics which offer unique opportunities in rate design to promote their use as load management devices. Rates offered to customers in this class—as in other classes—should reflect marginal cost-of-service to the maximum extent practicable.

6. Time varying fuel costs. Current fuel cost surcharges are generally nontime-differentiated. As a consequence, they will raise offpeak electricity rates proportionately more than onpeak electricity rates and thereby distort the relationship between time-of-day rates based on marginal costs. Where time-of-day rates based on marginal costs are used, DOE recommends that the fuel cost surcharge be structured in a manner which will preserve the economic significance of these rates to the maximum extent practicable between complete rate investigations. In addition, fuel adjustment surcharges should be incorporated into base rates on a timely basis.

*G. Load Management Techniques Standard*

Under section 111(d)(6) of PURPA, electric utilities are required to offer to customers load management techniques which a State regulatory authority or nonregulated electric utility determines are practicable, cost-effective, reliable, and will provide useful energy or capacity management advantages. A load management technique is cost-effective if it is likely to reduce maximum kilowatt demand and the long-run cost savings to the utility of such reductions are likely to exceed the long-run costs to the utility associated with implementation.

With chargeable storage capacity, solar energy and renewable resource systems may provide substantial load management benefits within the definition provided in section 3(8) of PURPA. Utilities should be encouraged to provide information about the load management implications of solar energy and renewable resource systems. In addition, when a utility is assessing alternative load management options, solar energy and renewable resource systems should be considered in that assessment.

Any evaluation of the load management potential of solar energy and renewable resource systems should address the following:

1. effect on utility load curve, i.e., predictability of solar energy and renewable resource customer demand;
2. utility fuel mix by load type;
3. costs associated with load management potential of solar energy and renewable resource systems;
4. interface with other load management techniques;
5. level of penetration necessary to produce a beneficial impact;
6. utility system reliability; and
7. impacts on generating capacity deferral and distribution plant.

*H. Master Metering Standard*

Section 115(d) of PURPA requires separate metering for any new building if there is more than one unit in the building, the occupant controls a portion of the electric energy used in his unit, and with respect to such portion of electric energy, the long-run benefits to the electric consumers in the building exceed the costs of purchasing and installing separate meters in the building.

In requiring that the master metering standard be considered, Congress sought to encourage conservation of energy. Separate metering of individual units provides consumers with information about the direct costs of their consumption and improves their ability to determine how they would like scarce resources to be used. In making determinations on the master metering standard Congress intended that State utility regulatory authorities and nonregulated utilities be guided not only by potential energy savings but also by the cost of purchasing and installing individual meters. Under section 115(d)(3) of PURPA, separate metering for any new building is appropriate if the long-run benefits of the meters exceed the costs of purchase and installation.

However, cost-effective use of solar energy and renewable resource options in some facilities may not be possible with separate metering, at least for centralized heating and cooling systems. In such instances, master metering in combination with solar energy and renewable resource systems may be appropriate. Such a combination might produce greater conservation of energy and scarce fossil fuels than would separate metering without solar energy and renewable resource systems. DOE encourages the evaluation of the costs and benefits associated with the use of master metering versus separate metering, in combination with solar energy and renewable resource options, on a case basis. To address this possibility the following should be included in the consideration of this standard:

1. scarce fossil fuel savings with master metering and separate metering;
2. the life expectancy of the building;
3. the most likely heating and cooling system alternatives and their characteristics; and
4. the possibility of separate metering for a portion of total electric consumption.

*I. Automatic Adjustment Clauses Standard*

As specified in sections 113(b)(2) and 115(e) of PURPA, automatic adjustment clauses may not be allowed unless they provide incentives to utilities for economic purchase and use of fuel and electric energy. It must be determined, in an evidentiary hearing at least once every 4 years, that an automatic adjustment clause provides such incentives. In addition, at least every 2 years, the clause must be reviewed to insure maximum economies in those operations and purchases which affect the rates to which the clause applies.

Although the standard is primarily procedural in nature, the intent of Congress was to encourage the efficient use of resources and the economical purchase and use of fuel and electric energy by an electric utility. DOE feels that State regulatory authorities and nonregulated utilities, in reviewing automatic adjustment clauses, ought to consider the impact of such clauses on supply-side (nondispersed) solar energy and renewable resource technologies, Automatic adjustment clauses may establish disincentives for supply-side conservation of scarce fossil fuels, including conservation through solar and renewable resource technologies.

*J. Information to Consumers standard*

Section 113(b)(3) of PURPA establishes the information to consumers standard which requires each electric utility to transmit information regarding rate schedules to each of its electric consumers in accordance with the requirements of section 115(f) of PURPA.

Under this standard an electric utility should be required to provide information to customers about the implications of its rate structure for the use of solar energy and renewable resource systems. Possible cost savings a customer with these systems may experience under the utility's rate structure should be identified. In addition, any provision that would allow a solar energy or renewable resource customer to take advantage of a special rate structure or require that he be placed on such a rate structure should be explained. Although requiring such rate structure explanations is not mandated by the National Energy Conservation Policy Act (NECPA), it is compatible with the NECPA requirement to provide certain types of information about suggested residential conservation and renewable resource measures.

*K. Procedures for Termination of Electric Service Standard*

Section 113(b)(4) of PURPA establishes the termination of service standard which requires that electric utilities may not terminate electric service to any electric consumer except pursuant to procedures described in section 115(g). Section 115(g) specifies that no electric service to an electric consumer may be terminated without reasonable prior notice. Also, under certain circumstances, electric service may not be terminated during any period when termination of service to an electric consumer would be expecially dangerous to health.

Since specific attention to solar energy and renewable resource technologies is not necessary when considering this standard, PURPA Guideline No. 1, Procedures for Termination of Electric Service and Gas Service (44 FR 77110, December 28, 1979) is applicable.

*L. Advertising Standard*

Section 113(b)(5) of PURPA established the advertising standards which requires that an electric utility may not recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising. Among those advertising expenses identified in PURPA as appropriate for inclusion in electricity bills are advertising which informs electric consumers how they can conserve energy or reduce peak demand for electric energy, and advertising which promotes the use of energy efficient appliances, equipment or services.

In considering this standard specific attention should be given to the implications for solar energy and renewable resources of the Residential Conservation Service Program established by NECPA. This program, which is mandatory for all utilities whose annual retail sales of electricity exceed 750 million kilowatt-hours, requires that covered utilities provide certain types of information about suggested residential energy conservation and renewable resource measures to all residential customers. The suggested measurs may include solar domestic hot water systems, active solar space heating systems, combined active solar space heating and solar domestic hot water system and passive solar space heating and cooling systems, depending on the service territory and the customer's residential building type.

The information provided to consumers must include the following:

1. a list of the suggested measures;
2. a reasonable estimate of the savings in energy costs which are likely to result from installation of each suggested measure in a typical residence;
3. an offer by the utility to assist the residential customer by arranging for a loan or by arranging for the installation of suggested measures;
4. the offer of a list of contractors, suppliers and lenders who provide services in the utility's service territory and meet certain minimum requirements.

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Part IX

# Department of Labor

## Employment and Training Administration

## Veterans Preference Indicators of Compliance for Fiscal Year 1980

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Part 653

### Fiscal Year 1980 Veterans Preference Indicators of Compliance

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** These regulations are published to establish the FY 1980 levels for the veterans preference indicators of compliance used by the Department of Labor to monitor State employment service agencies to ensure that veteran applicants receive priority service.

**EFFECTIVE DATE:** December 15, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter Rell, Director, Office of Program Review, U.S. Employment Service, Room 8324, 601 D Street NW., Washington, D.C. 20213, 202-376-6914.

**SUPPLEMENTARY INFORMATION:** The Department published proposed regulations for the FY 1980 compliance levels on September 28, 1979, at 44 FR 56265. Interested persons were advised to submit comments on the proposed levels until October 29, 1979. The Department received eleven comments from components of the public employment service system and other Employment and Training Administration units. No major changes were made in the FY 1980 veterans preference indicators of compliance regulations. Most of the comments and the Department's responses thereto are listed below:

1. Several commentors pointed out typographical errors in the use of a plus (+) sign instead of a division (÷) sign in the computational formulas for the veterans preference indicators of compliance found at § 653.230 (f), (g), and (h). These errors have been corrected in each instance to reflect the proper mathematical procedure in computing preference level indicator values. For example, the proposed rulemaking had as the preference indicator formula for veterans counseled:

Veterans counseled/Veteran applicants + Nonveterans counseled/Nonveteran applicants −1.00 = 25 percent.

This formula has been changed accordingly to:

Veterans counseled/Veteran applicants ÷ Nonveterans counseled/Nonveteran applicants −1.00 = 25 percent.

The same correction was made at § 653.230 (f), (g), and (h) as appropriate.

2. Several comments were received concerning the proposed change for computing the "inactivated with some reportable service" floor level and preference level indicators. In general, the comments were favorable with three notable exceptions. Two commentors indicated that the new computational method would make it difficult for States who provided high levels of service to both veteran and nonveteran applicants to achieve the appropriate preference level indicators. The Department notes that failure to meet the "inactivated with some reportable service" preference level indicators does not automatically place a State agency into noncompliance with the standards of performance, since the regulations set the minimum requirement for States to meet as 9 out of 16 preference level indicators. Further, high levels of service to both veteran and nonveteran applicants may be taken into account as good cause evidence when the Department determines whether or not a State agency is in compliance at year's end.

One commentor suggested that the method for computing the floor level indicator should measure new and renewal applicants *rather than* all applicants. Adoption of this suggestion is not possible because the necessary information is not a reportable item on the Department's Employment Security Automated Reporting System (ESARS). The Department also feels that priority service to veterans applies to all veteran applicants seeking service during the fiscal year whether or not their application for service was filed in the current or prior fiscal year.

Accordingly, the proposed computational methods for the floor and preference level indicators for "verterans inactivated with some reportable service" have been adopted without change.

3. Mixed comments were received regarding the proposed change in the Federal Contractor Job Listing (FCJL) indicator. The indicator was proposed to measure placement of all verterans in jobs which government contractors are required to list with the employment service under 38 U.S.C. 2012(a). In previous fiscal years this indicator was restricted to placement of special disabled and recently separated Vietnam-era veterans only.

38 U.S.C. 2011(2) defines a recently separated Vietnam-era veteran as any veteran who served 180 days of active duty any part of which occurred during the Vietnam-era and was released from the Armed Forces within 48 months of the person's application for employment assistance. For reporting purposes the Vietnam-era period has been defined as August 5, 1964 to May 7, 1975. Therefore, with the exception of career military, the number of recently separated Vietnam-era veterans applying at the Job Service would be minimal after May 7, 1979.

As a result of this definitional limitation, the number of individuals who will be available for these jobs is expected to be so low that a numerical indicator level of less than 1 percent would have to be established as a reasonable target for State agencies. This small number does not provide a statistically meaningful and operationally sound indicator for performance assessment purposes. To establish a meaningful measure the indicator was changed to measure placement of veterans in FCJL jobs and a required level of 17 percent is established. It should be noted that this change in indicators, made for operational purposes, does not relieve State agencies of their obligation to continue to provide referral priority to qualified special disabled veterans and recently separated veterans of the Vietnam-era on FCJL jobs in accordance with Section 653.221(a)(7) and 38 U.S.C. 2012.

A number of commentors expressed support for the proposed change, particularly in view of the definitional limitation of a recently separated Vietnam-era veteran contained under 38 U.S.C. 2011(2). In contrast, two State employment service agencies questioned the continuation of an FCJL placement indicator. The comments objected to the shift in emphasis to measure placement of all veterans in these jobs when 38 U.S.C. 2012(a) explicitly calls for preference to be provided to special disabled and recently separated Vietnam-era veterans. The comments also stressed that State agencies have only limited control over the actual listing of FCJL jobs in their agencies by employers required to do so.

The Department does not feel that the objections presented are persuasive enough to discontinue the FCJL placement indicator at this time. The Department believes that the change in coverage to all veterans is necessary to continue the emphasis on the FCJL program for veterans while recognizing the definitional limitation of a recently separated Vietnam-era veteran and its impact on operations. At the same time, the indicator is not inconsistent with the order of referral priority at § 653.221(a)(7) and, as already indicated, does not relieve State agencies of their

obligation to refer recently separated Vietnam-era and special disabled veterans to FCJL jobs ahead of other qualified applicants. It should also be noted that discussions between the Department and various Congressional committees concerned with veterans affairs are underway to clarify veterans definitional issues. The Department will make appropriate adjustments to the FCJL indicator in the future based on any legislative changes to veteran definitional requirements that may result from these discussions.

With regard to the comment concerning the lack of State agency control over the listing of FCJL jobs, the Department believes that the lack of State agency enforcement responsibilities in this area will not significantly interfere with a State's ability to meet this indicator requirement. However, if a State can effectively demonstrate that failure to comply at year's end with the requirements § 653.230(k)(2)(ii) was due to lack of such enforcement responsibilities and, at the same time, show that maximum effort was put forth by the agency to place veterans in FCJL jobs, such evidence could be considered as good cause for noncompliance in accordance with § 653.230(k)(2). Therefore, the proposed FY 1980 FCJL placement indicator will remain unchanged.

Accordingly, 20 CFR 653.230, *Veterans Indicators of Compliance* is revised to read as follows:

**§ 653.230 Veterans preference indicators of compliance for fiscal year 1980.**

(a) To help in determining whether the standards of performance set forth in §§ 653.221–226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels (except as provided in paragraph (c)(1)(iv) of this section) shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor level for veterans inactivated with some reportable service shall be stated as the ratio of veteran individuals inactivated with some reportable service to the number of veterans inactivated. The floor levels of accomplishment for FY 1980 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans Counseled/Veteran Applicants—6 percent.

(ii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

Veteran Job Development Contracts/Veteran Applicants—7.5 percent.

(iii) A minimum of (individual State values listed below) percent of all veteran applicants shall be placed in jobs.

Veterans Applicants Placed/Veteran Applicants—(see list below for State values).

| | (iii) Placed |
|---|---|
| | *Percent* |
| Region I (Boston) | |
| Connecticut | 14 |
| Maine | 24 |
| Massachusetts | 19 |
| New Hampshire | 24 |
| Rhode Island | 24 |
| Vermont | 24 |
| Region II (New York) | |
| New Jersey | 22 |
| New York | 22 |
| Puerto Rico | 22 |
| Virgin Islands | |
| Region III (Philadelphia) | |
| Delaware | 14 |
| District of Columbia | 24 |
| Maryland | 20 |
| Pennsylvania | 19 |
| Virginia | 22 |
| West Virginia | 23 |
| Region IV (Atlanta) | |
| Alabama | 24 |
| Florida | 24 |
| Georgia | 24 |
| Kentucky | 23 |
| Mississippi | 24 |
| North Carolina | 23 |
| South Carolina | 22 |
| Tennessee | 23 |
| Region V (Chicago) | |
| Illinois | 13 |
| Indiana | 13 |
| Michigan | 15 |
| Minnesota | 24 |
| Ohio | 13 |
| Wisconsin | 24 |
| Region VI (Dallas) | |
| Arkansas | 24 |
| New Mexico | 24 |
| Oklahoma | 24 |
| Texas | 24 |
| Region VII (Kansas City) | |
| Iowa | 24 |
| Kansas | 24 |
| Missouri | 24 |
| Nebraska | 24 |
| Region VIII (Denver) | |
| Colorado | 24 |
| Montana | 24 |
| North Dakota | 24 |
| South Dakota | 24 |
| Utah | 24 |
| Wyoming | 24 |
| Region IX (San Francisco) | |
| Arizona | 24 |
| California | 23 |
| Guam | |
| Hawaii | 24 |
| Nevada | 23 |
| Region X (Seattle) | |
| Alaska | 24 |
| Idaho | 24 |
| Oregon | 24 |
| Washington | 24 |

(iv) A minimum of 60 percent of all veteran applicants inactivated shall be inactivated with some reportable service.

Veteran Applicants Inactivated With Some Service/Veteran Applicants Inactivated—60 percent

(2) Only after a State agency meets three of its four expected levels of accomplishment—one of which must be the floor level for placement—shall the veterans' indicators be applied.

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

(1) Veterans versus nonveterans;

(2) Veterans of the Vietnam era versus nonveterans; and

(3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veterans applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

Veteran's counseled/Veterans applicants ÷ Nonveterans counseled/Nonveteran applicants −1.00 = 25 percent.

(2) The ratio of job development contacts made for veterans to the total numbers of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

Job development contacts for veterans/Veteran applicants ÷ Job development contacts for nonveterans/Nonveteran applicants −1.00 = 50 percent.

(3) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

Veterans placed/Veteran applicants ÷ Nonveterans placed/Nonveteran applicant −1.00 = 10 percent.

(4) The ratio of veteran applicants inactivated with some reportable service to the total number of veteran applicants inactivated shall be more than the ratio on nonveteran applicants inactivated with some reportable service to the total number of nonveteran applicants inactivated by at least 15 percent.

Veterans inactivated with some reportable service/Veteran applicants inactivated ÷ Nonveterans inactivated with some reportable service/Nonveteran applicants inactivated −1.00 = 15 percent.

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam-era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

Vietnam-era veterans counseled/Vietnam-era veteran applicants ÷ Nonveterans counseled/Nonveteran applicants −1.00 = 35 percent.

(2) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 60 percent.

Job development contacts for Vietnam-era veterans/Vietnam-era veteran applicants ÷ Job development contacts for nonveterans/Nonveteran applicants −1.00 = 60 percent.

(3) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

Vietnam-era veterans placed/Vietnam-era veteran applicants ÷ Nonveterans placed/Nonveteran applicants −1.00 = 15 percent.

(4) The ratio of Vietnam-era veteran applicants inactivated with some reportable service to the total number of Vietnam-era veteran applicants inactivated shall be more than the ratio of nonveteran applicants inactivated with some reportable service to the total number of nonveteran applicants inactivated by at least 20 percent.

Vietnam-era veterans inactivated with some reportable service/Vietnam-era veteran applicants inactivated ÷ Nonveterans inactivated with some reportable service/Nonveteran applicants inactivated −1.00 = 20 percent.

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

Disabled veterans counseled/Disabled veteran applicants ÷ Nonveterans counseled/Nonveteran applicants −1.00 = 100 percent.

(2) The ratio of job development contacts made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

Job development contacts for disabled veterans/Disabled veteran applicants ÷ Job development contact for Nonveterans/Nonveteran applicants −1.00 = 75 percent.

(3) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

Disabled veterans placed/Disabled veteran applicants ÷ Nonveterans placed/Nonveteran applicants −1.00 = 20 percent.

(4) The ratio of disabled veteran applicants inactivated with some reportable service to the total number of disabled veteran applicant inactivated shall exceed the ratio of nonveterans inactivated with some reportable service to the total number of nonveteran applicants inactivated by at least 25 percent.

Disabled veterans inactivated with some reportable service/Disabled veteran applicants inactivated ÷ Nonveterans inactivated with some reportable service/Nonveteran applicants inactivated −1.00 = 25 percent.

(i) The veterans preference indicator of compliance for State agency action under the Federal Contractor Job Listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of veterans placed in Federal Contractor Job Listing openings to total number of individuals placed in Federal Contractor Job Listing openings shall be 17 percent or more.

(j) Following analysis of the past fiscal year's accomplishments, the numerical value for each of the veterans preference compliance indicators for the next fiscal year will be published in the Federal Register as amendments to paragraphs (f) through (i) of this section.

(k)(1) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. In order to meet the indicators of compliance, a State agency must:

(i) Meet the placement and any two of the remaining three floor levels of accomplishment at paragraph (c) of this section; and

(ii) Meet 9 of the 16 veterans preference indicators of compliance at

paragraphs (f) through (i) of this section giving each of the three placement indicators double weight.

(2) ETA shall consider failure to meet either of these conditions as evidence that the State agency is not complying with the performance standards at § 653.221–226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(l) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

(29 U.S.C. 49 *et seq.* 39 U.S.C. 2012)

Signed at Washington, D.C. February 14, 1980.

Ray Marshall,

*Secretary of Labor.*

[FR Doc. 80-5655 Filed 2-21-80; 9:10 am]

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Federal Register

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| | |
|---|---|
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| | |
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| | |
|---|---|
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## FEDERAL REGISTER PAGES AND DATES, FEBRUARY

| | |
|---|---|
| 7227-7534 | 1 |
| 7535-7770 | 4 |
| 7771-7996 | 5 |
| 7997-8276 | 6 |
| 8277-8538 | 7 |
| 8539-8932 | 8 |
| 8933-9250 | 11 |
| 9251-9726 | 12 |
| 9727-9886 | 13 |
| 9887-10304 | 14 |
| 10305-10748 | 15 |
| 10749-11110 | 19 |
| 11111-11456 | 20 |
| 11457-11794 | 21 |
| 11795-12208 | 22 |

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Administrative Orders:**

**Presidential Determination:**

No. 80-10 of January 24, 1980 ..... 9251

No. 80-11 of January 28, 1980 ..... 8539

**Executive Orders:**

12190 ..... 7773

12191 ..... 7997

12192 ..... 9727

12193 ..... 9885

**Proclamations:**

4334 (Amended by Proc. 4720) ..... 7771

4463 (Amended by Proc. 4720) ..... 7771

4466 (Amended by Proc. 4720) ..... 7771

4539 (Amended by Proc. 4720) ..... 7771

4720 ..... 7771

4721 ..... 8277

4722 ..... 10749

4723 ..... 11111

4724 ..... 11457

4725 ..... 11459

**4 CFR**

**Proposed Rules:**

331 ..... 8677

332 ..... 8677

351 ..... 8677

**5 CFR**

Ch. XIV ..... 8933

213 ..... 10751

315 ..... 10305

317 ..... 8541

432 ..... 9253

737 ..... 7402, 8544, 9253

1250 ..... 10305

1251 ..... 10305

1252 ..... 10305

1253 ..... 10305

1254 ..... 10305

1255 ..... 10305

1256 ..... 10305

1257 ..... 10305

1258 ..... 10305

1259 ..... 10305

1260 ..... 10305

1261 ..... 10305

1262 ..... 10305

1263 ..... 10305

1264 ..... 10305

1265 ..... 10305

1266 ..... 10305

1267 ..... 10305

1268 ..... 10305

1269 ..... 10305

**Proposed Rules:**

351 ..... 7818, 8630

550 ..... 7263

**6 CFR**

705 ..... 7535

**7 CFR**

2 ..... 10751

6 ..... 9681

16 ..... 7999

20 ..... 8561

210 ..... 7227

220 ..... 7227

225 ..... 7227, 8562

226 ..... 10752

235 ..... 8562

272 ..... 7229

273 ..... 7229

371 ..... 8564

417 ..... 9687

418 ..... 9687

428 ..... 9687

432 ..... 9688

433 ..... 9688

434 ..... 9688

435 ..... 9689

723 ..... 8570, 10305

724 ..... 8572

726 ..... 8578

781 ..... 7775

795 ..... 10311, 11795

905 ..... 7999

907 ..... 8279, 9689, 9690, 11461

910 ..... 7243, 8579, 10311, 11795

959 ..... 7243

989 ..... 11461

1000 ..... 7777

1260 ..... 9690

1421 ..... 11795

1446 ..... 11462

1464 ..... 9253

1701 ..... 9258

1900 ..... 8933

1904 ..... 10312

1945 ..... 9648

1980 ..... 9648

2006 ..... 7245

**Proposed Rules:**

Ch. XXVIII ..... 10610

246 ..... 8876, 9304

301 ..... 8630, 8654

971 ..... 9010

1011 ..... 9942, 11503

1434 ..... 9943

1701 ..... 7819, 10356

1822 ..... 10240

1944 ..... 10240

2851 ..... 8637

2852 ..... 10356

2890 ..... 11815
2891 ..... 11815
2892 ..... 11815
2893 ..... 11815
2894 ..... 11815
2895 ..... 11815
2896 ..... 11815
2897 ..... 11815
2898 ..... 11815
2899 ..... 11815

**8 CFR**

Ch. II ..... 7778
3 ..... 9893
212 ..... 11113
238 ..... 10312
334 ..... 10313
336 ..... 10313
341 ..... 10313

**Proposed Rules:**

Ch. I ..... 7265

**9 CFR**

75 ..... 8580
78 ..... 7246
92 ..... 7778, 8581, 10314, 10752, 11796, 11797
145 ..... 10314
147 ..... 10314
318 ..... 10317
319 ..... 10317
381 ..... 10317, 10319

**Proposed Rules:**

Ch. III ..... 10810
92 ..... 10359
307 ..... 8662
381 ..... 8662

**10 CFR**

Ch. II ..... 10321
9 ..... 9729
21 ..... 9893
73 ..... 10328
110 ..... 11114
212 ..... 9526
375 ..... 9526, 9536
376 ..... 9536
391 ..... 9526
445 ..... 10194, 10232
455 ..... 7779
470 ..... 8926
475 ..... 9542
477 ..... 8462
714 ..... 7768
1014 ..... 7768

**Proposed Rules:**

50 ..... 10360
73 ..... 11503
212 ..... 8025
376 ..... 8662, 10360
390 ..... 8662, 10360
436 ..... 7496
477 ..... 8309
516 ..... 10746
1024 ..... 8920

**11 CFR**

9032 ..... 9559
9033 ..... 9559
9034 ..... 9559
9035 ..... 9559

**12 CFR**

1 ..... 8934
16 ..... 11115
202 ..... 9259
205 ..... 8248
225 ..... 8279, 11125
226 ..... 8000, 9259, 10329
304 ..... 8940
329 ..... 8937
349 ..... 8940
590 ..... 7535, 8000
614 ..... 9893
618 ..... 10328
701 ..... 8280

**Proposed Rules:**

Ch. I ..... 9743
Ch. II ..... 7591
7 ..... 8025
205 ..... 8268
210 ..... 7819
614 ..... 9944
720 ..... 7596
341 ..... 10802
343 ..... 10802

**13 CFR**

123 ..... 10754
400 ..... 8940, 8942

**Proposed Rules:**

Ch. I ..... 7553
121 ..... 7555

**14 CFR**

23 ..... 7750
25 ..... 7750
27 ..... 7750
29 ..... 7750
39 ..... 7536–7539, 8297, 8943–8952, 10755, 11465
71 ..... 7539, 8286, 8287, 10756–10758, 11465
73 ..... 7539
75 ..... 10758
91 ..... 7750
97 ..... 8287, 11466
121 ..... 7750
135 ..... 7246, 7540
152 ..... 10184
223 ..... 8955
297 ..... 7542
1214 ..... 8001
385 ..... 9260

**Proposed Rules:**

Ch. I ..... 9944, 10802, 11504, 11506
Ch. V ..... 10808
39 ..... 7555–7558, 9945, 10803 11506, 11507
71 ..... 7558, 7559, 8309–8311, 9946, 9947, 10804–10806, 11507–11510
75 ..... 10807
93 ..... 11510, 11511
159 ..... 11511
205 ..... 7566
208 ..... 7566
291 ..... 7566
298 ..... 7566
399 ..... 9747

**15 CFR**

303 ..... 8955
376 ..... 8289
386 ..... 8289
399 ..... 8289, 8293
2301 ..... 7780, 8582

**16 CFR**

13 ..... 8583, 8959, 9894, 9895

**Proposed Rules:**

Ch. I ..... 10810
13 ..... 8663, 11135, 11137
71 ..... 10804–10806
75 ..... 10807

**17 CFR**

200 ..... 8001
231 ..... 8960

**Proposed Rules:**

180 ..... 8312
200 ..... 7781
230 ..... 7578, 8313
239 ..... 7578
240 ..... 8313
274 ..... 7578

**18 CFR**

46 ..... 9729
271 ..... 7248, 7781

**Proposed Rules:**

35 ..... 11817
292 ..... 8665, 9011
401 ..... 8665
1309 ..... 11835

**19 CFR**

10 ..... 10758
353 ..... 8182

**Proposed Rules:**

Ch. I ..... 7533, 10360
101 ..... 10365
200 ..... 11512
353 ..... 8026

**20 CFR**

653 ..... 12202
655 ..... 11798

**Proposed Rules:**

404 ..... 8586
410 ..... 10809
616 ..... 7974
689 ..... 10330

**21 CFR**

5 ..... 7782, 8586
14 ..... 8587, 10331
16 ..... 7474, 10332
20 ..... 7474
81 ..... 11799
103 ..... 10759
146 ..... 7784
193 ..... 8979
510 ..... 7249, 11800
520 ..... 8587, 10332, 10333, 10759, 10760, 11801
556 ..... 10333, 10334
558 ..... 7249, 7787, 10334
606 ..... 9261
809 ..... 7474
861 ..... 7474
870 ..... 7904–7971
1308 ..... 11125

**Proposed Rules:**

Ch. I ..... 10810
Ch. II ..... 8666
Subchapter J ..... 8870
25 ..... 9286
58 ..... 7268
170 ..... 11840, 11841
182 ..... 9286, 11841–11846
184 ..... 9286, 11841–11846
186 ..... 11846
310 ..... 11846
320 ..... 11849
348 ..... 7820
353 ..... 7268
357 ..... 9286
600 ..... 11854
610 ..... 11854
640 ..... 11854
1312 ..... 9289

**22 CFR**

51 ..... 11128

**Proposed Rules:**

208 ..... 9293

**23 CFR**

**Proposed Rules:**

625 ..... 10236

**24 CFR**

201 ..... 9895, 11128
203 ..... 9895, 11801
205 ..... 9895
207 ..... 9895, 11801
213 ..... 9895
220 ..... 9895, 11801
221 ..... 9895
232 ..... 9895
234 ..... 9895
235 ..... 9895
236 ..... 9895
241 ..... 9895
242 ..... 9895
244 ..... 9895
250 ..... 9895
570 ..... 9730, 10740
841 ..... 7787

**Proposed Rules:**

Subtitle A ..... 7978
Subtitle B ..... 7978
200 ..... 8026, 9948
885 ..... 9748, 11513

**25 CFR**

256 ..... 8002
273 ..... 9241

**26 CFR**

1 ..... 8003
5 ..... 8295
25 ..... 8003
46 ..... 10334
49 ..... 10334
138 ..... 8589
301 ..... 11468, 11470
404 ..... 11802
601 ..... 7250

**Proposed Rules:**

31 ..... 8666, 8668
48 ..... 8669
301 ..... 11513

**27 CFR**

19 ..... 7528
72 ..... 8592
250 ..... 7528

**Proposed Rules:**

Ch. I ..... 7533, 10367

**28 CFR**

**Proposed Rules:**

Ch. I ..... 7268
Ch. V ..... 8666

16 ..... 7820

29 CFR
403 ..... 7525
1601 ..... 7542
1910 ..... 8593
1952 ..... 8594–8596, 10334, 10335, 10337, 11804, 11814
Proposed Rules:
Ch. XIV ..... 9948
1 ..... 10374
4 ..... 10375
5 ..... 10375
1603 ..... 7514
1910 ..... 10375, 10732
1918 ..... 10732
1926 ..... 10732
1928 ..... 10732
2550 ..... 7521

30 CFR
700 ..... 8240
785 ..... 8240
816 ..... 8240
817 ..... 8240
820 ..... 8240
Proposed Rules:
700 ..... 8241
701 ..... 8241
761 ..... 8241
786 ..... 8241
816 ..... 8241
817 ..... 8241

31 CFR
51 ..... 8296
240 ..... 7259
Proposed Rules:
Ch. IV ..... 10377

32 CFR
69 ..... 10338
562 ..... 9262
701 ..... 8598
720 ..... 8598
722 ..... 8598
728 ..... 8598
730 ..... 8598
737 ..... 8598
750 ..... 8598
755 ..... 8598
757 ..... 8598
818 ..... 9898
Proposed Rules:
288 ..... 10377

32A CFR
106 ..... 8600

33 CFR
110 ..... 10760
117 ..... 8980, 9903
165 ..... 7543
183 ..... 7544
Proposed Rules:
110 ..... 10810–10815
117 ..... 9951
148 ..... 10172
150 ..... 10172
161 ..... 9011
164 ..... 11790
207 ..... 9296

35 CFR
253 ..... 7788

36 CFR
7 ..... 10350
Proposed Rules:
1190 ..... 12168

38 CFR
3 ..... 1804
8 ..... 9732
36 ..... 10340
Proposed Rules:
3 ..... 9297
17 ..... 7268

39 CFR
10 ..... 8297
601 ..... 9732
Proposed Rules:
111 ..... 9011
3001 ..... 11139

40 CFR
35 ..... 7788
51 ..... 7800
52 ..... 7544, 7800, 7801, 7803 8004, 8009, 8299, 9733, 9903, 10761, 10766, 10775, 11472, 11495
60 ..... 8010
65 ..... 10341, 10342, 10344
81 ..... 7544, 8011, 9262, 10766, 10775
86 ..... 10783
120 ..... 9910
180 ..... 8012, 8980, 9742
211 ..... 8272
Proposed Rules:
52 ..... 7821, 8004, 8009, 8313, 8669, 8670, 9012, 9749, 9750, 9752, 9952, 9953, 10738, 10815, 10817, 11855
60 ..... 7758, 11444
81 ..... 7582, 8670, 9012 11140
86 ..... 9753
125 ..... 9548
180 ..... 7821, 7822
250 ..... 9755
419 ..... 11141
446 ..... 8028
447 ..... 8028

41 CFR
Ch. 101 ..... 7260, 9267
1–1 ..... 8602, 10789
1–2 ..... 10789
1–3 ..... 8602, 10789
1–4 ..... 10789
1–7 ..... 10789
1–15 ..... 10786
1–16 ..... 10789
3–3 ..... 7545
4–1 ..... 11129
8–3 ..... 7813
8–5 ..... 7813
8–8 ..... 7813
8–11 ..... 9266
8–76 ..... 8981
51–3 ..... 10345
51–4 ..... 10345
60–1 ..... 9271
60–250 ..... 9271
60–741 ..... 9271
101–47 ..... 10793
105–61 ..... 8603
105–735 ..... 9272
Proposed Rules:
60–1 ..... 11856
60–2 ..... 11856
60–20 ..... 11856
60–30 ..... 11856
60–50 ..... 11856
60–60 ..... 11856
60–250 ..... 11856
60–741 ..... 11856
101–19 ..... 8028
101–20 ..... 10379

42 CFR
54a ..... 8528
66 ..... 9742
433 ..... 8982
435 ..... 8982
436 ..... 8982
447 ..... 11806
455 ..... 11436
463 ..... 11807
474 ..... 11436
Proposed Rules:
51g ..... 9755
55a ..... 9298
36 ..... 8314
122 ..... 12174
123 ..... 12174
405 ..... 9953, 10382

43 CFR
20 ..... 11402
1780 ..... 8176
3100 ..... 8885
Public Land Orders:
726 (Revoked by PLO 5695) ..... 7816
995 (Amended by PLO 5692) ..... 7815
5692 ..... 7815
5693 ..... 7815
5694 ..... 7815
5695 ..... 7816
5696 ..... 9565
5697 ..... 9578
5698 ..... 9587
5699 ..... 9593
5700 ..... 9604
5701 ..... 9623
5702 ..... 9632
5703 ..... 9640
5704 ..... 9649
5705 ..... 9663
5706 ..... 9668
5707 ..... 9674
5708 ..... 9691
5709 ..... 9699
5710 ..... 9704
5711 ..... 9716
5712 ..... 11132
Proposed Rules:
8340 ..... 8672

44 CFR
64 ..... 8603, 10346
65 ..... 9916
67 ..... 8013, 8988, 9916
70 ..... 8605–8624
Proposed Rules:
67 ..... 8672, 9033–9035

45 CFR
95 ..... 10793
121a ..... 7550
134 ..... 7261
134a ..... 7261
134b ..... 7261
302 ..... 8982
304 ..... 8982
306 ..... 8982
801 ..... 7269, 7261
1050 ..... 8299
1061 ..... 8303, 10794
1071 ..... 8299
Proposed Rules:
17 ..... 10620
150 ..... 10621
161n ..... 8314
179 ..... 7582
194 ..... 7582
196 ..... 7582
232 ..... 8316
233 ..... 8316
302 ..... 8316
1060 ..... 9960
1061 ..... 11082

46 CFR
4 ..... 8989
5 ..... 8989
25 ..... 7551
26 ..... 11108
57 ..... 10795
66 ..... 9930
78 ..... 11108
185 ..... 11108
252 ..... 8023
Proposed Rules:
525 ..... 11514

47 CFR
0 ..... 10347, 11133
73 ..... 10347, 10348, 11133
83 ..... 8989
90 ..... 9283
97 ..... 8990
Proposed Rules:
2 ..... 7583, 10384
21 ..... 10384
42 ..... 9020
61 ..... 10385
73 ..... 8029, 8673, 8674, 9021–9025, 9755
76 ..... 9021
83 ..... 7269
87 ..... 10384
90 ..... 7269, 7583, 10384
95 ..... 10606
99 ..... 7583

48 CFR
Proposed Rules:
52 ..... 9302

49 CFR
1 ..... 8992
10 ..... 8993
27 ..... 11495
192 ..... 9931
193 ..... 9184
531 ..... 9935
554 ..... 10796
571 ..... 7551, 10798
1011 ..... 11811
1033 ..... 7551, 8303–8306
1247 ..... 11813
Proposed Rules:
Ch. X ..... 9962

171.....9960
173.....9960
178.....9960
193.....9220
195.....8323
571.....8324
640.....9244
941.....11141
1034.....9027
1109.....11142
1110.....10386

**50 CFR**

26.....8306, 9938, 11813
32.....7816
33.....8307
216.....7262, 9284
230.....11134
451.....8624
611.....9940, 11497
621.....10349
652.....9939
656.....11497
671.....10800
672.....9940

**Proposed Rules:**

Ch. I.....8675
17.....8029, 8030, 10386
20.....9028
216.....10552
602.....8686
611.....8030
651.....8030
680.....8327, 9303
691.....8328

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/SECRETARY | USDA/ASCS | | DOT/SECRETARY | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA | USDA/FNS | | DOT/FAA | USDA/FNS |
| DOT/FHWA | USDA/FSQS | | DOT/FHWA | USDA/FSQS |
| DOT/FRA | USDA/REA | | DOT/FRA | USDA/REA |
| DOT/NHTSA | MSPB/OPM | | DOT/NHTSA | MSPB/OPM |
| DOT/RSPA | LABOR | | DOT/RSPA | LABOR |
| DOT/SLSDC | HEW/FDA | | DOT/SLSDC | HEW/FDA |
| DOT/UMTA | | | DOT/UMTA | |
| CSA | | | CSA | |

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

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

## REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

### Rules Going Into Effect Today

**AGRICULTURE DEPARTMENT**

Food Safety and Quality Service—

**4340** 1–22–80 / Broccoli, frozen grade standards

**ENVIRONMENTAL PROTECTION AGENCY**

**5512** 1–23–80 / Revised motor vehicle exhaust emission standards for oxides of nitrogen ($NO_x$) for 1981 and 1982 model year light-duty vehicles

**FEDERAL COMMUNICATIONS COMMISSION**

**2842** 1–15–80 / Boca Raton, Fla.; TV station table of assignments

**SECURITIES AND EXCHANGE COMMISSION**

**5299** 1–23–80 / Exemption of non-member brokers and dealers from certain SECO fair practice rules

### Listing of Public Laws

**Last Listing February 21, 1980**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

**H.R. 2440 / Pub. L. 96–193** Aviation Safety and Noise Abatement Act of 1979. (Feb. 18, 1980; 94 Stat. 50) Price $1.25.

*Just Released*

# CODE OF FEDERAL REGULATIONS

## (Revised as of July 1, 1979)

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*[A Cumulative checklist of CFR issuances for 1979 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]*

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