FRIDAY, OCTOBER 13, 1978

highlights

HOW-TO USE THE FEDERAL REGISTER

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HOW TO USE THE FEDERAL REGISTER WORKSHOPS

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

ALBANY, NEW YORK
WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518-474-5943.

DALLAS, TEXAS
WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214-749-2131.

FORT WORTH, TEXAS
WHEN: October 31, 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817-334-3624.

AUSTIN, TEXAS
WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 1008, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512-475-6725.

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H.R. 12930 ........................................ Pub. L. 95-429

H.R. 11005 ........................................ Pub. L. 95-430

H.R. 12934 ........................................ Pub. L. 95-431

H.R. 13349 ........................................ Pub. L. 95-432
To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes. (Oct. 10, 1978; 92 Stat. 1040). Price: $0.60.

H.R. 10581 ........................................ Pub. L. 95-433
Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes. (Oct. 10, 1978; 92 Stat. 1047). Price: $0.60.

H.R. 14459 ........................................ Pub. L. 95-434

H.R. 9214 ........................................ Pub. L. 95-435
To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund. (Oct. 10, 1978; 92 Stat. 1051). Price: $0.60.

S. 409 ........................................ Pub. L. 95-436
To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center". (Oct. 10, 1978; 92 Stat. 1054). Price: $0.60.

H.R. 10126 ........................................ Pub. L. 95-437

S. 425 ........................................ Pub. L. 95-438
To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General O. E. Baker, United States Air Force (retired). (Oct. 10, 1978; 92 Stat. 1060). Price: $0.60.

S. 286 ........................................ Pub. L. 95-439
To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. (Oct. 10, 1978; 92 Stat. 1061). Price: $0.60.

S. 1267 ........................................ Pub. L. 95-440
To amend sections 3203a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents. (Oct. 10, 1978; 92 Stat. 1063). Price: $0.60.

S. 2946 ........................................ Pub. L. 95-441
To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control. (Oct. 10, 1978; 92 Stat. 1064). Price: $0.60.

S. 2951 ........................................ Pub. L. 95-442
To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devices of real and personal property for the benefit of the Department of Agriculture or any of its programs. (Oct. 10, 1978; 92 Stat. 1065). Price: $0.60.

S. 3045 ........................................ Pub. L. 95-443
To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products. (Oct. 10, 1978; 92 Stat. 1066). Price: $0.60.

S. 2067 ........................................ Pub. L. 95-444

S. 3092 ........................................ Pub. L. 95-445

S. 3274 ........................................ Pub. L. 95-446
To designate the United States Department of Agriculture's Bee Research Laboratory in Tuscon, Arizona, as the "Carl Hayden Bee Research Center". (Oct. 10, 1978; 92 Stat. 1071). Price: $0.60.

S. 3036 ........................................ Pub. L. 95-447
To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes. (Oct. 10, 1978; 92 Stat. 1072). Price: $0.60.

H.R. 13125 ........................................ Pub. L. 95-448

S.J. Res. 23 ........................................ Pub. L. 95-449
To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week". (Oct. 11, 1978; 92 Stat. 1094). Price: $0.60.

H.R. 12026 ........................................ Pub. L. 95-450
"Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act". (Oct. 11, 1978; 92 Stat. 1095). Price: $0.70.

S. 3467 ........................................ Pub. L. 95-451
To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Pogue Pecan Field Station". (Oct. 11, 1978; 92 Stat. 1100). Price: $0.60.
# List of CFR Parts Affected in This Issue

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**FEDERAL REGISTER, VOL 43, NO. 199—FRIDAY, OCTOBER 13, 1978**
# CUMULATIVE LIST OF CFR Parts Affected During October

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

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**FEDERAL REGISTER, VOL 43, NO. 199—FRIDAY, OCTOBER 13, 1978**

xiii
Title 5—Civil Service Commission

PART 180—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Revision of Personal Property Claims Regulations

AGENCY: Civil Service Commission.

ACTION: Final.


For further information contact:


Accordingly, 5 CFR Part 180 is revised as set forth below:

§ 180.101 Scope and purpose.

(a) The Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 240 to 243, authorizes the Chairman of the Civil Service Commission to settle and pay (including replacement in kind) claims of officers and employees of the Commission, amounting to not more than $15,000, for damage to or loss of personal property incident to their service. Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquisition and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to underwrite individual losses, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured.

§ 180.102 Claimants.

(a) The following are proper claimants:

(1) Officers and employees of the Commission;

(2) Former officers and employees of the Commission whose claims arose out of incidents which occurred before their separation;

(3) The authorized agent or legal representative of persons in §§ 180.102(a)(1) and 180.102(a)(2);

(4) Survivors of persons in §§ 180.102(a)(1) and 180.102(a)(2) in the following order of precedence:

(iii) Father or mother, or both.

(iv) Brothers or sisters, or both.

(b) A claim may not be presented by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 180.103 Time limitations.

A claim must be presented in writing within 2 years after it accrues, except during war or armed conflict. If war or armed conflict occurs within the 2-year period following accrual, when claimant shows good cause, the claim may be presented within 5 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict. A claim accrues when loss or damage is or should have been discovered by claimant even though such loss or damage occurred at a prior time.

§ 180.104 Allowable claims.

(a) A claim may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the neglect or wrongful act of the claimant, claimant's agent, a member of claimant's family, or claimant's private employee (the standard to be applied is that of reasonable care under the circumstances);

(2) The possession of the property damaged or lost and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this part shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss or solely because the claimant was not legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in § 180.104(a) and the other provisions of this part, any claim for damage to or loss of personal property incident to service with the Commission may be considered and allowed. The following are examples of the principal types of claims which may be allowed. These examples are not exclusive and other types of claims may be allowed unless excluded by § 180.106:

(1) Property damaged or lost in quarters. Claims may be allowed for damage to or loss of property located in the United States; and

(2) Property damaged or lost in quarters outside the United States. Claims may be allowed for damage to or loss of property located in this country or elsewhere.


§ 180.105 Claims not allowed.

(a) Claims are disallowed, among other reasons:

(i) Where the claimant is a negligent or partly negligent party;

(ii) Where the damage or loss was caused by another party;

(iii) Where the possession of the property was not reasonable, useful, or proper;

(iv) Where the claimant failed to give notice of the claim within the time limits.

(b) A claim may be disallowed, among other reasons:

(i) Where the property was not damaged or lost at a prior time.

(ii) Where the claim accrues as a result of damage to or loss of property made prior to the time the present claim was filed.

(iii) Where the property that was damaged or lost is not the same property as that of which claim was previously filed.

§ 180.106 Claim procedures.

(a) Claims may be filed with the Civilian Claims Division, Office of the General Counsel, Civil Service Commission, Washington, D.C. 20415.

(b) The Civilian Claims Division will accept claims on the form prescribed by the Commission, including a statement of claimant's name, address, and other relevant information.

(c) The Civilian Claims Division will review the claim and make a determination as to whether it is payable under the provisions of the Civilian Employees' Claims Act of 1964, 31 U.S.C. § 240 to 243.

(d) If the Civilian Claims Division determines that the claim is payable, it will make an award in accordance with the provisions of the Act.

(e) If the Civilian Claims Division determines that the claim is not payable, it will issue a final determination in writing and notify the claimant of its decision.

(f) The claimant may appeal the final determination of the Civilian Claims Division to the Civil Service Commission, which will review the appeal and make a final determination in writing.

§ 180.107 Claims allowed.

(a) Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquisition and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to underwrite individual losses, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured.

§ 180.108 Claims allowed.

(a) A claim for damage to or loss of personal property may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the neglect or wrongful act of the claimant, claimant's agent, a member of claimant's family, or claimant's private employee (the standard to be applied is that of reasonable care under the circumstances);

(2) The possession of the property damaged or lost and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this part shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss or solely because the claimant was not legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in § 180.104(a) and the other provisions of this part, any claim for damage to or loss of personal property incident to service with the Commission may be considered and allowed. The following are examples of the principal types of claims which may be allowed. These examples are not exclusive and other types of claims may be allowed unless excluded by § 180.106:

(1) Property damaged or lost in quarters. Claims may be allowed for damage to or loss of property located in the United States; and

(2) Property damaged or lost in quarters outside the United States. Claims may be allowed for damage to or loss of property located in this country or elsewhere.

(iii) Any warehouse, office, working area, or other place (except quarters) authorized or apparently authorized for the reception or storage of property.

(2) Transportation or travel losses. Claims may be allowed for damage to or loss of property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in custody of a carrier, an agent or agency of the Government, or the claimant.

(3) Motor vehicles. Claims may be allowed for automobiles and other motor vehicles damaged or lost in overseas shipments provided by the Government, "Shipments provided by the Government" means via Government vessels, charter of commercial vessels, or by Government bills of lading on commercial vessels, and includes storage, unloading, and off-loading incidental thereto. Other claims for damage to or loss of automobiles and other motor vehicles may be allowed only when use of the vehicle on a non-reimbursable basis was required by the claimant's supervisor.

(4) Mobile homes. Claims may be allowed for damage to or loss of mobile homes and their contents under the provisions of §180.104(e)(2). Claims for structural damage to mobile homes, other than that caused by collision, and damage to contents of mobile homes resulting from such structural damage must contain conclusive evidence that the damage was not caused by structural deficiency of the mobile home and that it was not overloaded.

(5) Money. Claims for money in an amount that is determined to be reasonable for the claimant to possess at the time of the loss are payable:

(a) Where personal funds were accepted by responsible Government personnel with apparent authority to receive them for safekeeping deposit, transmittal, or other authorized disposition, but were neither applied as directed by the owner nor returned;
(b) When lost incident to a marine or aircraft disaster;
(c) When lost by fire, flood, hurricane, or other natural disaster;
(d) When stolen from the quarters of the claimant where it was conclusively shown that the money was in a locked container and that the quarters themselves were locked;
(e) When taken by force from the claimant's person.

(6) Clothing. Claims may be allowed for clothing and accessories worn on the person which are damaged or lost:

(i) During the performance of official duties in an unusual or extraordinary-risk situation;
(ii) In cases involving emergency action required by natural disaster such as fire, flood, hurricane, or by enemy or other belligerent action;
(iii) In cases involving faulty equipment or defective furniture maintained by the Government and used by the claimant as required by the job situation;
(iv) When using a motor vehicle.

(7) Property used for benefit of the Government. Claims may be allowed for damage to or loss of property (except motor vehicles used for the benefit of the Government) at the request of, or with the knowledge and consent of, superior authority or by reason of necessity.

(8) Enemy action or public service. Claims may be allowed for damage to or loss of property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerrilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals;
(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or
(iii) Efforts by the claimant to save human life or Government property.

(9) Marine or aircraft disaster. Claims may be allowed for personal property damaged or lost as a result of marine or aircraft disaster or accident.

(10) Government property. Claims may be allowed for Government property owned by the United States only when the claimant is financially responsible to the United States when shipped with household goods or for small articles of extraordinary value when shipped with or by the Government at normal released valuation.

(11) Borrowed property. Claims may be allowed for borrowed property that has been damaged or lost.

§180.105 Claims not allowed.

(a) A claim is not allowable if:

(1) The damage or loss was caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, claimant's employee, or a member of claimant's family;
(2) The damage or loss occurred in quarters occupied by the claimant within the 50 States and the District of Columbia that were not assigned to the claimant or otherwise provided in kind by the United States;
(3) Possession of the property lost or damaged was not incident to service or not reasonable or proper under the circumstances;
(b) In addition to claims falling within the categories of §180.105(a), the following are examples of claims which are not payable:

(1) Claims not incident to service. Claims which arose during the conduct of personal business are not payable.

(2) Subrogation claims. Claims based upon payment or other consideration to a proper claimant are not payable.

(3) Assigned claims. Claims based upon assignment of a claim by a proper claimant are not payable.

(4) Conditional vendor claims. Claims asserted by or on behalf of a conditional vendor are not payable.

(5) Claims by improper claimants. Claims by persons not designated in §180.102(a) are not payable.

(6) Small items of substantial value. Claims are not payable for property or for small articles of substantial value, such as watches or expensive jewelry, when shipped with household goods or as unaccompanied baggage.

(7) Articles of extraordinary value. Claims are not payable for expensive articles of gold, silver, other precious metals, paintings, antiquities other than bulky furnishings, relics, and other articles of extraordinary value when shipped with household goods by ordinary means or as unaccompanied baggage.

(8) Articles acquired for other persons. Claims are not payable for articles intended directly or indirectly for persons other than the claimant or members of the claimant's immediate household. This prohibition includes articles acquired at the request of others and articles for sale.

(9) Property used for business. Claims are not payable for property normally used for business or profit.

(10) Unserviceable property. Claims are not payable for wornout or unserviceable property.

(11) Violation of law or directive. Claims are not payable for property acquired, possessed, or transported in violation of law, regulation, or other directive. This does not apply to limitations imposed on the weight of shipments of household goods.

(12) Intangible property. Claims are not payable for intangible property such as bank books, checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money order, and traveler's checks.

(13) Government property. Claims are not payable for property owned by the United States unless the claimant is financially responsible for the property to an agency of the Government other than the Commission.
(14) **Motor vehicles.** Claims for motor vehicles, except as provided for by §180.104(c)(3), will ordinarily not be paid. However, in exceptional cases, meritorious claims for damage to or loss of motor vehicles may be recommended to the Office of the General Counsel for consideration and approval for payment.

(15) **Enemy property.** Claims are not payable for enemy property, including war trophies.

(16) **Losses recoverable from carrier.** Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from a carrier, except as permitted under §180.106.

(17) **Losses recoverable from insurer.** Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from an insurer, except as permitted under §180.106.

(18) **Losses recoverable from contractor.** Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable under contract, except as permitted under §180.106.

(19) **Fees for estimates.** Claims are not normally payable for fees paid to obtain estimates of repair in con junction with submitting a claim under this part. However, where, in the opinion of the approving authority, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value or the cost of repairs of the articles involved, provided that the evidence furnished clearly indicates that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(20) **Items fraudulently claimed.** Claims are not payable for items fraudulently claimed. When investigation discloses that a claimant, claimant's agent, claimant's employee, or member of claimant's family has intentionally misrepresented an item claimed as to cost, condition, cost to repair, etc., the item will be disallowed in its entirety even though some actual damage has been sustained. However, if the remainder of the claim is proper it will be paid. This does not preclude appropriate disciplinary action if warranted.

§180.106 Claims involving carriers and insurers.

(a) Claimants must comply with the following before presenting claims involving a carrier or insurer:

(1) Whenever property is damaged or lost while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the carrier according to the terms of its bill of lading or contract before submitting a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the carrier.

(2) Whenever property which is damaged or lost incident to the claimant's service is insured in whole or in part, the claimant must make a written demand against the insurer for reimbursement under the terms and conditions of the insurance coverage. Such demand should be made within the time limit in the policy and prior to the filing of a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the insurer.

(b) If the claimant fails to make the required demand on the carrier or insurer or make reasonable efforts to collect the amount recoverable, the amount payable under the provisions of these regulations shall be reduced by the amount recoverable. However, no deduction will be made if the circumstances of the claimant's service were such as to preclude timely filing of the claim with the carrier or insurer and it is determined that a demand would have been impractical or unavailing in any event.

(c) When a claim is paid by the Commission, the claimant will assign to the United States, to the extent of any payment on the claim accepted by the claimant, all rights, title, and interest in any claim against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. On request, the claimant also will furnish such evidence as may be required to enable the United States to enforce the claim.

(d) After payment of a claim by the United States, if the claimant receives any payment from a carrier, contractor, insurer, or other third party, the claimant will pay the proceeds to the United States to the extent of the payment received by the claimant from the United States.

§180.107 Claims procedure.

(a) **Filing a claim.** Claims not exceeding $500 shall be filed with the appropriate bureau or regional director. Claims in excess of $500 shall be filed with the Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Claims shall be in writing, using G.C. Form 33 when available, and shall contain as a minimum:

(1) Name, address, and place of employment of the claimant;

(2) Place and date of the damage or loss;

(3) A brief statement of the facts and circumstances surrounding the damage or loss;

(4) Cost, date, and place of acquisition of each piece of property damaged or lost;

(5) Two itemized repair estimates, or value estimates, whichever is applicable;

(6) Copies of police reports, if applicable;

(7) A statement from the claimant's supervisor that the loss was incident to service;

(8) A statement that the property was or was not insured;

(9) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept, a statement as to what security precautions were taken to protect the property involved;

(10) With respect to claims involving property being used for the benefit of the Government, a statement by the claimant's supervisor that the claimant was required to provide such property or that the claimant's providing it was in the interest of the Government; and

(11) Other evidence as may be required.

(b) **Single claim.** A single claim shall be presented for all lost or damaged property resulting from the same incident. If this procedure causes a hardship, the claimant may present an initial claim with notice that it is a partial claim, an explanation of the circumstances causing the hardship, and an estimate of the balance of the claim and the date it will be submitted. Payment may be made on a partial claim if the approving authority determines that a genuine hardship exists.

(c) **Claims investigator.** When a claim is filed, the appropriate bureau or regional director, or the General Counsel, shall appoint a claims investigator to evaluate the claim and make a recommendation as to its disposition.

(d) **Loss in quarters.** Claims for property lost in quarters or other author ized places should be accompanied by a statement indicating:

(1) Geographical location;

(2) Whether the quarters were assigned or provided in kind by the Government;
(3) Whether the quarters are regularly occupied by the claimant;
(4) Name of the authority, if any, who designated the place of storage of the property if other than quarters;
(5) Measures taken to protect the property;
(6) Whether the claimant is a local inhabitant.

(e) Loss by theft or robbery. Claims for property loss by theft or robbery should be accompanied by a statement indicating:

(1) Geographical location;
(2) Facts and circumstances surrounding the loss, including evidence of the crime such as breaking and entering, capture of the thief or robber, or recovery of part of the stolen goods; and
(3) Evidence that the claimant exercised due care in protecting the property prior to the loss, including information as to the degree of care normally exercised in the locale of the loss due to any unusual risks involved.

(f) Transportation losses. Claims for transportation losses should be accompanied by the following:

(1) Copies of orders authorizing the travel, transportation, or shipment or a certificate explaining the absence of orders and stating their substance;
(2) Statement in cases where property was turned over to a shipping officer, supply officer, or contract packer indicating:

(i) Name (or designation) and address of the shipping officer, supply officer, or contract packer;
(ii) Date the property was turned over;
(iii) Inventarioed condition when the property was turned over;
(iv) When and where the property was packed and by whom;
(v) Date of shipment;

(vi) Copies of all bills of lading, inventories, and other applicable shipping documents;
(vii) Date and place of delivery to the claimant;

(viii) Date the property was unpacked by the carrier, claimant, or Government;

(ix) Statements of disinterested witnesses as to the condition of the property when received and delivered, or as to handling or storage;

(x) Whether the negligence of any Government employee acting within the scope of his employment caused the damage or loss;

(xi) Whether the last common carrier or local carrier was given a clear receipt, except for concealed damages;

(xii) Total gross, tare, and net weight of shipment;

(xiii) Insurance certificate or policy if losses are privately insured;

(xiv) Copy of the demand on carrier or insured, or both, when required, and the reply, if any;

(xv) Action taken by the claimant to locate missing baggage or household effects, including related correspondence.

(g) Marine or aircraft disaster. Claims for property losses due to marine or aircraft disaster should be accompanied by a copy of orders or other evidence to establish the claimant’s right to be, or to have property on board.

(h) Enemy action, public disaster, or public service. Claims for property losses due to enemy action, public disaster, or public service should be accompanied by:

(i) Copies of orders or other evidence establishing the claimant’s required presence in the area involved, and

(ii) A detailed statement of facts and circumstances showing an applicable case enumerated in §180.104(c)(6).

(i) Property used for benefit of Government. Claims for property loss when the property was used for the benefit of the Government should be accompanied by:

(1) A statement from the proper authority that the property was supplied by the claimant in the performance of official business at the request of, or with the knowledge and consent of, a superior authority or by reason of necessity; and

(2) If the property being used for the benefit of the Government was damaged or lost while not in use, evidence that the loss occurred in an authorized storage area.

(j) Money. Claims for loss of money deposited for safekeeping, transmittal, or other authorized disposition, should be accompanied by:

(1) Name, grade, and address of the person or persons who received the money and any others involved;

(2) Name and designation of the authority who authorized such person or persons to accept personal funds, and the disposition required; and

(3) Receipts and written sworn statements explaining the failure to account for funds or return them to the claimant.

(k) Motor vehicles in transit. Claims for damage to motor vehicles in transit should be accompanied by a copy of orders or other available evidence to establish the claimant’s right to have the property shipped and evidence to establish damage in transit.

3. Settlement of Claims

(a) Authority. Bureau Directors and Regional Directors are authorized to settle and pay any claim not exceeding $500 and arising under this part. The General Counsel is authorized to settle and pay any claim not exceeding $15,000 and arising under this part. Unless cognizable under §180.104(c)(5), claims for damage to or loss of motor vehicles may be settled and paid only by the General Counsel.

(b) Redelegation. The approving authorities may establish such procedures and make such redelegations as may be required to fulfill the objectives of this part.

(c) Cost or value. The amount awarded on any item of property will not exceed the cost of the item (either the price paid in cash or property) or the value at the time of acquisition if not acquired by purchase or exchange. The amount payable will be determined by applying the principles of depreciation to the adjusted dollar value or other base price of property lost or damaged beyond economical repair; by allowing the cost of repairs when an item is economically repairable, provided the cost of repairs does not exceed the depreciated value of the item; and by deducting salvage value, if appropriate.

(d) Depreciation. Depreciation in value of an item is determined by considering the type of article involved, its cost, condition when damaged beyond economical repair or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(e) Appreciation. There will be no allowance for appreciation in the value of the property except that the cost of the item may be adjusted to reflect changes in the purchasing power of the dollar before depreciation is computed. Appreciation will not be allowed solely because the loss occurred or the claimant now resides in an area remote from the place of purchase of the property.

(f) Expensive articles. Allowance for expensive items (including heirlooms and antiques) or for items purchased at unreasonably high prices will be based on the fair and reasonable purchase price for substitute articles of a similar nature.

(g) Acquisition. Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter. No reimbursement will be made for articles acquired in black market or other prohibited activities.

(h) Replacement. Replacement of damaged or lost property may be made in kind whenever appropriate.

(1) Amount allowable. Subject to the limitations of §180.108(h), the amount allowable in settlement of a claim is either:

(1) The depreciated value immediately prior to damage or loss of property; or

(2) The reasonable cost of repairs when property is economically repairable, provided that the cost of repairs does not exceed the depreciated value.
(j) Notification. The approving authority shall notify the claimant in writing of the action taken on the claim and, if the claim is disapproved or only partially approved, the reasons therefore.

(c) Carrier or insurer. In the event a claim submitted against a carrier or insurer under §180.106 had not been settled before settlement of a claim against the Government under this part, the approving authority shall notify such carrier or insurer to pay the proceeds of the claim to the Commission to the extent the Commission has made payment to the claimant.

(1) Review. The action of the approving authority is final; however, the decision may be reconsidered if the claimant so requests and submits a written explanation why reconsideration is appropriate.

(m) Attorney's fees. No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1000.

United States Civil Service Commission,
James C. Spry,
Executive Assistant to the Commissioners.

§213.3215 [Revoked]
United States Civil Service Commission,
James C. Spry,
Executive Assistant to the Commissioners.

§213.3215 Department of Labor.

(d) Employment and Training Administration. (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

§213.3215 [Revoked]
United States Civil Service Commission,
James C. Spry,
Executive Assistant to the Commissioners.

§213.3215 (u) Employment and Training Administration. (1) To permit employment of students who need the income to stay in school is amended: (1) To permit employment of mentally retarded and severely physically handicapped students because it is impracticable to examine for such appointments; (2) to eliminate the age restriction of 22 to comply with the Age Discrimination in Employment Act; and (3) to permit all students employed under this authority to work full-time during any period (regardless of length) when their school is officially closed because such employment will not interfere with their education.

Effective Date: October 5, 1978.

For Further Information Contact:
Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3102(w) is amended as set out below:

§213.3102 Entire Executive Civil Service.

(v) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign or when filled by mentally retarded or severely physically handicapped students, provided that the following conditions are met: (1) Appointees are enrolled in or accepted in a resident secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in

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any calendar week, except that students may work full-time during any period in which their school is officially closed; (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year. Provided, that such appointments may be made for additional periods of not to exceed 1 year each if the conditions for initial appointments are still met. Persons may not be appointed under this authority unless they have reached their 16th birthday. Appointments may not be made under this authority between May 1 and August 31, inclusive.


UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

(FR Doc. 78-29049 Filed 10-12-78; 8:45 am)

PART 213—EXCEPTED SERVICE

Smithsonian Institution

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The service limit for veterinary interns with the National Zoological Park is extended from 18 to 24 months to allow enough time for interns to acquire the full knowledge and skills in exotic animal medicine needed by American zoos. Schedule B exception is still appropriate for the positions because it is still impracticable to hold a competitive examination for them.


FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3274(a)(1) is amended as set out below:

§213.3274 Smithsonian Institution.

(a) National Zoological Park.

(1) Four positions of veterinary intern, GS-8/9. Employment under this authority is not to exceed 24 months.


UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

(FR Doc. 78-29051 Filed 10-12-78; 8:45 am)

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**§ 78.29 Certified Brucellosis-Free Areas.**

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

**(a) Entire States.**

- Walton, Washington.
- Virginia, Wisconsin, Virgin Islands.
- New York, North Carolina.
- Nevada.
- New Hampshire.
- Massachusetts, Michigan, Minnesota, Montana.

**Modified as Certified Brucellosis-Free Areas:**


**(b) Specific Counties Within States.**

- Arizona, Lodge, De Anza, Yuma.
- Arkansas, Baxter, Bradley, Carroll, Cleve-
- Florida, Baker, Bay, Citrus, Dixie, Escambia,
- Washington, Walton.

**§ 78.21 Modified Certified Brucellosis Areas.**

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

**(a) Entire States.**


根本不适用。
than 30 days after publication in the Federal Register.

Done at Washington, D.C., this 5th day of October.

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

NORVAN L. MAYER,
Acting Deputy Administrator
Veterinary Services.

[FR Doc. 78-28619 Filed 10-12-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Clarification of Requirement that an Export License Application Must Be Based on an Order

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

ACTION: Final rule.

SUMMARY: This revision restates the general requirement that an export license application must be based on an export order. It highlights the fact that the order need not be in the form of an agreement that can presently be executed or that would become a binding contract upon acceptance. It notes that an order need not be an unconditional offer to buy, but it must be more than a mere business inquiry relating to a possible export. It is issued to clarify and simplify the regulations and does not change the regulations in any substantive manner.


FOR FURTHER INFORMATION CONTACT:


Accordingly, §372.6 of the Export Administration regulations (15 CFR 372.6) is revised to read as follows:

§372.6 Substantiation of facts on application.

(a) Orders and other material facts.—(1) Order. An application for an export license must be based on an order. An “order” means a communi-

cation from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the applicant or order party, as defined in §372.6(b) below. While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or “open” order that remains at all times flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined before an application is submitted, all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction. (The Office of Export Administration may grab a waiver of this order requirement under certain circumstances. See §372.6(a)(1)).

(b) Documentary evidence. Before filing an application for an export license, the applicant should have in his possession documentary evidence of the order and of the following facts relating to the purchase transaction that appear on the license application:

(i) Country of ultimate destination;

(ii) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other than ultimate consignee), and any other party to the transaction, whether principal or agent. Including but not limited to brokers, representatives, or other agents through whom the order was received;

(iii) Quantity, value and description of commodity or technical data to be exported; and

(iv) End use of the export.

If the applicant does not have the documentary evidence that is required, the evidence must be in the possession of the order party involved in the transaction.

(2) Definitions. (i) The term “applicant” is defined as the party (or his duly authorized agent) who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the commodities and technical data out of the country and is thus, in reality, the exporter. The applicant must be subject to the jurisdiction of the United States. (ii) The term “order party” is defined as that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and received the order from the foreign purchaser or ultimate consignee. (iii) The term “documentary evidence” means any document(s) from the foreign purchaser or his representative which contain the terms and conditions of an offer to buy the commodities or technical data for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth the terms of the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter’s offer to sell. (iv) “Evidence of the facts relating to the purchase transaction” means any document(s) from the purchaser or ultimate consignee that contain the information required in a license application as set forth in §372.6(a)(2) above. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on a letterhead or order form shall not constitute evidence of either his identity, country of ultimate destination, or end use of the commodities described in the application.

(c) Order received by foreign agent.

An order received by a foreign agent of a U.S. exporter must be transmitted to the U.S. exporter before an application may be submitted. An application, however, will be accepted if it is based on an order from the foreign agent of a U.S. exporter covering commodities intended for general resale by the foreign agent to presently unknown end users.

(d) Signature of order party. The application must be signed by the order party, as well as by the applicant if they are different. The order party should be shown in the “Order Party’s Certification” item on the application. The signature of the order party is not required, however, in cases where maintenance, repair, or operating supplies are to be exported for use and consumption by the ultimate consignee and not for resale, and where the applicant has complete records and information concerning the transaction(s), including all correspondence between the foreign consignee and the person in the United States who originally received the order (the order party).

(e) Export transactions where no order has been received—(1) Exceptions to the order requirement. If no order has been received, or if an inquiry has been received that does not clearly meet the requirements of an order as defined in §372.6(a)(1) above, the Office of Export Administration...
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will consider granting a waiver of the order requirement where the applicant is able to show that an exception is warranted. Some examples of reasons that, if fully substantiated, might warrant an exception are:

(i) An unusual export nature of time, money or technical skill, in excess of ordinary sales expenses is necessary, before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

(ii) The applicant is under an unusual obligation to export immediately the commodities or technical data covered because of a special trade or industry practice.

(iii) The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

An applicant requesting such exception should submit with his application all required supporting documentation whenever possible and a statement explaining in full the reasons(s) for the requested exception. If it is not possible to obtain the required documentation at the time the waiver request is submitted, supporting documents shall be submitted as soon as they are obtainable. If the exception request is granted and the license is issued, certain conditions or limitations on the export may be imposed.

2. Inquiry regarding prospects of obtaining license or other authorization. The Office of Export Administration gives a formal licensing decision only through the issuance of a license or other appropriate document. Such decisions are based upon the actual submission of a formal application or other formal request setting forth all the facts relevant to the export transaction and supported by all required documentation. However, if negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, before filing a license application. If at all possible, the Office of Export Administration will respond with a preliminary opinion on the outlook for approval. The inquiry, of course, should describe the proposed transaction in full detail and explain why an advisory opinion is needed.

(c) Copies of documents. Section 377.11 defines the recordkeeping requirements of the Office of Export Administration, including the types of documents that must be kept. In the course of processing an application, the Office of Export Administration may request either the original or copies of the documents constituting evidence of an order. The time and manner of submission will be made known to the applicant at the time the request for submission is made. In accordance with § 375.5, all documents submitted in connection with a license application must be identified clearly as a part of that application. All terms and abbreviations must be explained, and an English translation of documents in a foreign language must be attached.

(e) Changes in facts. Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circum- stances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction or other transaction, shall be promptly reported to the Office of Export Administration, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Administration, in accordance with the provisions of § 372.7(b), even though shipments against the license may be partially or wholly completed. Change in intermediate consignee must be reported to the shipper's export declaration, and in certain cases an amendment to the export license is required. (See §§ 372.3(b)(3) and 372.11(e).)

3. Change of address of consignee. If an address of consignee can be changed because of a special trade or industry practice.


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

ACTION: Final rule.

SUMMARY: The Export Administration Act requires the monitoring of exports and contracts for exports of nonagricultural commodities under certain actual or threatened domestic short supply or price situations. While the Department conducts no export monitoring programs at present, this rule establishes the framework under which such monitoring programs will be conducted as the need arises. Additional provisions containing detailed instructions on the monitoring of specific commodities will be issued when a monitoring program(s) for such commodities is established.


FURTHER INFORMATION:

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: In the past, commodities designated for monitoring under provisions of section 4 of the Export Administration Act of 1969, as amended, have been included in part 376 with specific instructions for preparing and submitting monitoring reports. A new § 377.15, "General Provisions: Monitoring," which explains the purpose of and the statutory provision for monitoring. Because requirements for monitoring reports will differ for each commodity, no attempt is made in § 377.15 to explain details of reporting. No commodities are being monitored by the Office of Export Administration at this time, but sections defining specific requirements will be added as commodities are designated for monitoring.

In order to identify accurately its new contents, part 377 has been retitled "Short Supply Controls and Monitoring." Section 377.1 is renamed "General Provisions: Short Supply Controls," and §§ 377.7 through 377.14 have been reserved in order to provide ample space for additional commodities which may be subject to short supply controls in the future.

Accordingly, part 377 of the Export Administration Regulations (15 CFR Part 377) is amended as follows:

1. The title of part 377 is amended to read as follows:

PART 377 SHORT SUPPLY CONTROLS AND MONITORING

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

Change in Title and Addition of General Provisions: Monitoring

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

ACTION: Final rule.

SUMMARY: The Export Administration Act requires the monitoring of exports and contracts for exports of nonagricultural commodities under certain actual or threatened domestic short supply or price situations. While the Department conducts no export monitoring programs at present, this rule establishes the framework under which such monitoring programs will be conducted as the need arises. Additional provisions containing detailed instructions on the monitoring of specific commodities will be issued when a monitoring program(s) for such commodities is established.

Effective Date: October 13, 1978.

For Further Information:

For further information contact:


Supplementary Information:

In the past, commodities designated for monitoring under provisions of section 4(c)(1) of the Export Administration Act of 1969, as amended, have been included in part 376 with specific instructions for preparing and submitting monitoring reports. A new § 377.15, "General Provisions: Monitoring," which explains the purpose of and the statutory provision for monitoring. Because requirements for monitoring reports will differ for each commodity, no attempt is made in § 377.15 to explain details of reporting. No commodities are being monitored by the Office of Export Administration at this time, but sections defining specific requirements will be added as commodities are designated for monitoring.

In order to identify accurately its new contents, part 377 has been retitled "Short Supply Controls and Monitoring." Section 377.1 is renamed "General Provisions: Short Supply Controls," and §§ 377.7 through 377.14 have been reserved in order to provide ample space for additional commodities which may be subject to short supply controls in the future.

Accordingly, part 377 of the Export Administration Regulations (15 CFR Part 377) is amended as follows:

1. The title of part 377 is amended to read as follows:

PART 377 SHORT SUPPLY CONTROLS AND MONITORING

2. The title of § 377.1 is amended to read as follows:

§ 377.1 General provisions: Short supply controls.

§§ 377.7-377.14 [Reserved]

3. Sections 377.7 through 377.14 are added and reserved.

4. A new § 377.15 is added to read as follows:
§ 377.15 General provisions: Monitoring.

(a) Statutory requirements. Section 4(c)(1) of the Export Administration Act of 1969, as amended, requires the monitoring of exports and contracts for exports, of any article, material or supply (except those commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious impact on the economy or any sector thereof. The Act further requires that such monitoring shall commence at a time adequate to insure that data sufficient to permit achievement of the policies of the Act will be available in a timely fashion. These statutory requirements are implemented primarily by the provisions contained in this part 377.

(b) Commodities subject to monitoring. Commodities currently subject to export monitoring are listed in supplements to this part 377.

(c) Reporting requirements. Reports are submitted on form DIB-661P, monitoring report. Data to be submitted, reporting periods, and details of the reporting vary according to the commodities being monitored. Form DIB-661P is a general purpose form which is modified as may be necessary for specific monitoring programs. Part 1 of the form may be used alone or in conjunction with part 2. Refer to the sections on specific commodities subject to monitoring below for details on reporting requirements and specific instructions on preparing and submitting reports.

Note—As of (publication date), no commodity is subject to export monitoring pursuant to section 4(c)(1) of the Export Administration Act of 1969, as amended.

(d) Publication of monitoring reports. To the extent practicable, the results of this monitoring are aggregated and included in weekly reports compiled by the Office of Export Administration, setting forth with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply and demand. If there is sufficient information to justify weekly reports, the Office of Export Administration may compile reports on a monthly basis. In either instance the reports are published in the Federal Register.

(e) Confidentiality. The information obtained in the monitoring programs is subject to the confidentiality provisions of section 7(c) of the Export Administration Act of 1969, as amended.

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(f) Control decisions. The information obtained through monitoring and contained in the reports is also used by the Department of Commerce in determining whether the export of the commodities subject to monitoring should be controlled.

(g) To the extent consistent with the monitoring provisions of this part 377, the other portions of the Export Administration's regulations are applicable to such provisions, including the enforcement, recordkeeping and penalty provisions contained in parts 307 and 308 of this chapter.


STANLEY J. MARCHUS,
Deputy Assistant Secretary for Trade Regulation.

(FR Doc. 78-29035 Filed 10-12-78; 45 Am)

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

(Docket C-2927)

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Public Service Co. of Colorado

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Denver, Colo, utility company to cease, in connection with the advertising and sale of non-utility products and services, failing to properly provide consumers with credit disclosures required by Federal Reserve Systems regulations.

DATES: Complaint and order issued Sept. 12, 1978.1

1Copies of the Complaint, and decision and Order are filed with the original document.

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202-835-2371.

SUPPLEMENTARY INFORMATION:

On Wednesday, May 3, 1978, there was published in the Federal Register, 43 FR 10053, a proposed consent agreement with analysis in the Matter of Public Service Co. of Colorado, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.


Carole M. Thomas, Secretary.

(FR Doc. 78-2383 Filed 10-12-78; 45 Am)

[6355-01-M]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION
**PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS**

**Exemption from Labeling Requirements for Certain Writing Instruments Cartridges**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission exempts certain rigid or semirigid writing instrument cartridges from the labeling requirements of the Federal Hazardous Substances Act insofar as such requirements would apply because the ink contained in the cartridge is a hazardous substance because it is "toxic" as defined by the Commission's regulations and/or because the ink contains 10 percent or more by weight of ethylene glycol or diethylene glycol. The exemption was issued because the conditions specified in the exemption are such that full compliance with the labeling requirements otherwise applicable under the Act is not necessary for the adequate protection of the public health and safety.

**DATES:** The effective date of the exemption is October 13, 1978.

**FOR FURTHER INFORMATION CONTACT:**


**SUPPLEMENTARY INFORMATION:**

Under section 2(d) of the Federal Hazardous Substances Act ("the Act"), 15 U.S.C. 1261(d), the term "hazardous substance" includes any substance or mixture of substances which is "toxic" if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children. The term "hazardous substance" also includes any substances which the Consumer Product Safety Commission by regulation finds meet this definition. Section 2(g) of the Act defines toxic as including "any substance * * * which has the capacity to produce personal injury or illness to man through ingestion * * *." Section 2(p) of the Act provides that a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is misbranded if it does not bear a label conspicuously stating certain specified information and warning statements. The Commission's regulations (16 CFR 1500.3(c)(2)) further define "toxic" as including any substance that produces death within 14 days in at least one-half of a group of 10 white rats (each weighing between 200 or 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. (The dosage required to produce death in one-half of the rats in this test is referred to as the LD-50 single oral dose.)

Section 3(b) of the Act (15 U.S.C. 1262(b)) authorizes the Commission to issue regulations establishing reasonable variances or additional label requirements if it finds that the requirements of section 2(p)(1) of the Act are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance. Pursuant to section 3(b) of the Act, the Commission's regulations (16 CFR 1500.14(b)(1, 2)) establish special labeling requirements for substances containing 10 percent or more by weight of diethylene glycol or ethylene glycol.

Section 3(c) of the Act provides that if the Commission finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements of the Act is impractical or is not necessary for the adequate protection of the public health and safety, it may issue regulations exempting such substance from the requirements to the extent consistent with the adequate protection of the public health and safety.

**PETITION**

In a petition received January 3, 1977 (HP 77-4), the Parker Pen Co. requested an exemption to the labeling requirements of the Act. The product category for which the exemption was requested was rigid or semirigid writing instrument cartridges that have a writing point, and in view of the limitation that the amount of ethylene glycol or diethylene glycol contained in the cartridge for which the exemption is sought, both on the basis of the requested LD-50 limit and on the basis of the percentage of ethylene glycol and/or diethylene glycol contained in the cartridge, the ink itself would probably be included in the category of "dermatitis and poisoning," which constituted 4 percent of the reported diagnoses. No deaths in this category have been reported.

After considering the available data, the Commission found that, in view of the difficulty in extracting ink from the writing tip, and in view of the limitation that the amount of ink in each cartridge to 2 grams, the requested LD-50 single oral dose of 2.5 grams per kilogram of body weight of the test animal will provide an adequate degree of protection of the public health and safety. Similarly, the Commission found that the difficulty in extracting the ink from the tip and the limitation that the amount of ethylene glycol and/or diethylene glycol shall not exceed 1 gram per cartridge will provide an adequate degree of protection of the public health and safety where the percentage by weight of either of these substances is 10 percent or more. Accordingly, the Commission preliminarily found that full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is not necessary for the adequate protec-

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tion of the public health and safety. As a result of this finding, the Commission proposed an exemption for these ink cartridges, subject to the conditions described above (Nov. 14, 1977, 42 FR 58959).

Comment on the Proposal

In response to its proposal to exempt these ink cartridges from the full labeling requirements of the Act, the Commission received five comments. Two of these comments indicated general opposition to the granting of the exemption, and one comment was in favor of the exemption. The remaining two comments presented substantive issues concerning the proposed exemption and are discussed below:

1. One of these, comments opposes the exemption as it would apply to cartridges containing ethylene glycol. The comment cites support for the proposition that ethylene glycol is a severe exposure hazard and questions whether it has been conducted as to other possible hazards, such as contact with the eye or flammability. This aspect of the comment overlooks the fact that the exemption applies to hazards other than toxicity. The act also applies to substances that are irritants or are flammable. Substances that are shown to be eye irritants or to be flammable, as defined in the Commission's regulations at 1500.42, 1500.43 must meet the labeling requirements of the Act that are applicable to these hazards, and these requirements would not be affected by the proposed exemption. The information available to the Commission indicates that ethylene glycol is not flammable.

This comment also states that the objection to the exemption is based on (1) the fact that anything can go wrong with an ink cartridge, it will, and (2) that small children who can't read will undoubtedly account for the vast majority of accidents. The Commission has considered the likelihood that a defective cartridge may allow ink to be released from the reservoir and that this may cause cancer or other injuries, but the risks that are inherent in the use of writing instruments in general are inherently safer than those that do not and that the proposed limitation of "containing ink in the reservoir as a free liquid" should be deleted from the exemption.

Concerning the second limitation, Gillette argues that there is no logical or safety-related distinction between writing instrument cartridges and writing instruments in general.

After considering the comments submitted by Gillette, the Commission agrees that there is no apparent reason why the conditions in the exemption that is issued below would not protect the public health and safety as adequately for writing instruments in general as for ink cartridges containing ink in the reservoir as a free liquid. However, before broadening the scope of the exemption as proposed by Gillette, the Commission believes that it should propose these changes for public comment in order to obtain the benefit of any data, views, or arguments that interested persons believe should be considered by the Commission when it makes the final decision on whether or not Gillette's request should be granted. Accordingly, the Commission is issuing the exemption requested by Parker as originally proposed and will in the near future separately propose to expand the scope of the exemption as requested by Gillette.

Additional Issue

The labeling requirements from which an exemption is sought for these ink cartridges are intended to protect against the acute toxic effects that can occur soon after the ingestion of a hazardous substance. These labeling requirements are not intended to address the hazard of products that may cause cancer or other injuries a long time after the initial exposure. The test of rats provided for in §1500.3(c)(2)(i) would not detect carcinogenic effects, because the test animals are observed for only 14 days and are given only a single oral dose of the substance.

The Commission's staff has noted that certain ink dyes are similar (but not identical) in chemical structure to dyes which are suspected of being carcinogenic. The regulation, if warranted, of any ink dyes that are ultimately determined to be carcinogenic would have to be accomplished in a separate rulemaking proceeding.

As explained above, the risks that may be associated with possibly carcinogenic substances do not relate to the categories of labeling requirements with which this exemption is concerned. In addition, the dyes could be used in presently marketed inks, regardless of whether the exemption is approved. Accordingly, the issue of the potential use of possible carcinogenic dyes is separate from the issues relating to this exemption.

Conclusion

After considering the petition, the comments on the proposal, and the information obtained by the Commission's staff, the Commission finds that because of the size of the package involved, the minor hazard of the substance contained therein, and for the other good and sufficient reasons discussed above, full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is impracticable and not necessary for the adequate protection of the public health and safety.

Because this rule grants an exemption, the requirement of the Administrative Procedure Act that publication shall be made not less than 30 days before the effective date (5 U.S.C. 553(d)) is not applicable, and the exemption is therefore effective immediately.

Therefore, pursuant to the Federal Hazardous Substances Act (secs. 2(f), p. 3(a-c), 74 Stat. 372, 374, 375, as amended; 15 U.S.C. 1261(f), p. 1262 (a-c)), the Commission amends title 16, chapter II, of the Code of Federal Regulations by adding to Subchapter C, Part 1500, §1500.83, a new paragraph (a)(3) to read as follows (the text of the introductory portion of §1500.83(a), although unchanged, is included for context):
§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.82:

(38) Rigid or semirigid writing instrument cartridges having a writing point and an ink reservoir and containing ink in the reservoir as a free liquid are exempt from the labeling requirements of section 2(p)(1) of the act (repealed in § 1500.14(b)(1) of the regulations) and of regulations issued under section 3(b) of the act (§ 1500.14(b)(1,2)) so as to require that such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more by weight ethylene glycol or diethylene glycol, if all the following conditions are met:

(i) The writing instrument cartridge is of such construction that the ink will, under any reasonable foreseeable condition of manipulation and use, emerge only from the writing tip.

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an L.D. 50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(iii) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance either singly or in combination does not exceed 1 gram per writing instrument cartridge.

(iv) The amount of ink in the writing instrument cartridge does not exceed 3 grams.

Effective date: This amendment becomes effective October 13, 1978.


SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29053 Filed 10-13-78; 8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

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(Release Nos. 34-16215, 1A-640)

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Applicability of the Investment Advisers Act to Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Response to requests for comment.

SUMMARY: The Commission previously announced that it would allow a temporary exemption from the Investment Advisers Act of 1940 for certain brokers and dealers to expire. In addition, the Commission set forth current staff views on the meaning of the term "special compensation" and sought public comments on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The Commission has considered the comments received and has determined not to take any action at this time with respect to brokers or dealers who exercise discretionary authority over their customers' accounts.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Background

The adoption of Rule 19b-3 (17 CFR 240.19b-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78s et seq. ("Exchange Act"), if followed by the "unbundling" of brokerage commission charges and charges for research and other investment advice, could have caused those brokers or dealers who unbundled to become investment advisers as that term is defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq. ("Advisers Act"). To allow time for adjustment, the Commission adopted a series of temporary exemptions from the Advisers Act, in the form of Rule 206A-1(c) (17 CFR 240.206A-1(c)) under the Advisers Act, for certain brokers and dealers who had been registered pursuant to Section 15 of the Exchange Act (15 U.S.C. 78o) prior to the May 1, 1978 effective date of Rule 19b-3 and who were not then registered as investment advisers.

On April 27, 1978, the Commission issued a release in which it announced the final extension of Rule 206A-1(c), until October 31, 1978. A current staff interpretation of the term "special compensation" as used in section 202(a)(11)(C) of the Advisers Act 4 (15 U.S.C. 80b-2(a)(11)(C)) was also set forth and public comments were solicited on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The Commission has considered the comments received and has determined not to take any action at this time with respect to brokers or dealers who exercise discretionary authority over their customers' accounts.

The Division believes the best approach for now is to continue to interpret the term "special compensation" and intends for the present to continue to interpret that term in the manner described in Advisers Act Release No. 626. The Commission also notes that the temporary exemption will expire on October 31, 1978, as previously announced and that the staff will consider other rule changes suggested by commenters.

Comments Received

As was stated in that release, the Division, as a general principle, regards special compensation as existing only where there is a clearly definable charge for investment advice. The release then set forth certain applications of this principle to specific situations.

Two public commentators addressed themselves to this issue. One expressly agreed with, and the other did not appear to object to, the controlling interpretative principle. They did disagree, in differing respects, as to the application of the principle to certain situations.

The Division believes the best approach for now is to continue to interpr
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Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the standards of identity for bread, rolls, and buns by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function. The Commissioner for Food and Drugs has determined that it is appropriate to remove these limitations from the standards because technical considerations make it unlikely that excessive amounts of these or other bread softeners would be used.


ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5500 Fisher Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
In the Federal Register of May 28, 1978 (43 FR 22728), the Food and Drug Administration published a proposal to amend the standards of identity for bread, rolls, and buns as set forth in §136.110(c) of the regulations by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function.

(19) Other ingredients that do not change the basic identity or adversely affect the physical and nutritional characteristics of the food.
Any person who will be adversely affected by the foregoing regulation may at any time, before November 13, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857; written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective November 14, 1978, except as to any provisions that may become effective November 14, 1978, as amended (21 U.S.C. 344) and 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.


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

[FR Doc. 78-28782 Filed 10-12-78; 8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

Requirements for Patent Labeling for Progestational Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing a final regulation to require patient labeling for progestational drug products. The new labeling requirements will provide consumers with written information concerning the risks of use of progestational drug products during the early stages of pregnancy. The regulation specifies the kind of information and warnings to be contained in the patient labeling and states how the labeling is to be made available to the patient.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION:

In the Federal Register of July 22, 1977 (42 FR 4214), Food and Drug Administration (FDA) proposed a new requirement for patient labeling of progestational drug products. The agency proposed requiring that written information describing the risks of birth defects associated with drug use during the first 4 months of pregnancy be distributed to patients taking progestational drugs. Interested persons were given until September 20, 1977, to submit written comments. More than 200 individuals, physicians, manufacturers, and professional and trade organizations commented on the proposal. The following discussion summarizes and responds to the most substantial issues raised by the comments.

1. Statutory authority. Several comments challenged the agency's statutory authority under the Federal Food, Drug, and Cosmetic Act to require patient labeling. The comments suggested that the sections of the act cited as authority do not provide such authority.

The Commissioner of Food and Drugs has concluded that the Federal Food, Drug, and Cosmetic Act authorizes the promulgation of patient labeling requirements. This issue was discussed in detail in paragraph 4 of the preamble to the proposed regulation on the content and format of prescribed drug labeling, published in the Federal Register of April 7, 1975 (40 FR 15382). It has been similarly discussed in the final regulations requiring patient labeling for estrogenic drug products, published in the Federal Register of July 22, 1977 (42 FR 37636), and revising the requirements for patient labeling for oral contraceptives, published in the Federal Register of January 31, 1978 (43 FR 4214). The Commissioner advises that the statement of the authority to issue patient labeling requirements stated in those Federal Register documents applies equally to the requirements issued here.

2. Progestosterone and hydroxyprogesterone. A number of comments objected to the inclusion of certain drug products in the class of progestational drugs requiring patient labeling. In particular, the comments noted certain characteristics of progestosterone and hydroxyprogesterone that distinguish these drugs from the other progestational drug products and warrant excluding progestosterone and hydroxyprogesterone from the warning about teratogenic risk. Progestosterone, the comments argued, is a physiologically occurring hormone that is present during normal pregnancy in blood levels considerably higher than can be produced in therapeutic dosages by exogenous administration. The comments pointed out, moreover, that the references cited in physician labeling upon which the inclusion of hydroxyprogesterone is based implicate the drug in only one instance of congenital anomaly, although the drug is probably the most widely used progestational agent.

The Commissioner concludes that differences that would warrant a distinction in the labeling between progestosterone, hydroxyprogesterone, and other progestational drug products have not been adequately demonstrated. A recent article appearing in the literature on the subject of sex hormones used in pregnancy and congenital anomalies notes that in the group of patients who received progestogens only, cardiovascular malformations occurred at a rate of 16.4 per 1,000, while a rate of 7.8 per 1,000 was recorded in offspring of patients who did not receive female sex hormones during pregnancy (Heinonen et al., "Cardiovascular Birth Defects and Antenatal Exposure to Female Sex Hormones," New England Journal of Medicine, 296:87, 1977). (A copy of this article is on file in the office of the Hearing Clerk, Food and Drug Administration.) Of particular interest, the Commissioner notes that in the group receiving only progestogens, of 7 cases reported with cardiovascular malformations, 2 were exposed to progesterone alone while a third case was given progesterone along with norethindrone. Three other cases received a progestosterone derivative exclusively.

Although these data do not confirm a cause and effect relationship with progesterone, they do raise an element of suspicion which could require a considerably larger study to rule out a positive relationship. It is true that an earlier study by a number of published studies progestosterone per se was not specifically implicated, but it is also true that in many cases the route of administration mentioned suggests that the exact hormone
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given, although not known, could very
well have been progesterone.

Furthermore, in view of the large
number of orally active progestational
drugs, the limited number of studies conducted
the Commissioner would expect to find
that in some studies no cases were asso-
ciated with the use of injectable
products such as progesterone or hy-
droxyprogesterone. Finally, in no
study did any one specific hormone
stand out, but rather sex hormones—
both estrogens and progestogens—
have been implicated as a class.

The Commissioner does not agree
that the safety of exogenous proges-
terone is demonstrated by the high
rate of endogenous secretion of pro-
gesterone during pregnancy. In preg-
nancy, there is also a high rate of se-
cretion of estrogens, yet the exoge-
nous use of all estrogens is contraindi-
cated during pregnancy because of re-
ported adverse fetal effects. Further-
more, the use of exogenous progester-
one could produce a progestogen level
in patients that would be in excess of the
normal range for a particular
phase of pregnancy and that could
counterably have an adverse fetal
effect.

In summary, the Commissioner be-
lieves that there is not sufficient evi-
dence to permit the exclusion of any
of the progestational drug products
from the patient labeling require-
ments. If more information becomes
available that can be relied upon to
distinguish within the class, certain
progestational drug products may be
exempted from the patient labeling re-
quirements.

3. Consistency with previously an-
nounced policies. One comment re-
commended that the implementation of
a patient labeling regulation for pro-
gestational drug products be delayed
until an overall policy on patient pre-
scription drug labeling is published.
The comment argued that such a
course of action would be consistent
with FDA's previously announced
policy, published in the Federal Re-
ister of November 7, 1975 (40 FR
52075). The comment urged, moreover,
that intensive, scientifically controlled
analysis of all the benefits and risks
associated with patient labeling be un-
taken and that the conclusions of such
analysis utilized before imple-
mentation of a patient labeling pro-
gram for particular prescription drugs,
including progestational drugs.

The Commissioner does not believe
that promulgation of this final regu-
lation represents a departure from pre-
viously announced policies. As noted
in paragraph 5 of the preamble to the
July 22, 1977 final regulation requiring
patient labeling of estrogenic drug
products, the Commissioner did not
intend the November 7, 1975 notice to
suggest that FDA would defer the
adoption of requirements for patient
labeling for specific drugs when the
need for such labeling was clearly
demonstrated. In the case of proges-
tational drug products, the Commis-
ioner believes that such a need has been
demonstrated and that it is necessary
to supplement and reinforce the physi-
cian's discussion of the risks of proges-
tational drug therapy with a written
warning to the patient concerning the
teratogenic risks associated with use of
the drug during the early stages of
pregnancy.

The Commissioner is committed to a
systematic evaluation and analysis of
the effectiveness of patient labeling to
assist in preparing and designing a
better patient labeling program. This
commitment, however, does not neces-
sitate a delay in implementing patient
labeling for particular drugs, especial-
ly where patient labeling will perform
the limited function of communicating
a specific warning regarding the risks
of drug therapy.

4. Interference in practice of medici-
ne. Several comments contended
that implementation of the regula-
tion would result in significant Federa-
al interference in the practice of medi-
cine and infringement on the physi-
cian/patient relationship. The com-
ments suggested that this result was
counter to past expressions of con-
gressional policy.

The Commissioner rejects this con-
tention. This issue was fully discussed
in paragraph 3 of the preamble to the
July 22, 1977 final regulation requiring
patient labeling of estrogenic drug
products, and the Commissioner reaf-
irms the conclusions stated in that
publication. Patient labeling is not in-
tended to preempt the physician's re-
ponsibility, nor will it have that
effect. Rather, in situations where
physicians are conscientious in discuss-
ing the relative benefits and risks of
progestational drugs with their pa-
tients, the patient labeling will simply
reinforce what the physician has ex-
plained to the patient and serve as a
written reminder that can be referred
to by the patient during the course of
therapy. Even in those situations in
which information regarding the bene-
fits and risks of drug use is not fully
provided by the physician, the labeling
is not intended to supersede the role
of the physician in informing the pa-
tient or to interfere in any way with
communications between physician
and patient.

5. Requests for delay in implementa-
tion. Two comments noted that litiga-
tion is pending in several Federal
courts challenging FDA's authority under
the act to require patient label-
ing for prescription drug products.
The comments suggested that FDA
not issue this regulation until a final
decision that FDA does have such au-
thority is made. The Commissioner
has determined that deferral of a final
regulation requiring patient labeling
for progestational drug products
would not be in the public interest.
The Commissioner believes that to
secure the safe and effective use of
progestational drug products, women
should be provided with written infor-
mation telling them that they should
not take such drug products during
pregnancy. A deferral of this regulation
until a final judicial determination
of the agency's statutory authority
would deprive many women of the
benefit of that written information
and would increase the likelihood that
some women to whom the drug is pre-
scribed would take the drug, ignorant
of its risks. The Commissioner notes
that the authority to require patient
labeling of prescription drugs has been
preliminarily upheld by the one court
that has reviewed the matter (Phar-
maceutical Manufacturers Association
v. FDA, 377 F. Supp. 1171 (D. Dela-
ware, October 5, 1977) (order denying preli-
nary injunction)).

6. Distribution of labeling in health-
care institutions. One comment noted
that it is impractical to provide pa-
tient labeling each time a dose is dis-
pensed to inpatients in health-care in-
istitutions. The comment recommend-
ed that the proposed distribution re-
quirements be revised by permitting
health-care institutions to provide pa-
tient labeling to patients before the
first dose is administered or, if it is a
long-term care facility, before the first
administration and every 30 days there-
after.

As indicated in paragraph 11 of the
preamble to the July 22, 1977 final regu-
lation requiring patient labeling for
estrogen drug products, the Commis-
ioner agrees that hospitals and
other health-care institutions should
have some flexibility in meeting re-
quirements regarding distribution of
patient labeling. The Commissioner
concludes that it would be impractical
and unnecessary to require that pa-
tient labeling be made available to the
hospitalized or institutionalized pa-
tient every time a drug is adminis-
tered. The final regulation has, there-
fore, been revised by providing in \\
§ 310.516(d) (21 CFR 310.516(d)) that
in acute-care hospitals and long-term
care facilities, the requirements of
§ 310.516 are met if patient labeling is
provided to the patient before first
administration of the drug, and every
30 days thereafter, as long as the therapy
continues. This revision in the pro-
posed regulation answers the objection
raised by the comment, but avoids the
somewhat complicated procedure that
would result from having different re-
quirements for acute-care and long-
term care facilities.

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7. Directions for use. One comment recommended that § 310.516(b) be amended by adding a requirement for a statement regarding the need to take the drug only as directed and to follow precisely instructions for use of the drug.

The Commissioner recognizes the importance of such information and believes that in the usual case patient labeling can perform a useful role in conveying warnings of the kind recommended by the comment. The Commissioner does not believe, however, that progestational drug product patient labeling is the most appropriate vehicle for conveying information which pertains to the use of all drugs, because progestational drug product labeling is intended to convey a very specific and relatively brief message about the risks of birth defects. The Commissioner is, in this case, particularly convinced of the need to avoid burdening the text of the labeling with the kind of additional statements recommended by the comment. Therefore this comment is rejected.

8. Inflationary impact of intended action. One comment objected to the statement in the preamble to the proposed regulation that FDA had determined that the document did not contain a major proposal requiring preparation of an inflation impact statement. The comment argued that a substantial increase in drug prices would result from implementation of a patient labeling requirement, reflecting costs incurred by disruption of presently utilized methods of packaging, labeling, storing, and dispensing progestational drug products.

The Commissioner believes that the figures quoted in the economic impact assessment placed on file with the Hearing Clerk when the proposal was published accurately approximate the direct impact the proposed requirement would have on the costs of progestational drugs. The Commissioner notes that the hypothetical nature of such costs and the difficulty of quantifying these costs in specific dollar amounts. In this regard, the Commissioner regrets that the comment submitted on this matter does not more specifically describe the nature or estimate the magnitude of the potential cost increases involved.

The comment also appears to misunderstand the basis upon which FDA determines whether a document requires preparation of an impact statement. Not all proposed actions with some potential economic impact require preparation of an economic impact statement (currently identified as a regulatory analysis). What is required, and what has been done in this case, is the preparation of an economic impact assessment setting forth the criteria and the threshold amounts for determining whether an action will have a major inflation impact. Only if the action will have a major impact is an impact statement required. Here, assuming that all potential cost increases referred to in the comment are realized, it is clear that these costs, added to the costs already reflected in the economic impact assessment, do not meet the criteria or reach the threshold amounts described in the assessment. Therefore, measured against the standards as set forth in the assessment, the progestational drug patient labeling requirement is not an action that will have a major economic impact and does not require the preparation of an economic impact statement. The economic impact assessment for this action is on file with the Hearing Clerk; FDA.

9. Effective date provisions. A manufacturer with extensive warehouse and distribution facilities objected to the schedule for implementing the patient labeling requirement. One comment noted that the effective date provisions as outlined in proposed § 310.516(e)(4) would, if finalized, require the burdensome and costly retrieval and relabeling of the effective date, of drug products packaged before the effective date. The comment urged that the "catch-up" provisions be deleted so that the new patient labeling requirements would apply only to products packaged after the effective date.

Another comment suggested that, in light of the importance of progestational patient labeling, the regulation be made effective immediately upon publication in the Federal Register. The Commissioner does not believe that it would be in the best interest of patients to limit the applicability of the regulation to those drug products packaged after the effective date. A limitation of that kind would clearly delay the time by which the labeling will be available to all patients. It could also result, because of differences in manufacturing inventories, in variations in the time when products with patient labeling would begin to be furnished to patients. The effective date provision as proposed and as adopted herein is intended to prevent any further distribution of progestational drugs without patient labeling on or after the effective date, without necessitating the recall of stock in the possession of persons who are not responsible for the content of the labeling.

At the same time, the Commissioner rejects the comment that urged that the regulation be effective immediately upon publication. That policy would increase the likelihood of disruption and delays in the supply of progestational drugs. The Commissioner believes that the 60 days allowed for manufacturers to comply with the patient labeling requirements will provide patient labeling at an early date, assure a steady supply of the drug product to patients, and not unduly burden manufacturers.

10. Ongoing distribution of patient labeling. The Commissioner is also revising § 310.516(e)(2) to provide that in the case of progestational drug products in bulk package intended for multiple dispensing, a sufficient number of patient-labeling pieces "shall be included in or shall accompany each bulk package" to assure that the labeling can be furnished with each package dispensed to the patient. This revision is intended to clarify that patient labeling must physically accompany the drug product but need not be actually placed inside the immediate bulk package container.

The Commissioner anticipates that manufacturers and labelers will employ a reliable statistical method to assure that any patient-labeling pieces must be included in or with each bulk package, but recognizes that in some cases additional pieces may, for a variety of reasons, be required. The Commissioner is therefore adding a sentence to § 310.516(e)(2) to indicate that the manufacturer or labeler may also employ a supplementary distribution system to supply additional patient labeling to the dispenser. That system shall not, however, act as a substitute for the requirement that patient labeling be supplied in or with each bulk package.

11. Use of uniform labeling. The final regulation adopts without change the proposed requirement that the labeling identify both the name of the drug product and the name and place of business of the manufacturer, packer, or distributor. These provisions are intended to assure that the labeling can be satisfactorily related to and dispensed with a specific manufacturer's drug product. However, the Commissioner is aware that similar provisions in the final regulation require patient labeling for estrogenic drug products have elicited objections from a number of prescription drug dispensers who point out that these provisions preclude the use of uniform or "generic" labeling and require the storage, collation, and distribution of large numbers of individualized patient-labeling leaflets. In response to these objections, the Commissioner has tentatively concluded that certain revisions are appropriate to facilitate the use of uniform labeling. Published elsewhere in this issue of the Federal Register is a proposal which, if finalized, will enable dispensers to use class
Section 310.516 requires that FDA make available progestational drug product patient labeling that is responsive to all items that are specified in §310.516(b). A Drug Efficacy Study Implementation (DESI) notice containing both a guideline patient labeling text and revised physician labeling was published in the Federal Register of July 22, 1977 (42 FR 37646). Comments received in response to that notice have been carefully reviewed and the Commissioner has determined that no changes in the texts of either physician labeling or patient labeling are required. (An agency report responding to the most significant issues raised by the comments has been provided directly to a number of persons commenting on the notice. A copy of this report has been placed on file in the office of the Hearing Clerk, FDA.) The Commissioner advises that the text of the patient labeling as set forth in the July 22, 1977 notice is a guideline (see §10.50 (21 CFR 10.90)) which, if followed, will enable any person to comply with the requirements of §310.516 as finalized herein.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(c), 52 Stat. 1050–1053 as amended, 1955 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new §310.516 to Subpart E, to read as follows:

§310.516 Progestational drug products; labeling directed to the patient.

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of any progestational drug product requires that patients be informed that there is an increased risk of birth defects in children whose mothers have taken this drug during the first 4 months of pregnancy. Accordingly, except as provided by paragraph (d) of this section, any progestational drug product that is the subject of a new drug application approved either before or after October 9, 1962 and all identical, related, or similar drug products as defined in §310.6, whether or not the subject of an approved application, shall be dispensed to patients with labeling in lay language containing such a warning. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.
(2) Name and place of business of the manufacturer, packer, or distributor.
(3) A warning that there is an increased risk of birth defects in children whose mothers take this drug during the first 4 months of pregnancy.
(4) A brief discussion of the nature of the risks of birth defects resulting from the use of these drugs during the first 4 months of pregnancy.
(5) A brief statement that these drugs are no longer considered safe as a test for pregnancy.

(c) A statement that the patient should inform her physician as soon as possible if she discovers that she was pregnant when she took the drug.

(d) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size shall be one-sixteenth of an inch in height.
(2) Letter heights pertain to the lower-case letter “o” or its equivalent that shall meet the minimum height standard.
(3) Type used shall conform to the minimum letter height. The body copy shall contain 1-point leading, noncondensed type, and shall not contain any light-face type or small capital letters.
(4) This section does not apply to a progestogen-containing product intended for contraception, which shall be labeled according to the requirements of §310.501.

(e) A Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient. Patient labeling for drug products dispensed in hospital wards or long-term care facilities will be considered to have been provided in accordance with this section if provided to the patient before first administration of the drug and every 30 days thereafter, as long as the therapy continues.

(f) In the case of progestational drug products in bulk packages intended for multiple dispensing, a sufficient number of patient-labeling pieces shall be included in or shall accompany each bulk package to assure that one can be included with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispenser to include one patient-labeling piece with each package dispensed to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient-labeling pieces to the distributor.

(g) The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

The Food and Drug Administration has available patient labeling for progestational drug products that includes information responsive to all items specified in paragraph (b) of this section. The labeling has been published in the Federal Register of July 22, 1977 (42 FR 37646) as part of a drug efficacy study implementation (DESI) notice. Any person may rely on this labeling complying with paragraph (b) of this section after the effective date of this section.

(h) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under §314.8 of this chapter to provide for the labeling required by paragraph (a) of this section on or before December 12, 1978. The labeling may be put into use without advance approval by the Food and Drug Administration.

**Effective date.** This regulation shall be effective December 12, 1978.


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

[FPR Doc. 75-28572 Filed 10-12-78; 8:45 am]
SUMMARY: This document amends a section of the biologies regulations by revising the reference to the United States Pharmacopeia (U.S.P.). This change is being made to ensure consistency with improvements in the sterility test by membrane filtration as prescribed in the U.S.P.


FOR FURTHER INFORMATION CONTACT:
Iris Hyman, Bureau of Biologics (HFB-620), Food and Drug Administration, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The Bureau of Biologics is conducting a continuing review of the existing regulations governing biological products to assure that the criteria of safety, purity, potency, and effectiveness established by such regulations are updated to reflect current requirements for licensed products. Consistent with the review, the Commissioner is amending §610.12(f) (21 CFR 610.12(f)) to change the reference to the membrane filtration test from the 18th Revision of the U.S.P., to the 19th Revision, in order to update a procedure which manufacturers are in fact already using.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), §610.12 is amended in paragraph (f) by revising the first sentence, to read as follows:

§610.12 Sterility.

(1) Membrane filtration. Bulk and final container material or products containing oil or products in water insoluble ointments shall be tested for sterility using the membrane filtration procedure set forth in the United States Pharmacopoeia (19th Revision, 1975), section entitled "Membrane filtration," pages 594-596, except that (1) the test samples shall conform with paragraph (d) of this section; (2)

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the temperature of incubation for the test using Fluid Thioglycollate Medium shall be 30° to 32° C; and (3) in addition, for products containing a mercurial preservative, the product shall be tested in a second test using Fluid Thioglycollate Medium incubated at 20° to 25° C in lieu of the test in Soybean-Casam digest Medium. ** *

* * * *

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of §610.12(f) because it does not impose an additional duty or burden on any person, but rather relieves unnecessary requirements.

Effective date. October 13, 1978,
(See. 351, 58 stat. 702, as amended (42 U.S.C. 262))
William F. Randolph,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-28573 Filed 10-12-78; 8:45 am]

[4710-07-M] Title 22—Foreign Relations

CHAPTER XVII—INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PART 1101—PRIVACY ACT OF 1974

Nomenclature Changes

AGENCY: International Boundary and Water Commission, United States and Mexico, United States Section.

ACTION: Final rule.

SUMMARY: This document amends the regulations relating to the Privacy Act of 1974 by changing references to the Comptroller to read FOIA Administrator. This change is due to an organizational change.


FOR FURTHER INFORMATION CONTACT:
Leo Van Reet, 915-543-7334.

In part 1101 of title 22 of the Code of Federal Regulations, the title "Comptroller" should be replaced by "FOIA Administrator" wherever it appears.

Leo Van Reet,
FOIA Administrator.

[FR Doc. 78-28974 Filed 10-12-78; 8:45 am]

[4510-26-M] Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Ground-Fault Protection;
Supplemental Statement of Reasons

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

ACTION: Final rule; supplemental statement of reasons.

SUMMARY: This notice announces OSHA's decision to reaffirm the ground-fault protection standard (29 CFR 1910.309(c) and 1926.400(h)) as promulgated on December 21, 1976 (41 FR 55896). This decision is made after consultation with the Advisory Committee on Construction Safety and Health pursuant to remand by the U.S. Court of Appeals for the District of Columbia Circuit. No change is made in the ground-fault protection standard as promulgated on December 21, 1976.

FOR FURTHER INFORMATION CONTACT:
Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue, NW., Room N-3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 21, 1976, OSHA promulgated a rule, to be effective February 22, 1977, requiring employers to provide either: (a) Ground-fault circuit interrupters on construction sites, or (b) a scheduled and recorded, assured equipment grounding conductor program (29 CFR 1910.309(c) and 1926.400(h); 41 FR 55896). This rule was promulgated after lengthy proceedings which are described in detail in the Federal Register document of December 21, 1976.

On February 17, 1977, the National Constructors Association petitioned the U.S. Court of Appeals for the District of Columbia Circuit, to review and set aside the rules OSHA had promulgated on ground-fault protection.

The court issued its decision on June 28, 1978 (National Constructors Association v. Marshall, C.A.D.C. No.77-
The court found that the Assistant Secretary had not completely followed OSHA's rulemaking procedures in promulgating the ground-fault protection standard. Although the Advisory Committee on Construction Safety and Health had been consulted with regard to ground-fault circuit interrupters, the court found that no such consultation occurred specifically with regard to the alternative assured grounding conductor program. The court held that such consultation was required by OSHA's procedural rule found in 29 CFR 1911.10(a).

Accordingly, the court remanded the record to the Assistant Secretary with specific instructions to consult with the Committee. After discussing several possible results of the consultation with the Committee, and the appropriate action to be taken based on these results, the court concluded with the following:

* * * once the Assistant Secretary has convinced himself of the wisdom of a chosen course of action he has had the benefit of the Committee's recommendations, and once he is convinced that further public comment would shed no light on the matter, he may return the record to this court for entry of an appropriate order. (Page 27.)

Inasmuch as the court did not find any "glaring deficiencies" in the evidence supporting the standard nor any other procedural or legal deficiencies, the court ordered that the regulation remain in effect during the time period necessary for consultation with the Advisory Committee and evaluation of its recommendations.

**Agency Action After Court Remand and Supplemental Statement of Reasons**

On July 20, 1978, at a previously scheduled meeting of the Advisory Committee on Construction Safety and Health, OSHA preliminarily notified the Committee of the court's decision. A brief oral summary of the decision was presented to the Committee. The Committee was then advised that a special meeting would be held on August 15, 16, and 17, 1978, in compliance with the court's instructions, to discuss the substantive issues of the ground-fault protection standard, and to solicit the Committee's recommendations. The court accordingly concurred in the judgment of the Assistant Secretary regarding the standards now in effect for ground-fault circuit protection in 29 CFR 1910.309(c) and 29 CFR 1926.400(h) which require the use on construction sites of either ground-fault circuit interrupters or an assured equipment grounding conductor program. This presentation included a review of the data in the official record and included the following subjects:

1. Low voltage electrical fatalities on construction sites;
2. Ground-fault protection requirements in OSHA regulations;
3. Need to supplement these requirements;
4. Method of supplementing the requirement for the utilization of an equipment grounding conductor;
5. Data available on efficacy of GFCI's;
6. Data available on viability of an assured equipment grounding conductor program;
7. Operating principle of GFCI's; and
absence of any indication that further public comment would shed any new light on the matter, OSHA concludes that no change in the standard is warranted. Accordingly, the ground-fault protection standard at 29 CFR 1910.308(c) and 29 CFR 1926.400(b), as promulgated on December 21, 1976, is hereby reaffirmed. 

(See 8(b) and 8(c), Pub. L. 91-54, 83 Stat. 1593, 1599 (29 U.S.C. 655, 657); sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor’s Order No. 8-78 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 3d day of October, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-28687 Filed 10-12-78; 8:45 am]

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FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314 202-603-7330.

SUPPLEMENTARY INFORMATION:

This final regulation is essentially the same as the proposed rule (42 FR 53637), however, certain reordering has been done of the reference material presented in §208.11(b). Specifical-ly, excerpts from sections 4(e), 10(a), and 10(c) of the Federal Power Act have been added for improved clarity. Also Federal Power Commission order No. 540 issued October 31, 1975, and published November 7, 1975 (40 FR 51998), amending §2.9 of the Commission’s general policy and interpretation which prescribed standardized conditions (Form F) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act has been cited and appropriately excerpted. Reference to and citation from article 33 of Federal Power Commission license No. 2009 have been deleted in lieu thereof.

In addition to the proposed action, certain project names and pertinent data are added to and deleted from the list of projects shown in §208.11(e), list of projects (42 FR 53637). The following projects are added to the list of projects:

(a) U.S. Army Corps of Engineers, Missouri River Division area: Webster Dam and Lake.
(b) U.S. Army Corps of Engineers, New England Division area: Bear Swamp Pumped Storage Project.
(c) U.S. Army Corps of Engineers, North Pacific Division area: Anderson Ranch Dam and Reservoir.
(d) U.S. Army Corps of Engineers, South Pacific Division area: Brownlee Dam and Reservoir.
(e) U.S. Army Corps of Engineers, South Atlantic Division area: Mossyrock Dam and Davison Lake.
(f) U.S. Army Corps of Engineers, South Pacific Division area: Priest Rapids Dam and Reservoir.
(g) U.S. Army Corps of Engineers, South Pacific Division area: Rocky Reach Dam and Lake Entiat.
(h) U.S. Army Corps of Engineers, South Pacific Division area: Ross Dam and Reservoir.
(i) U.S. Army Corps of Engineers, South Pacific Division area: Upper Baker Dam and Baker Lake.

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[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

(ER 1110-2-241)

PART 208—FLOOD CONTROL REGULATIONS

Use of Storage Allocated for Flood Control and Navigation Purposes

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This revision of 33 CFR 208.11 regulations prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation. The revised regulations are applicable to dam and navigation projects licensed, maintained, and operated under provisions of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A)), Pub. L. 63-436, and other similar authorizing legislation; as well as to reservoir projects constructed wholly or in part with Federal funds as directed by section 7 of the Flood Control Act of 1944. These regulations are intended to establish an understanding between project owners, operating agencies and the Corps of Engineers with regard to certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. Interested persons were given until November 2, 1977 (42 FR 57141) to submit comments. No written comments were received.

DATES: This regulation is effective on October 15, 1978.

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Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations. Provided, That this section shall not apply to the TENNESSEE Valley Authority, except that in case of danger from floods on the lower Ohio and Mississippi rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department.


(i) Responsibilities of the Secretary of the Army and/or the Chief of Engineers in Federal Energy Regulatory Commission (FERC) licensing actions are set out in the Federal Power Act. Pertinent sections of that Act are cited herein. The Commission may also stipulate, as part of license conditions, that the licensee enter into an agreement with the Department of the Army providing for operation of the project during flood times, in accordance with rules and regulations prescribed by the Secretary of the Army.

(A) Section 4(c) of the Federal Power Act requires approval by the Chief of Engineers and the Secretary of the Army of plans of dams or other structures affecting the navigable capacity of any navigable waters of the United States, prior to issuance of a license by the Commission as follows:

The Commission is hereby authorized and empowered to issue licenses to citizens for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, development of power, and utilization of power across, along, from or in any of the streams or other bodies of water over which Congress has jurisdiction. Provided further, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of the Army.

(B) Sections 10(a) and 10(c) of the Federal Power Act specify conditions of project licenses including the following:

(1) Section 10(a). That the project adopted shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use of benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public purposes.

(2) Section 10(c). That the licensee shall so maintain and operate said works as not to impair navigation, and shall conform to such rules as the Commission may from time to time prescribe for the protection of life, health, and property.

(C) Section 18 of the Federal Power Act directs the operation of any navigational facility, and the provisions of that act, be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigational facilities which may be constructed as part of or in connection with any structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army.

(ii) Federal Power Commission order No. 540 issued October 31, 1975, and published November 7, 1975 (40 FR 51906), amending section 2.9 of the Commission's general policy and interpretations prescribed standardized conditions (forms) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act. As an example, article 12 of standard form L-3, titled: "Terms and Conditions of License for Constructed Major Projects Affecting Navigable Waters of the United States," sets out the Commission's interpretation of appropriate sections of the Act, which deal with navigation aspects, and attendant responsibilities of the Secretary of the Army in licensing actions as follows:

The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operation of the license to such extent as is necessary for the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property. As the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

(3) Section 9 of Public Law 436, 83d Congress (68 Stat. 303) provides for the development of the Coosa River, Ala. and Ga., and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows:

The operation and maintenance of the dams shall be subject to reasonable rules and regulations prescribed by the Secretary of the Army in the interest of flood control and navigation.

Norm.—This Regulation will also be applicable to dam and reservoir projects operated under provisions of future legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized agent of the Secretary of the Army to exercise the authority set out in the congressional acts. This regulation will normally be implemented by letters of understanding between the Corps of Engineers and project owner and will incorporate the provisions of such letters of understanding prior to the time construction renders the project capable of significant impoundment of water. A water control agreement signed by both parties will follow when deliberate impoundment first begins or at such time as the responsibilities of any corps-owned projects may be transferred to another entity. Promulgation of this regulation for a given project will occur at such time as the name of the project appears in the Federal Register in accordance with the requirements of § 208.11(d)(11). When agreement on a water control plan cannot be reached between the corps and the project owner after coordination with all interested parties, a project name will be entered in the Federal Register and the Corps of Engineers plan will be the officials water control plan until such time as differences can be resolved.

(c) Scope and terminology. This regulation applies to Federal authorized and/or non-Federal flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner and/or operating agency will comply with applicable provisions of Pub. L. 92-500, the Water Resources Development Act of 1978, and Pub. L. 92-500, the Federal Water Pollution Control Act Amendments of 1972. This regulation does not apply to local flood protection works governed by § 208.10, or to navigation facilities and associated structures which are otherwise covered by part 207 (Navigation Regulations) of title 33 of the code. Small reservoirs, containing less than 12,500 acre-feet of flood control or storage, may be excluded from this regulation and covered under § 208.10, unless specifically required by law or conditions of the license or permit.

(1) The terms "reservoir" and "project" as used herein include all water resource impoundment projects constructed or modified, including natural lakes, that are subject to this regulation.
The term "project-owner" refers to the entity responsible for maintenance, physical operation, and safety of the project, and for carrying out the water control plan in the interest of flood control and/or navigation as prescribed by the Corps of Engineers. Special arrangements may be made by the project owner for "operating agencies" to perform these tasks.

3 The term "letter of understanding" as used herein includes statements which consummate this regulation for any given project and define the general provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and the requirements for compliance with section 7 of the 1944 Flood Control Act, the Federal Power Act or other special congressional act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner. A "field working agreement" may be substituted for a letter of understanding, provided that the specified minimum requirements of the latter, as stated above, are met.

4 The term "water control agreement" refers to a compilation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of reservoir storage space allocated for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate controlling or limiting rates of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

5 For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with proposed allocations of storage capacity and downstream conditions or other requirements to meet all functional objectives of the particular project, acting separately or in combination with other projects in a system.

6 The term "real-time" denotes the processing of current information or data in a sufficiently timely manner to influence a special response in the system being monitored and controlled. As used herein the term connotes ** the analyses for and execution of water control decisions for both minor and major flood events and/or navigation, based on prevailing hydrometeorological and other conditions and constraints, to achieve efficient management of water resources systems.

(d) Procedures. (1) Conditions during project formulation. During the planning and design phases, the project owner should consult with the Corps of Engineers regarding the quantity and value of space to reserve in the reservoir for flood control and/or navigation, the utilisation of the space, and other requirements of the license, permit or conditions of the law. Relevant matters that bear upon flood control and navigation accomplishment include: runoff potential, reservoir discharge capability, downstream channel characteristics, hydrometeorological data collection, flood hazard, flood damage characteristics, real estate acquisition for flowage requirements (see and easement), and resources required to carry out the water control plan. Advice may also be sought on determination of and regulation for the probable maximum or design flood and/or other flood events to be considered by the project owner to establish the quantity of surcharge storage space, and freeboard elevation of top of dam or embankment for safety of the project.

(2) Corps of Engineers involvement. If the project owner is responsible for real-time implementation of the water control plan, consultation and assistance will be provided by the Corps of Engineers when appropriate and to the extent possible. During any emergency that affects flood control and/or navigation, the Corps of Engineers may temporarily prescribe regulation of flood control or navigation storage space on a day-to-day (real-time) basis without request of the project owner. Appropriate consideration will be given for other authorized project functions. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, a letter will be sent to the project owner by the Chief of Engineers or his duly authorized representative. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, measures may be taken to assure compliance.

(3) Corps of Engineers implementation of real-time water control decisions. The Corps of Engineers may prescribe the continued regulation of flood control storage space for any project subject to this regulation on a day-to-day (real-time) basis. When this is the case, consultation and assistance from the project owner to the extent possible will be expected. Special requests by the project owner, or appropriate operating entity, are preferred before the Corps of Engineers offers advice on real-time regulation during surcharge storage utilization.

(4) Water control plan and manual. Prior to project completion, water control managers from the Corps of Engineers will visit the project and the project owner, if applicable, to become familiar with the water control facilities, and to insure sound formulation of the water control plan. The formal plan of regulation for flood control and/or navigation, referred to herein as the water control plan, will be developed and documented in a water control manual prepared by the Corps of Engineers. Development of the manual will be coordinated with the project owner to obtain the necessary pertinent information, and to insure compatibility with other project purposes and with surcharge regulation. Major topics in the manual will include: Authorization and description of the project, hydrologic and hydraulic data collection and communication networks, hydrologic forecasting, the water control plan, and water resource management functions, including responsibilities and coordination for water control decisionmaking. Special instructions to the dam tender or reservoir manager on data collection, reporting to higher Federal authority, and on procedures to be followed in the event of a communication outage under emergency conditions, will be prepared as an exhibit in the manual. Other exhibits will include copies of this regulation, letters of understanding consummating this regulation, and the water control agreements. After approval by the Chief of Engineers or his duly authorized representative, the manual will be furnished the project owner.

(5) Water control agreement. (1) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir inflow parameters will be included on the diagrams when appropriate. Concise notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, nondamaging or other controlling flow rates downstream of the damsite, and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or navigation. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this
regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding of important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood control and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include delegation of the responsibility. The document should contain or direct the reader to the appropriate text to assure mutual understanding on certain details or other important aspects of the water control agreement and the plan not covered in this regulation, on the reservoirs allocated for flood control and navigation. (i)

(7) Project safety. The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge conditions. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) Notification of the general public. The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or specific means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for 3 consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable State law. Notice shall be given in the event significant problems are anticipated or experienced that will preclude carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of Engineers, project owner or designated operating agency.

(9) Other generalized requirements for flood control and navigation. (1) Storage space in the reservoirs allocated for flood control and navigation pursuant to this agreement shall be held available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(iii) Nothing in the plan of regulation for flood control shall be construed to require or allow dangerously rapid changes in magnitudes of releases. Releases will be made in a manner consistent with the requirements for protecting the dam and reservoir from major damage during passage of the maximum design flood for the project.

(iv) The project owner shall monitor current reservoir and hydrometeorological conditions in and adjacent to the watershed and downstream of the damsite, as necessary. This and any other pertinent information shall be reported to the Corps of Engineers on a timely basis, in accordance with standing instructions to the dam-tender or other means requested by the Corps of Engineers.

(v) In all cases where the project owner retains responsibility for real-time implementation of the water control plan, he shall make current determinations of: Reservoir inflow, flood control storage utilized, and scheduled releases; information on the status of the reservoir and releases required to comply with the water control plan prescribed by the Corps of Engineers. The owner shall report this information on a timely basis as requested by the Corps of Engineers.

(vi) The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(vii) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such actions shall be immediately reported by the fastest
means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

(viii) Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation prescribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (d)(9)(vii) of this section. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall integrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representatives, to fully substantiate the deviation.

(10) Revisions. The water control plan and all associated documents will be revised by the Corps of Engineers, as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighboring project. Revision of the water control plan, water control agreement, water control diagram, or release schedule requires approval of the Chief of Engineers or his duly authorized representative. Each such revision shall be effective upon the date specified in the approval. The original (signed document) water control agreement shall be kept on file in the Office, Chief of Engineers, Department of the Army, Washington, D.C. Copies of the agreement shall be kept on file and may be obtained from the office of the project owner, or from the office of the appropriate Division Engineer, Corps of Engineers.

(11) Federal Register. The following information for each project subject to section 7 of the 1944 Flood Control Act and other applicable congressional acts shall be published in the Federal Register prior to the time the projects becomes operational and prior to any significant impoundment before project completion or at such time as the responsibility for physical operation and maintenance of the Corps of Engineers owned projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii) stream, county, and State corresponding to the damsite location, (iii) the maximum current storage space in acre-feet to be reserved exclusively for flood control and/or navigation purposes, or any multiple-use space (intermingled) when flood control or navigation is one of the purposes, with corresponding elevations in feet above mean sea level, and area in acres, at the upper and lower limits of said space, (iv) the name of the project owner, and (v) congressional legislation authorizing the project for Federal participation.

(c) List of projects. The following tables, "Pertinent Project Data—Section 208.11 Regulation," show the pertinent data for projects which are subject to this regulation.

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>STREAM</th>
<th>COUNTY &amp; STATE</th>
<th>EXCLUSIVE FLOOD CONTROL/NAVIGATION</th>
<th>MULTIPLE-USE FLOOD CONTROL/NAVIGATION</th>
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Fed Power Act
## RULES AND REGULATIONS

### 208.11 REGULATIONS

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<thead>
<tr>
<th>PROJECT NAME</th>
<th>STREAM</th>
<th>COUNTY &amp; STATE</th>
<th>FLOOD CONTROL/NAVIGATION</th>
<th>EXCLUSIVE</th>
<th>FLOOD CONTROL/NAVIGATION</th>
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<td>Clark NV &amp; Mohave, AZ</td>
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FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
PART 1705—PRIVACY REGULATIONS

Implementation


ACTION: Final rule.

SUMMARY: The Commission adopts regulations implementing the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine what systems of records are maintained by the Commission and procedures on how access may be gained for purpose of review, amendment and/or correction of those records.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On August 7, 1978 (45 FR 34805) the Commission published its proposed regulations implementing the Privacy Act of 1974. No comments were received. The Commission adopts the proposed regulations as published.

Alphonse F. Trezza,
Executive Director.

Part 1705 is added to Title 45 of the Code of Federal Regulations.

Sec. 1705.1 Purpose and scope.
1705.2 Definitions.
1705.3 Procedures for requests pertaining to individual records in the D/AC File.
1705.4 Times, places, and requirements for identification of individuals making requests.
1705.5 Disclosure of requested information to individuals.
1705.6 Request for correction or amendment of the record.
1705.7 Agency review of request for correction or amendment of the record.
1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1705.9 Disclosure of record to a person other than the individual to whom the record pertains.

§ 1705.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is contained in the White House Conference Delegate/Alternate Certification File (D/AC File), which is under the control of the National Commission on Libraries and Information Science (hereafter, the Commission).

§ 1705.2 Definitions.

For the purposes of these procedures:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item or set of items about an individual that is maintained by the Commission in either hard copy or computerized form, including name, residence and other information obtained from the form, "Certification of State/Territorial Delegates/Alternates to the White House Conference on Library and Information Services."

(d) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1705.3 Procedures for requests pertaining to individual records in the D/AC File.

(a) An individual who wishes to know whether the D/AC File contains a record pertaining to him or her shall submit a written request to that effect to the System Manager at the Commission. The System Manager shall, within 10 days of receipt of such submission, inform the individual whether the D/AC File contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 1705.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 1705.3(b) indicated that he or she would appear personally shall do so at the Commission's offices, 1717 K Street NW., Suite 601, Washington, D.C. 20036. The Chairman will, not later than 30 days from the date on which the individual requested such review, complete such review and make a final determination.
unless, for good cause shown, the Chairman extends such 30-day period. If, after his or her review, the Chairman also refuses to correct or amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman’s determination under 5 U.S.C. 552(a)(1)(A).

§ 1705.9 Disclosure of record to a person other than the individual to whom the record pertains.

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 1705.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record when the individual makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual) the Commission will charge a fee of $0.25 per page (maximum per page dimension of 8½ by 13 inches) to the extent that the request exceeds $5 in cost to the Commission. Requests not exceeding $5 in cost to the Commission will be met without cost to the requester.

§ 1705.11 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 1705.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k).

[FDR Doc. 78-28850 Filed 10-12-78; 8:45 am

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Muscatatuck National Wildlife Refuge, Ind., to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Muscatatuck National Wildlife Refuge to rabbit and quail hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.


FOR FURTHER INFORMATION CONTACT:

Charles E. Scheffe, refuge manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, Ind. 47274, telephone; 812-622-4352.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Public hunting of rabbit and quail is permitted on the Muscatatuck National Wildlife Refuge, Ind., only on refuge lands lying south of Myers Road, designated by signs as open to hunting. This area comprising 1,320 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting of rabbits and quail shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-197.


Charles E. Scheffe,
Refuge Manager.

[FR Doc. 78-28858 Filed 10-12-78; 8:45 am]
DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation
[7 CFR Part 1464]
TOBACCO LOAN PROGRAM
Proposed 1978 Crop Grade Loan Rates—Burley Tobacco
Correction
In FR Doc. 78-26166, appearing at page 41991 in the issue for Tuesday, September 19, 1978, the heading now reading "Tobacco Plan Program", should read as set forth above.

FEDERAL TRADE COMMISSION
[16 CFR Part 444]
CREDIT PRACTICES
Publication of Presiding Officer’s Report Regarding Proposed Trade Regulation Rule
AGENCY: Federal Trade Commission.
ACTION: Publication of presiding officer’s report.
SUMMARY: This document gives notice that the presiding officer’s report concerning the proposed trade regulation rule on credit practices has been made public. The report is required by the Commission’s rules of practice for rulemaking and consists of the presiding officer’s summary, findings, and conclusions with regard to the proposed rule.
DATE: The 60-day period within which the rules of practice for rulemaking (16 CFR 1.13(f)) provide for public comment on both the report by the presiding officer and the report of the staff will not commence until the staff’s report has been made public and placed on the public record. Therefore, comment on the presiding officer’s report alone would be considered premature at this time.
FOR FURTHER INFORMATION CONTACT:

CONSUMER PRODUCT SAFETY COMMISSION
[16 CFR Part 1307]
CONSUMER PRODUCTS CONTAINING BENZENE
Extension of Time for Rulemaking
AGENCY: Consumer Product Safety Commission.
ACTION: Extension of time for promulgation of rule.
SUMMARY: The Commission extends the time from October 16, 1978 to April 16, 1979 in which it must issue a consumer product safety rule to declare that certain benzene-containing consumer products are banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA) or to withdraw the rule proposed on May 19, 1978. This extension is necessary to enable Commission staff to analyze the technical data submitted by commenters as well as to address complicated scientific issues raised by commenters.
FOR FURTHER INFORMATION CONTACT:
SUPPLEMENTARY INFORMATION: On May 19, 1978, the Commission proposed a ban under section 8 of the Consumer Product Safety Act (CPSA) of all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. (See 43 FR 21838). Based on information discussed in the proposal, the Commission preliminarily concluded that benzene-containing consumer products present an unreasonable risk of injury to the public because benzene inhalation can cause blood disorders, chromosomal abnormalities, and leukemia. The Commission also concluded that no feasible standard could adequately protect the public from these risks. The proposed ban specified that written comments should be submitted on or before June 30, 1978. The proposal also invited interested persons to make an oral presentation at a proceeding that was conducted on June 14, 1978.
On June 27, 1978, the Commission, at the request of several interested parties, extended the comment period on issues relating specifically and solely to the proposed ban on benzene as a contaminant until August 31, 1978. (See 43 FR 27852). At that time the Commission indicated that the splitting of the comment period might mean that the Commission would take final action on the proposed ban on benzene as an intentional ingredient before taking final action on the proposed contaminant ban. The Commission noted that the issues surrounding the contaminant portion of the ban appeared to be more complex and the hazards presented less urgent because of the smaller amounts of benzene in products containing the chemical as a contaminant.
The Commission has received a total of 42 comments as well as 6 oral presentations concerning both portions of the proposed ban. Many of the comments and oral presentations criticize the proposal and raise complex scientific and technical issues, including the
PROPOSED RULES

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR PART 310]

[Docket No. 78N-0274]

ESTROGENIC, ORAL CONTRACEPTIVE, AND PROGESTATIONAL DRUG PRODUCTS

Proposed Requirements for Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend patient-labeling requirements for estrogenic, oral contraceptive, and progestational drug products to permit dispensers to use uniform or "generic" labeling. The agency is also proposing amendments to the patient-labeling regulations to clarify dispensers' responsibilities when drug products subject to the regulations are dispensed to legally incompetent patients. The proposed amendments are made in response to the requests of a number of dispensers of prescription drugs.

DATE: Comments by December 12, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Steven Unger, Bureau of Drugs (HFZ-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing to amend the regulations requiring patient labeling for estrogenic, oral contraceptive, and progestational drug products to provide for the use by drug dispensers of uniform or "generic" labeling for all members of the class of drug products subject to each patient-labeling regulation. This action is taken in response to the requests of several dispensers of prescription drugs who claim that current requirements entail the excessive burden of costly storage, collation, and distribution of large volume of product-specific patient-labeling leaflets.

Under current regulations the use of a slightly modified kind of uniform labeling is already possible. With each of the patient-labeling regulations published to date, the agency has made available a guideline patient-labeling text and advised that any person could rely on the text to comply with the requirements of the regulation. This policy is compatible with the use of uniform labeling, i.e., labeling which could be used interchangeably for all drugs in a patient-labeling class. However, regulations arguably prevent the use of completely uniform labeling by requiring that the labeling identify a particular drug being dispensed, to the patient and the name and place of business of the manufacturer, packer, relabeler, or distributor of the drug. These provisions, which were intended to require the labeling to identify the particular product being dispensed, do not clearly authorize attempts to use completely uniform labeling.

In response to the final rule requiring patient labeling for estrogenic drug products published in the Federal Register, August 31, 1978 should be reviewed and analyzed together. While such an analysis now will require more time than analysis directed solely at first issuing a final regulation concerning benzene as an intentional ingredient, the Commission points out that the need for immediate action on the intentional use of benzene in consumer products has recently diminished. Information available to the Commission indicates that by the end of the year not a single manufacturer will be making consumer products containing intentionally added benzene.

Therefore, in view of the complexity of the issues raised in the comments on the proposal, the desirability of reviewing all the comments submitted as a total body of information, and the need to analyze and respond to each substantive comment in any final regulation, the Commission, in accordance with section 9(2) of the Consumer Product Safety Act (15 U.S.C. 2058(a)), finds that good cause exists to extend the period within which it must promulgate a consumer product safety rule or withdraw the proposal for 6 months, until April 16, 1979. This period may be further extended for good cause by notice published in the Federal Register.


SADIE E. DUNN
Secretary


[FR Doc. 78-29052 Filed 10-12-78; 8:45 am]
2. The dispenser may replace the patient labeling received from the channel 150 distribution with uniform patient labeling prepared for or by the dispenser. The dispenser would then assume responsibility for assuring that the labeling complied with all current regulatory requirements.

The Commissioner does not intend this proposal to permit dispensers to substitute their own patient labeling for the labeling contained in unit-of-use packages (e.g., oral contraceptive monthly compacts) prepared by the manufacturer, packer, labeler, or distributor and intended to be dispensed to the patient as initially packaged. Section 201.150 of the drug labeling regulations (21 CFR 201.150) currently permits dispensers which are in accordance with the practice of the trade, to be processed, balled, or repacked in substantial quantity at an establishment other than the one where originally processed or packed, to be shipped, common or otherwise, to certain circumstances without meeting specified labeling requirements. One such circumstance is under a labeling "agreement," wherein the person who will process, ball, or repack the drugs agrees in writing to abide by conditions which insure that the drugs will not be misbranded or adulterated upon completion of the processing, labeling, or repacking.

Although the proposed requirements (in §§ 310.501(a)(7), 310.515(d)(4), and 310.516(e)(5)) would permit dispensers or retailers to prepare and dispense patient labeling in the absence of an agreement, the use of uniform patient labeling by pharmacies and other dispensers presents a situation in which labeling agreements may be useful. Manufacturer-prepared labeling becomes superfluous and is likely to be discarded before use when the dispenser prepares its own generic labeling. Accordingly, the Commissioner proposes to permit dispensers and manufacturers, repackers, and distributors to enter into labeling agreements under which the dispenser would agree to meet applicable patient-labeling requirements. Under such an agreement the manufacturer, packer, relabeler, or distributor would be relieved of the obligation to ship patient labeling with the drug product. Persons entering into such agreements would assume responsibility to comply with the requirements pertaining to written agreements as set forth in § 201.150 of the regulations. Additionally, the proposal would require that the labeling agreement include: (1) A copy of the patient labeling to be used by the dispenser and (2) a statement that the dispenser will prepare and distribute labeling that meets the requirements of the patient-labeling regulation.

The use of dispenser-prepared uniform labeling would not subject dispensers to the registration and drug listing requirements that exist in section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and Part 207 of the regulations (21 CFR Part 207). The Commissioner considers the use of dispenser-prepared uniform labeling to be within the terms of § 207.65 of the regulations (21 CFR 207.65), which exempts certain domestic drug establishments, including pharmacies, hospitals, and clinics, from registration and drug listing.

The Commissioner acknowledges that there are some advantages to retaining those requirements that assure the use of product-specific labeling. Product-specific labeling, in identifying the name and the source of particular drug products, may enhance the possibility that manufacturers can assist dispensers in updating and, if necessary, recalling labeling, because the labeling can be correlated to the various products' lot numbering systems. Moreover, such labeling does provide some assurance that a specific manufacturer's patient labeling will be dispensed with the manufacturer's product, a consideration of some importance to dispensers in terms of their legal responsibility. However, the Commissioner notes that the amendments proposed by this document are permissive in nature—this proposal would not prohibit the use of product-specific labeling, but rather would make possible the alternative use of uniform patient labeling. To the extent that the advantages of product-specific patient labeling are plainly demonstrated, the Commissioner believes that such labeling will continue to be widely used.

In response to the requests asking that the agency permit the use of uniform labeling, the Bureau of Drugs has advised a number of dispensers that, as a matter of compliance policy, the Bureau does not object to dispensers or retailers establishing uniform labeling systems. Moreover, such labeling does provide some assurance that a specific manufacturer's patient labeling will be dispensed with the manufacturer's product, a consideration of some importance to dispensers in terms of their legal responsibility. However, the Commissioner notes that the amendments proposed by this document are permissive in nature—this proposal would not prohibit the use of product-specific labeling, but rather would make possible the alternative use of uniform patient labeling. To the extent that the advantages of product-specific patient labeling are plainly demonstrated, the Commissioner believes that such labeling will continue to be widely used.

In response to the requests asking that the agency permit the use of uniform labeling, the Bureau of Drugs has advised a number of dispensers that, as a matter of compliance policy, the Bureau does not object to dispensers or retailers establishing uniform labeling systems. Moreover, such labeling does provide some assurance that a specific manufacturer's patient labeling will be dispensed with the manufacturer's product, a consideration of some importance to dispensers in terms of their legal responsibility. However, the Commissioner notes that the amendments proposed by this document are permissive in nature—this proposal would not prohibit the use of product-specific labeling, but rather would make possible the alternative use of uniform patient labeling. To the extent that the advantages of product-specific patient labeling are plainly demonstrated, the Commissioner believes that such labeling will continue to be widely used.

The Commissioner is also proposing to amend the patient-labeling regulations for oral contraceptives, estrogen, and progesteronal drug products to permit dispensers to distribute patient labeling to the parent or legal guardian of a legally incompetent patient. This action is taken in response to inquiries asking the agency to clarify and address explicitly the obligations of dispensers with respect to drug products subject to the regulations are dispensed to mentally disabled adults or to children who are not legally competent to consent to medical treatment with the drug product. Although the Commissioner believes that in appropriate circumstances the dispenser will provide the labeling to the parent or legal guardian of the patient, the Commissioner understands that circumstances frequently do not enable the dispenser to determine the legal capacity of the patient. Therefore this proposal would not require distribution of labeling to the parent or legal guardian of the patient, but rather would permit such distribution in lieu of providing the labeling directly to the patient.

The patient labeling regulations currently require that labeling for drug products dispensed in acute-care hospitals, long-term-care facilities, or other medical facilities be provided to the patient before administration of the first dose and then at 30-day intervals for as long as the therapy continues. Because this proposed amendment would apply to inpatients as well as outpatients, its adoption would permit labeling to be provided to the legal representative of the legally incompetent patient at the stated 30-day intervals. However, the Commissioner recognizes there are some acute-care and long-term-care facilities the provision of labeling to a parent or legal guardian of the patient poses significant difficulties because the parent or legal guardian is frequently unavailable. Therefore this document proposes to amend the regulation to provide that in the case of a legally incompetent institutionalized patient, patient labeling may be provided to the parent or legal guardian of the patient before first administration of the drug and subsequently each time the patient's drug therapy is reevaluated with the parent or legal guardian. This revision should insure that the labeling is distributed to the parent or legal guardian of the patient at the most critical junctures in the course of the patient's therapy.

Section 310.501(a)(6) of the oral contraceptive patient-labeling regulation (21 CFR 310.501(a)(6)) requires that

**PROPOSED RULES**

**LABELING FOR LEGALLY INCOMPETENT PATIENTS**
The manufacturer, packer, relabeler, or distributor provide patient labeling to the "retailer" of the drug product. As used in this context, "retailer" is synonymous with "dispenser." This document proposes to amend § 310.501(a)(6) to indicate clearly that the two words are synonymous. The Commissioner has determined that this document does not contain an agency action covered by § 35.1(b) and therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Accordingly, under the Federal Food, Drug and Cosmetic Act (secs. 201, 502(a), 503(a), 505, 701(a), 52 Stat. 1040-1042 as amended, 1055 (21 U.S.C. 321, 352(a), 353(a), 355, 371(a)) and under authority, delegated to him (21 CFR 5.1), the Commissioner proposes to amend part 310 of chapter I of title 21 of the Code of Federal Regulations as follows:

1. In § 310.501 revising paragraphs (a)(1), (a)(2) (i) and (ii), and the introductory text of paragraph (a)(6); by redesignating existing paragraphs (a)(7), (a)(8), and (a)(9) as (a)(8), (a)(10), and (a)(11), respectively, and adding new paragraphs (a)(7) and (a)(8); and by revising newly designated paragraph (a)(11), to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) Oral contraceptives. (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information in la

...
therapy is reevaluated with the parent or legal guardian.

4. A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute estrogen drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of §201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the estrogenic drug products that are subject to such an agreement: In addition to the requirements of §201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

3. In §310.516, by revising paragraphs (b)(1), (b)(2), and (e)(1); by adding a new paragraph (e)(5); and by revising paragraph (g), to read as follows:

§310.516 Progestational drug products; labeling directed to the patient.

(b) * * *

(1) Name of the drug product (brand name and generic name) or class name of the drug (“Progestational drug product”).

(2) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

(e)(1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient.

(i) In the case of progestational drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, patient labeling may be provided to the parent or legal guardian of the patient.

(ii) Patient labeling for progestational drug products dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of the drug and every 30 days thereafter as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian of the patient before first administration of the drug and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

5. A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute progestational drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of §201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the progestational drug products that are subject to such agreements. In addition to the requirements of §201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under §314.8 of this chapter to provide for the labeling required by paragraph (a) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before December 8, 1978, as long as the therapy continues, may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

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.


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

(FR Doc. 78-28571 Filed 10-12-78; 8:45 am)

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Decatur, Morgan County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood plains and the proposed base (100-year) flood elevations are available for review at North Cen-
PROPOSED RULES

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation, in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern Corporate</td>
<td>565</td>
<td></td>
</tr>
<tr>
<td>Brush Creek</td>
<td>565</td>
<td></td>
</tr>
<tr>
<td>Clark Spring</td>
<td>569</td>
<td></td>
</tr>
<tr>
<td>No. 3 Tributary</td>
<td>601</td>
<td></td>
</tr>
<tr>
<td>Sheet Flow area</td>
<td>569</td>
<td></td>
</tr>
</tbody>
</table>

| SUPPLEMENTARY INFORMATION: | |


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation, in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purgatory Creek</td>
<td>415</td>
<td></td>
</tr>
<tr>
<td>Reedy Branch</td>
<td>452</td>
<td></td>
</tr>
<tr>
<td>Little Creek</td>
<td>433</td>
<td></td>
</tr>
<tr>
<td>Tributary 1</td>
<td>420</td>
<td></td>
</tr>
</tbody>
</table>

(Supplementary Information)

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Klimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 431 Seventh Street SW., Washington, D.C. 20410, 202-755-5561 or toll-free line 800-424-8872.

(Telephone)

SUPPLEMENTARY INFORMATION:


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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<tr>
<th>Source of flooding</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Purgatory Creek</td>
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<td>Reedy Branch</td>
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<td>433</td>
<td></td>
</tr>
<tr>
<td>Tributary 1</td>
<td>420</td>
<td></td>
</tr>
</tbody>
</table>

(Supplementary Information)
PROPOSED RULES

under Salt River in Phoenix, should be corrected to read 83d Avenue (Extended) Upstream 974 and 99th Avenue (Extended) Upstream at 958 feet.

FOR FURTHER INFORMATION CONTACT:


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time adopt stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevations in feet</th>
<th>Vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Big Bayou Slough.</td>
<td>Intersection of East Broad and Deer Streets.</td>
<td>138</td>
<td>137</td>
</tr>
</tbody>
</table>


PROPOSED RULES

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Macon Bayou</td>
<td>Southern corporate limits</td>
<td>108</td>
</tr>
<tr>
<td></td>
<td>Just downstream of Macon Bayou Bridge</td>
<td>109</td>
</tr>
</tbody>
</table>


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28644 Filed 10-12-78; 8:45 am]

SUPPLEMENTARY INFORMATION:

These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut River</td>
<td>ConRall-100 ft.</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Old Bridge St. Bridge piers-50 ft.</td>
<td>44</td>
</tr>
<tr>
<td></td>
<td>Enfield Dam-100 ft.</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Old State Route 30 Bridge piers-50 ft.</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td>Stony Brook Canal Bridge-30 ft.</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>1st crossing pipe</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>2nd crossing pipe</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>3rd crossing pipe</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>Boston Neck Road Bridge-100 ft.</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Boston Neck Road Bridge-100 ft.</td>
<td>105</td>
</tr>
</tbody>
</table>
PROPOSED RULES

P.O. Box 66, Maitland, Fla. 32751.
Send comments to: Mayor James Houser, City Hall, P.O. Box 66, Maitland, Fla. 32751.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 2270, 451 Seventh Street SW, Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings. The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Sybilas</td>
<td>Intersection of Lake Sybilas Dr. and Jackson St.</td>
<td>78</td>
</tr>
<tr>
<td>Lake Jackson</td>
<td>Intersection of Brook Dr. and Geneva St.</td>
<td>94</td>
</tr>
<tr>
<td>Lake Destiny</td>
<td>Just west of Lake Destiny Dr.</td>
<td>93</td>
</tr>
<tr>
<td>Lake Lucien</td>
<td>At Maitland Cemetery</td>
<td>94</td>
</tr>
<tr>
<td>Lake Hungerford</td>
<td>Intersection of Calver Ave. and Beth Dr.</td>
<td>97</td>
</tr>
<tr>
<td>Lake Charity</td>
<td>Approximately 400 ft north of Maitland Bvd.</td>
<td>73</td>
</tr>
<tr>
<td>Lake Hope</td>
<td>Lake Hope at the northern corporate limita.</td>
<td>74</td>
</tr>
<tr>
<td>Lake Faith</td>
<td>Just north of the intersection of Maitland Ave. and Greenway Rd.</td>
<td>73</td>
</tr>
<tr>
<td>Park Lake</td>
<td>Just north of Gem Lake</td>
<td>73</td>
</tr>
<tr>
<td>Lake Maitland</td>
<td>Intersection of Whitecap Circle and Adams Dr.</td>
<td>68</td>
</tr>
</tbody>
</table>


Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-23854 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FT-4605]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Maitland, Orange County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Maitland, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Pompano Beach, Fla. 33061.

FOR FURTHER INFORMATION CONTACT:

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-22546 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FT-4605]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pompano Beach, Broward County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pompano Beach, Broward County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Pompano Beach, Fla. 33061.

FOR FURTHER INFORMATION CONTACT:

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-23854 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FT-4605]

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
PROPOSED RULES

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4607]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for
The City of Aberdeen, Bingham County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Aberdeen, Bingham County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Aberdeen, Idaho. Send comments to: Hon. Cliff Wrides, Mayor, City of Aberdeen, P.O. Box 190, Aberdeen, Idaho 83210.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or local entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlantic Ocean</td>
<td>Intersection of Andrews Ave. and SW. Eighth St.</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Atlantic Ocean</td>
<td>Intersection of South Cypress Rd. and SE. 14th Ave.</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Atlantic Ocean</td>
<td>Intersection of North Riverside Dr. and Nine Mile Bivd.</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Shallow Ponding</td>
<td>Intersection of NW. 15th St. and NW. 14th Ave.</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Shallow Ponding</td>
<td>Intersection of NW. Fourth Ave. and NW. 16th St.</td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>


Source: The City of Aberdeen, Bingham County, Idaho.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
PROPOSED RULES

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Snake River</td>
<td>County road bridge-50 ft.</td>
<td>4,489</td>
</tr>
<tr>
<td></td>
<td>U.S. Highway 26-50 ft.</td>
<td>4,481</td>
</tr>
<tr>
<td></td>
<td>Interstate 55-50 ft.</td>
<td>4,453</td>
</tr>
<tr>
<td>Blackfoot River</td>
<td>Downstream corporate</td>
<td>4,489</td>
</tr>
<tr>
<td></td>
<td>Upstream corporate</td>
<td>4,499</td>
</tr>
<tr>
<td></td>
<td>Area adjacent to Pendelbury Lane (shallow flooding)</td>
<td>4,499</td>
</tr>
</tbody>
</table>

*Upstream of centerline.

**Depth.


Gloria M. Jimenez, Federal Insurance Administrator.

[4210-01-M] (24 CFR Part 1917) NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Prospect Heights, Cook County, Ill.

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Prospect Heights, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management requirements that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Prospect Heights City Hall, 4 East Camp McDonald Road, Prospect Heights, Ill, 60070. Send comments to: Hon. Richard Wolf, mayor of Prospect Heights, 4 East Camp McDonald Road, Prospect Heights, Ill, 60070.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410; 202-755-5581 or toll-free line 800-424-8872.


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:
PROPOSED RULES

PROPOSED RULES


These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordnances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Looney Creek</td>
<td>Just downstream of Kentucky Avenue Bridge</td>
<td>1,521</td>
</tr>
<tr>
<td>Maggard Branch</td>
<td>Just downstream of Kentucky 160 Bridge</td>
<td>1,580</td>
</tr>
<tr>
<td>Maggard Branch</td>
<td>Just upstream of Central Avenue Bridge</td>
<td>1,415</td>
</tr>
</tbody>
</table>


Gloria M. Jimenez, Federal Insurance Administrator.

[FEDERAL REGISTER Vol. 43, No. 199—Friday, October 13, 1978]
PROPOSED RULES

[4210-01-M] [4 CFR Part 1917]

[24 CFR Part 1917]

[4210-01-M]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Rumford, Oxford County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Rumford, Oxford County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP). DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Rumford, Maine. Send comments to: Mr. Howard Waite, Chairman, Board of Selectmen, Town of Rumford, Town Office, Rumford, Maine 04276.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

(FR Doc. 78-28553 Filed 10-12-78; 8:45 am)

[28x370]—second publication of this proposed action, in accordance with section 110 of the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968) as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

(FR Doc. 78-28553 Filed 10-12-78; 8:45 am)

[24x68]—second publication of this proposed action, in accordance with section 110 of the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968) as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)


GLORIA M. JIMENEZ,
Federal Insurance Administrator.

(FR Doc. 78-28553 Filed 10-12-78; 8:45 am)
stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Androscoggin River</td>
<td>Riddington Bridge</td>
<td>100 ft.</td>
<td>435</td>
</tr>
<tr>
<td></td>
<td>Rumford Avenue</td>
<td>90 ft.</td>
<td>441</td>
</tr>
<tr>
<td></td>
<td>Footbridge—60 ft.</td>
<td>60 ft.</td>
<td>460</td>
</tr>
<tr>
<td></td>
<td>Morse Bridge—50 ft.*</td>
<td>50 ft.</td>
<td>455</td>
</tr>
<tr>
<td></td>
<td>High Bridge—60 ft.*</td>
<td>60 ft.</td>
<td>451</td>
</tr>
<tr>
<td></td>
<td>Martin Bridge—20 ft.</td>
<td>20 ft.</td>
<td>425</td>
</tr>
<tr>
<td>Swift River</td>
<td>100 ft. upstream of confluence with Scotch Brook</td>
<td>100 ft.</td>
<td>441</td>
</tr>
</tbody>
</table>

*Upstream of centerline.


Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28854 Filed 10-12-78; 8:45 am]

[4210-01-M] [24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of North Attleboro, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical Information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of North Attleboro, Bristol County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Office Building, North Attleboro, Mass. Send comments to: The Honorable Susan Nelson, Chairwoman, Board of Selectmen, Town of North Attleboro, 43 South Washington Street, North Attleboro, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410, 202-755-5851 or toll-free line 800-424-8872.


These elevations, together with the flood plain management measures required by §1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet</th>
<th>National geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ten Mile River</td>
<td>Downstream corporate limits.</td>
<td>137</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Cedar Rd.</td>
<td>139</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Freeman St.</td>
<td>144</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Sturdy Lane</td>
<td>145</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Towne St.</td>
<td>148</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Mount Hope St.</td>
<td>151</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Falls Pond Dam</td>
<td>170</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Washington St.</td>
<td>170</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Orne St.</td>
<td>184</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Whiting Pond Dam</td>
<td>185</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Upstream corporate limit.</td>
<td>191</td>
<td></td>
</tr>
<tr>
<td>Bungay River</td>
<td>Downstream corporate limits.</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Confluence of Landry Ave.</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bungay Rd</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td>Sevenmile River</td>
<td>Downstream corporate limit.</td>
<td>141</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Old Mill Dam.</td>
<td>145</td>
<td></td>
</tr>
<tr>
<td></td>
<td>845 ft. upstream of Old Mill Dam.</td>
<td>140</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2,100 ft downstream of Interstate 295.</td>
<td>152</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Interstate 295.</td>
<td>157</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Adams Ave.</td>
<td>101</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of private drive, near Adams Ave.</td>
<td>164</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,100 ft downstream of Washington St.</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,020 ft upstream of Washington St.</td>
<td>170</td>
<td></td>
</tr>
<tr>
<td></td>
<td>300 ft. downstream of Hoppin Hill Rd.</td>
<td>180</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Hoppin Hill Rd.</td>
<td>180</td>
<td></td>
</tr>
<tr>
<td>Rattlesnake Brook</td>
<td>At confluence with Ten Mile River.</td>
<td>142</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Commonwealth Ave.</td>
<td>140</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Commonwealth Ave.</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Ivy St.</td>
<td>152</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Towne St.</td>
<td>175</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Towne St.</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Mason Park Brook</td>
<td>At confluence with Ten Mile River.</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td></td>
<td>At Mount Hope Cemetery.</td>
<td>151</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Spring and Lyman Sts.</td>
<td>175</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Spring and Lyman Sts.</td>
<td>180</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just downstream of Janice Lane</td>
<td>187</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Just upstream of Janice Lane</td>
<td>101</td>
<td></td>
</tr>
<tr>
<td></td>
<td>420 ft. upstream of Janice Lane.</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td></td>
<td>150 ft downstream of Landry Ave.</td>
<td>202</td>
<td></td>
</tr>
<tr>
<td></td>
<td>150 ft upstream of Landry Ave.</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Scotts Brook</td>
<td>179</td>
<td></td>
</tr>
<tr>
<td></td>
<td>At the confluence with Ten Mile River.</td>
<td>179</td>
<td></td>
</tr>
</tbody>
</table>
### PROPOSED RULES

<table>
<thead>
<tr>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevation in feet, national geodetic vertical datum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott Run</td>
<td>200 ft downstream of Mendon Rd.</td>
<td>78</td>
</tr>
<tr>
<td></td>
<td>740 ft upstream of Mendon Rd.</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>Just upstream of Cushman Rd.</td>
<td>88</td>
</tr>
<tr>
<td></td>
<td>Just upstream of abandoned railroad.</td>
<td>92</td>
</tr>
<tr>
<td></td>
<td>Just downstream of Hunts Bridge Rd.</td>
<td>93</td>
</tr>
<tr>
<td></td>
<td>Just upstream of Hunts Bridge Rd.</td>
<td>96</td>
</tr>
<tr>
<td></td>
<td>Upstream corporate limit.</td>
<td>101</td>
</tr>
</tbody>
</table>


Issued: September 14, 1978

Gloria M. Jimenez, Federal Insurance Administrator.

(FR Doc. 78-28855 Filed 10-12-78; 8:45 am)

[4210-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

INCOME TAX

Regulations Project Relating to the Requirements for Creditable Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This document provides notice of an extension of time for submitting comments concerning the invitation for public comments with respect to the requirements for creditable foreign taxes. The extended deadline for submission of comments is November 27, 1978.

DATE: Written comments must be delivered or mailed by November 27, 1978.

ADDRESS: Send comments to Commissioner of Internal Revenue, Attention: CC:LRT (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: By an invitation for public comments published in the Federal Register for Monday, August 28, 1978 (43 FR 38429), comments with respect to the invitation were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LRT (LR-100-78), Washington, D.C. 20224, by October 27, 1978. The date by which such comments must be delivered or mailed is hereby extended to November 27, 1978.
This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

DAVID E. DICKINSON, Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-29058 Filed 10-12-78; 8:45 am]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 11]

RESPIRATORY PROTECTIVE APPARATUS

Use of Approved Devices

AGENCIES: Mine Safety and Health Administration (MSHA), Department of Labor, and National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: This document proposes to extend the cutoff dates for use of certain self-contained breathing apparatus approved under the former Bureau of Mines approval program. Mine operators and others have requested that continued use of this equipment be permitted and have indicated that economic hardship would result in order to replace a major portion of their equipment by the cutoff date now established.

DATES: Comments must be received on or before November 13, 1978.

ADDRESSES: Comments and inquiries may be submitted to: Ms. Mary Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5000 Fishers Ln., Room 8-11, Rockville, Maryland 20857. Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary Flint, phone 301-443-3745.

SUPPLEMENTARY INFORMATION:

On March 25, 1972, (37 FR 6244), the Department of Health, Education, and Welfare (HEW) and the Department of Interior jointly adopted Part 11 of Title 30, Code of Federal Regulations, to implement sections 202(h) and 204 of the Federal Coal Mine Health and Safety Act of 1969. Part 11 provides for the testing of occupational respirators and the issuance of joint approvals for those meeting certain requirements for performance and respiratory protection. Until recently, the joint approval program was conducted by the National Institute for Occupational Safety and Health (NIOSH), the Public Health Service, HEW, and the Mining Enforcement and Safety Administration (MESA), Department of the Interior. On November 9, 1977, Congress enacted the Federal Mine Safety and Health Act of 1977 (Pub. L. 95-164). This Act repealed the Federal Metal and Nonmetallic Mine Safety Act and established a single law for all mining operations under an amended Coal Mine Health and Safety Act of 1969. Under the new legislation, the functions of MESA were transferred to the Department of Labor as the Mine Safety Health Administration (MSHA). Except for the transfer of functions, the provisions for joint approval of respirators remain the same.

Prior to the promulgation of part 11 in 1972, respirator approvals were issued by the Bureau of Mines (BOM) of the Department of the Interior. When the new respirator approval regulations were issued in 1972, dates were established which were designed to eliminate older BOM-approved respirators from workplaces in an orderly and reasonable manner, to be replaced with respirators approved under Part 11. At that time, March 31, 1979, was established as the cut-off date for use of self-contained breathing apparatus (SCBA) approved under BOM Approval Schedules 13D and 13E inclusive. On November 22, 1974, (39 FR 40950), the regulations were amended to establish June 30, 1975, as a cut-off date for use of Schedule 13 devices except those Schedule 13D and 13E devices that are equipped with low pressure warning devices (remaining service life indicators, higher airflow, and better low temperature operation. However, Schedule 13D approvals are recommended for SCBA and other personal protective equipment being combined in tabular form in Part 11 for easier reference by the users. Therefore, it is proposed to amend 30 CFR Part 11 as set forth below.


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


ROBERT B. LACANTHER,
Assistant Secretary of Labor for Mine Safety and Health Administration.

1. Section 11.2 is revised to read as follows:

§11.2 Approved respirators and gas masks.

(a) Respirators, combinations of respirators, and gas masks shall be approved for use in hazardous atmospheres, provided that they are maintained in an approved condition and are the same in all respects as those devices for which a certificate of approval has been issued under this part.
PROPOSED RULES

(b) Self-contained breathing apparatus, supplied-air respirators and gas masks approved under the former Bureau of Mines approval program shall continue to be accepted for use in hazardous atmospheres according to the schedule set forth below: Provided they (1) were fabricated, assembled or built under an approval or any modification thereof issued by the U.S. Bureau of Mines, Department of the Interior; and (2) were purchased on or before the date specified therein; and (3) are maintained in an approved condition according to this part.

<table>
<thead>
<tr>
<th>Type of device</th>
<th>Use</th>
<th>Purchased or Approved for-use until</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-contained breathing apparatus</td>
<td>All uses as permitted or required by regulation.</td>
<td>Schedule 13-13E inclusive... June 30, 1975 Mar. 31, 1979</td>
</tr>
<tr>
<td></td>
<td>Use in mine rescue efforts only.</td>
<td>Approval Nos. 1303, 1303S, 1397, 13D-14, ...</td>
</tr>
<tr>
<td></td>
<td>For uses other than mine rescue permitted or required by regulation.</td>
<td>§13D-15, 13D-16, 13E-25, and 13E-26.</td>
</tr>
<tr>
<td>Supplied air respirators</td>
<td>All uses as permitted or required by regulation.</td>
<td>Schedule 15B (dated Apr. 19, 1955) ... Mar. 31, 1960</td>
</tr>
<tr>
<td>Gas masks</td>
<td>All uses as permitted or required by regulation.</td>
<td>Schedule 14F (dated Apr. 23, 1953) ... Date to be established</td>
</tr>
</tbody>
</table>

1. Further notice.
2. Date to be established.

§ 11.2-1 [Redesignated from § 11.2-2]

[4510-43-M]

[30 CFR Parts 55, 56, and 57]

METAL AND NONMETAL MINES

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Extension of comment period.

SUMMARY: On Tuesday, September 12, 1978 (43 FR 40766-40799), proposed rules were published as part VIII in the Federal Register under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977. These proposed rules would revoke or revise and make mandatory existing safety and health advisory standards applicable to metal and nonmetal mines. Interested persons were originally given until October 9, 1978, to submit comments and data and the comment period was extended to October 17, 1978, by a notice in the Federal Register of Tuesday, September 26, 1978 (43 FR 43478). The comment period is further extended to November 3, 1978.

DATES: Comments must be received on or before November 3, 1978.

ADDRESS: Comments should be sent to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Balston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the national pollutant discharge elimination system (NPDES) proposed rules (43 FR 37078-37134, Aug. 21, 1978) for 30 days until November 20, 1978. EPA is also extending the comment periods for the spill prevention control and countermeasure proposed rules (43 FR 39276-39280, Sept. 1, 1978) and the best management practices proposed rules (43 FR 39282-39284, Sept. 1, 1978) until November 20, 1978.

DATE: Comment period ends November 20, 1978.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On August 21, 1978, the Environmental Protection Agency (EPA) proposed a rule (43 FR 37078-37134) which would extensively revise existing regulations governing the national pollutant discharge elimination system (NPDES) program. The revisions were proposed as 40 CFR, Parts 122-125 with a 60-day comment period ending October 20, 1978.

On September 19 and 21, 1978, EPA held public meetings to discuss the proposed NPDES rule. At these public
PROPOSED RULES

Virginia State Air Pollution Control Board to Jewell Coal & Coke Co. The order requires the company to bring air emissions from its plant No. 2 coke ovens in Vansant, Va. into compliance with certain regulations contained in the federally approved Virginia State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on whether EPA should approve the order as a delayed compliance order.

DATE: Written comments must be received on or before November 13, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting materials, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT.

Mr. Gary Gross at the address above or telephone 215-597-8807.

SUPPLEMENTARY INFORMATION: Jewell Coal & Coke Co. operates a nonrecovery coke oven plant at Vansant, Va. The order under consideration addresses emissions from the 45 sole flue ovens known as plant No. 2 at the facility, which are subject to §§ 4.02.01 and 4.04.01 of the Virginia regulations for the control and abatement of air pollution as approved in the Virginia SIP. The regulations limit the emissions of particulate and visible emissions, and are part of the Federally approved Virginia State Implementation Plan. The order required final compliance with the regulation during charging, pushing, and quenching portions of the cycle by June 30, 1979 through installation of common tunnel afterburners, split sole flues, a state-of-the-art quench tower using clean water make-up, and a pushing emission control device. This order does not apply to coking offfgas emissions from plant No. 2.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this sub-section. Based on information presently available, EPA believes all statutory requirements have been satisfied. Section 13 of the State order states, "The Board may modify this order for good cause shown by Jewell, or on its own motion after notice to Jewell and an opportunity for a hearing". In accordance with section 113(d)(2) of the Act, no such modification shall take effect until such time as the Administrator determines that such modification satisfies the requirements of the Act. If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. (A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, replaced by a notice promulgating these new regulations.)

42 U.S.C. 7413, 7601.


JACK J. SCHRAMM, Regional Administrator, Region III.

[FR Doc. 78-28835 Filed 10-12-78; 8:45 am]

1Published at 43 FR 44522, Sept. 28, 1978.
PROPOSED RULES

[6560-01-M]

[40 CFR Part 172]

(FR) 71-7; OPP--30007)

PESTICIDE PROGRAMS

Exemption of Pesticides That Are Also New Drugs From Requirements of the Federal Insecticide, Fungicide, and Rodenticide Act

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rulemaking.

SUMMARY: The intent of this proposed rulemaking is to exempt those pesticides offered solely for use on humans that are also new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) (FIFRA). The proposed rulemaking also clarifies the policy of EPA relative to the registration of pesticide products that are not new drugs or new animal drugs. This action is taken because of the similarities of the registration processes that are used for registering new human drugs by the FDA and the EPA. The elimination of review of these new drug product applications by EPA is intended to lessen the duplication of time and resources by both agencies and the sponsors of these products.

DATES: Proposed effective date: Thirty (30) days from the date of publication of the final regulation.

Comments must be received on or before sixty (60) days from date of publication.

ADDRESS: Interested persons are invited to submit written comments with reference to this notice to the Federal Register section, Technical Services division (W1-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington, DC 20460. The comments should bear the identifying notation OPP--30007. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

FURTHER INFORMATION CONTACT:

Herbert Harrison, Registration Division (W1-567), Office of Pesticide Programs, EPA, 202-426-4110.

SUPPLEMENTARY INFORMATION: The intent of pesticide regulation under the amended FIFRA is to insure that pesticides are safe and effective for their intended uses and to prevent unreasonable adverse effects to man, other animals, and the environment from pesticide usage. To effect this protection, a pesticide product must be registered with EPA in accordance with the provisions of FIFRA. The applicant must show that his product will meet the registration requirements by producing appropriate toxicity, chemical, and efficacy data. Based on these data and the provisions of the FIFRA, EPA must bear on the pesticide product in a manner that will assure proper use and minimize any hazards associated with the use of the product.

There are certain pesticide products that also fall within the statutory definition of "drug" in the Federal Food, Drug and Cosmetic Act (FFDCA) and, as such, are also subject to the jurisdiction of the Food and Drug Administration of the Department of Health, Education, and Welfare (DEHEW). In fulfilling its responsibilities, FDA protects the public health of the Nation by assuring that drug products intended for use in man or other animals are safe, effective, and properly labeled and that residues of drugs in edible products derived from animals treated with such drugs are safe for consumption.

For products that are new drugs for use on humans (hereinafter "new drugs for human use") or new animal drugs, the manufacturer of the product is required to submit an application to FDA for review and approval prior to marketing of the product. The purpose of the application is to provide safety and effectiveness data and other information necessary to satisfy the requirements of the FFDCA (21 U.S.C. 355 and 360b) as set forth in 21 CFR Part 314 of the human drug regulations and in 21 CFR Part 514 of the animal drug regulations.

A new drug, as defined by section 201(p), and a new animal drug, as defined by section 201(w) of the FFDCA, must be approved by FDA before it can be marketed. Any drug that does not fall within the definition of a new drug or new animal drug does not require approval from FDA prior to marketing, but the product must, among other things, be safe and effective for its intended use and not be adulterated or misbranded within the meaning of the FFDCA.

INTERAGENCY AGREEMENTS BETWEEN EPA AND FDA

For those products that fall within the applicable statutory definitions of both "pesticide" and "drug" and therefore come under the jurisdiction of both EPA and FDA, the two agencies entered into an agreement describing the procedures to be followed in the joint review and approval of these products. These procedures were published in the Federal Register of December 22, 1971 (36 FR 24234). Item 3 of the interagency agreement was intended to resolve the jurisdictional overlap which resulted from the two agencies' possessing authority and responsibility for regulating the same products.

The agreement informed manufacturers seeking approval of these products (1) Which Agency has primary jurisdiction; (2) that the product will be referred to the other Agency for a decision under its law; and (3) that approval for marketing the product will not be given until the product is approved by both agencies.

Subsequently, other jurisdictional problems were identified with respect to the review and approval of products that are intended to be used as animal or new animal drugs. These problems, in part, identified the need for further elaboration of the interagency procedures; thus, an amendment to item 3 of the 1971 interagency agreement was developed and published in the Federal Register of September 6, 1973 (38 FR 24233). The amendment provided more information on each Agency's responsibilities.

Since publication of the agreement, many of the problems that were associated with the dual jurisdiction of pesticide products have been resolved. However, instances of confusion and delays in the interagency processing of applications continue to occur. It is for this reason that FDA and EPA decided to jointly reevaluate the procedures in item 3 of the interagency agreement and its amendment.

NEW DRUGS FOR HUMAN USE

The reevaluation indicated that in most, if not all respects, the requirements for obtaining registration of a pesticide under FIFRA parallel those for approval of a new drug for human use under the FFDCA. An applicant seeking approval of a new drug under the FFDCA [21 U.S.C. 355(b)] must submit to FDA:

(1) Full reports of investigations which have been made to show whether or not the drug is safe for use and whether it is effective in use;

(2) A full list of the ingredients used as components of the drug;

(3) A full statement of its composition;

(4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packaging of the drug;

(5) Samples of the drug and of the articles used as components thereof as FDA may require; and

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(6) Specimens of the labeling proposed to be used for the drug.

Similar information must be submitted to FDA for approval of new animal drugs.

The reevaluation further indicated that the criteria followed by FDA in the approval of new drug products are generally comparable to those of EPA for pesticide registration. These include consideration by FDA of the environmental, effects that may result from the use of the drug, by section 12 of the National Environmental Policy Act of 1969 as set forth in 21 CFR Part 6.

On the basis of the above, EPA and FDA have concluded that the dual review of pesticide/new drug products offered solely for human use and pesticides which are considered to be both a new animal drug and a pesticide. Such products will therefore be subject to EPA regulation. However, any such product submitted to EPA will be referred to the FDA under the FFDCA and the sole authority to regulate those products that do have an approved NDA and EPA will then make its decision regarding registration. FDA will then review the labeling and formula accompanying the submission and determine if the pesticide/drug regulatory provisions for these products. In the interim, registration with EPA under FIFRA will provide for premarking clearance and control of these products.

PESTICIDES OFFERED CONCURRENTLY FOR USE ON BOTH HUMANS AND INANIMATE OBJECTS

The proposed exemption does not apply to those pesticide/human drug products that are offered concurrently, for both human and nonanimal use, e.g., a disinfectant solution offered concurrently for use both on humans and on inanimate objects. Because the FFDCA provides premarking clearance and control of the product, FDA and EPA agree that these products should continue to be subject to EPA regulation. However, any such product submitted to EPA will be referred to FDA prior to EPA registration. FDA will then review the labeling and formula accompanying the submission and determine if the pesticide/drug regulatory provisions for these products. In the interim, registration with EPA under FIFRA will provide for premarking clearance and control of these products.

In any case, however, any pesticide product with animal drug claims that is submitted to FDA will be referred to EPA prior to EPA registration. FDA will then review the labeling and formula accompanying the submission and determine if the pesticide/drug regulatory provisions for these products. In the interim, registration with EPA under FIFRA will provide for premarking clearance and control of these products.

DRUGS FOR HUMAN USE WHICH AN APPROVED NEW DRUG APPLICATION (NDA) IS NOT REQUIRED

Drugs for human use which are not new drugs within the meaning of section 201(p) of the FFDCA that are also pesticides will not be exempt from FDA registration, except when the Secretary of DHHEW has established by regulation the conditions whereby these drugs are generally recognized as safe and effective and not misbranded. Since these drug products do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific final regulations for these drug products. No such regulations exist at this time. Therefore, in the interim, registration with EPA under FIFRA will provide for premarketing clearance and control of these products.

ARMED DRUGS

In June 1976, a committee within the House of Representatives held a hearing concerning EPA pesticide regulation. This hearing dealt in part with the problems that EPA and FDA were experiencing concerning the joint regulation of pesticides that are also new animal drugs. As a result of that hearing, Pub. L. 94-140, an amendment to FIFRA, was enacted which among other things exempts new animal drugs from the definition of "pesticides" under FIFRA. This amendment gives FDA sole authority to regulate those products previously regulated jointly by FDA and EPA which are considered to be both a new animal drug and a pesticide. Such products must therefore now be submitted only to FDA for review and approval as new animal drug applications (NADA's). Products which are not new animal drugs that are also pesticides will not be exempt from the definition of "pesticides" under this amendment, except for products that have been determined by the Secretary of DHHEW not to be a new animal drug by a regulation establishing conditions for use of the product. Since these "not new animal drugs" do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific regulations for these products.

In the interim, registration with EPA under FIFRA will provide for premarking clearance and control of these products.
PROPOSED RULES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[4110–12–M]

WITHHOLDING OF CONTRACT PAYMENTS

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health Education, and Welfare is proposing to establish policy regarding the withholding of contract payments if a contractor fails to comply with contract delivery terms and conditions. The proposed amendments have been developed as a result of the Secretary's memorandum of May 18, 1977, entitled "Policies Required to Correct Major Deficiencies in the Contracting and Grant Processes." In the memorandum, the Secretary cited the failure of the contracting officer to insure that contracts are properly performed. In some instances, it was found that the contractor was remiss in complying with the contract delivery terms and conditions, and the Department was not initiating remedial action. Therefore, the Department is proposing the amendments to insure that supplies, products, or services that are contracted for are received, and that contracts requiring the submission of progress or other reports are submitted when required by the contract.

DATE: Comments must be received on or before November 7, 1978.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed amendments may do so by filing them, in duplicate, with E. S. Lanham, Division of Procurement Policy and Regulations Development, CGP-OASMB-OS, room 598H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, phone 202-245-6347.

SUPPLEMENTARY INFORMATION: The policy is to be established under a new Subpart 3-57.1, Contract Monitoring, under a new Part 3-57, Contract Administration.

Appropriate contract clauses have been developed for use with the withholding of contract payments policy and are proposed to be added under Part 3-7, Contract Clauses.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

It is therefore proposes to amend 41 CFR Chapter 3 in the manner set forth below.


E. T. Rhodes,
Deputy Assistant Secretary for Grants and Procurement.

1. Part 3-7, Contract Clauses, Subpart 3-7.50, Special Contract Clauses, is amended to add the following:

§ 3-7.5023 Withholding of contract payments.

The following clause is to be included in all solicitations, resultant contracts, and contract modifications affecting supplemental agreements as specified in § 3-7.104-3(a):

WITHHOLDING OF CONTRACT PAYMENTS

Notwithstanding any other payment provisions of this contract, failure of the contractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the contractor of its intention to withhold payment of any invoice or voucher submitted.

§ 3-7.5024 Excusable delays.

The following clause is to be included in solicitations and contracts (and contract modifications affecting supplemental agreements) as specified in § 3-7.104-3(b)(x)(x):

EXCusable DELAYS

Except with respect to failures of subcontractors, the contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the contractor.

Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either or them, the contractor shall not be deemed to have failed in performance of this contract unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other

[FR Doc. 78-28837 Filed 10-12-78; 8:45 am]
sources. (b) the contracting officer shall have ordered the contractor in writing to procure such supplies or services from such other sources, and (c) the contractor shall have failed to comply reasonably with such order. Upon request of the contractor, the contracting officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms “subcontractor” and “subcontractors” mean subcontractor(s) at any tier.)

2. Part 3-57, Contract Administration, is hereby established. Under Part 3-57, the table of contents, scope of part, and Subpart 3-57.1, Contract Monitoring, are also established.

3-57—CONTRACT ADMINISTRATION

Sec. 3-57.000 Scope of part.

Subpart 3-57.1—Contract Monitoring

3-57.104 Withholding of contract payments.

§ 3-57.104-1 Policy.

The Department’s policy is to be applied to all solicitations and resultant contracts.

§ 3-57.104-2 Applicability.

(a) All solicitations and resultant contracts contain:

1. Any modification effecting supplemental agreements which did not contain the policy requirements in the basic contract.

2. Any report required to be submitted by the contractor is overdue, or

3. Any contract payment is to be made as long as:

(a) Any report required to be submitted by the contractor is overdue, or

(b) The contractor fails to perform or deliver work or services required by the contract.

(d) A 10-day notice is to be issued, or appropriate termination action is to be initiated, for any failure in the contractor’s performance stated under the preceding paragraph (c).

§ 3-57.104-2 Applicability.

The foregoing policy applies to all solicitations and resultant contracts. The policy is to be applied to all contracts involving modification effecting supplemental agreements which did not contain the policy requirements in the basic contract.

§ 3-57.104-3 Contract clauses.

(a) The contract officer is to include the withholding of contract payment clause in § 3-57.104 in the solicitation and resultant contract, and in contract modifications effecting supplemental agreements when the basic contract did not contain the clause.

(b) The contract officer is to ensure that all solicitations and resultant contracts, including contract modifications effecting supplemental agreements, contain a contract clause which defines the term excusable delays.

4. Any report required to be submitted by the contractor is overdue, or

5. Any contract payment is to be made as long as:

(a) Any report required to be submitted by the contractor is overdue, or

(b) The contractor fails to perform or deliver work or services required by the contract.

(d) A 10-day notice is to be issued, or appropriate termination action is to be initiated, for any failure in the contractor’s performance stated under the preceding paragraph (c).

§ 3-57.104-2 Applicability.

The foregoing policy applies to all solicitations and resultant contracts. The policy is to be applied to all contracts involving modification effecting supplemental agreements which did not contain the policy requirements in the basic contract.

§ 3-57.104-3 Contract clauses.

(a) The contract officer is to include the withholding of contract payment clause in § 3-57.104 in the solicitation and resultant contract, and in contract modifications effecting supplemental agreements when the basic contract did not contain the clause.

(b) The contract officer is to ensure that all solicitations and resultant contracts, including contract modifications effecting supplemental agreements, contain a contract clause which defines the term excusable delays.

1. If the term is defined in another clause which is to be included in the solicitation and resultant contract, as, for example, in article 5 of Standard Form 23-A, General Provisions (Construction Contract), or article 11 of Standard Form 32, General Provisions (Supply Contract), the contracting officer need not take further action.

2. If the solicitation and resultant contract are to contain a termination for default clause where the term excusable delays is not defined, the contracting officer is to include the excusable delays clause cited in § 3-57.104.

3. If the solicitation and resultant contract are to contain neither a termination for default clause nor a definition of the term excusable delays, the contracting officer is to include the clause in § 3-57.5024 in both the solicitation and resultant contract.

[4110–92–M] Office of Human Development Services

STATE VOCATIONAL REHABILITATION PROGRAMS

EVALUATION STANDARDS

AGENCY: Office of Human Development Services, DHHS.

ACTION: Notice of decision to revise regulations.

SUMMARY: The proposed Rehabilitation Services Administration regulations would: revise, simplify, and reconcile regulations used to evaluate state vocational rehabilitation programs. Compliance with these standards is determined annually by the Secretary in order to renew or supplement financial assistance authorized under the Rehabilitation Act. The proposed revisions will be based upon use and experience with the present regulations. They will:

Clarity ambiguities regarding various terms.

Remove confusion regarding the purpose and use of the standards.

Eliminate unnecessary standards, data elements and performance levels.

The proposed regulations will follow Operation Common Sense principles, the HEW initiative to revise, simplify, and reconcile regulations to promote better public understanding of regulations.

FOR FURTHER INFORMATION CONTACT:

Rodney Pelton, Ph. D., Director, Division of Evaluation, Rehabilitation Services Administration, Room 2324, Mary E. Switzer Building, 330 C Street SW, Washington, D.C. 20201, 202-245-0688.


ARABELLA MARTINEZ, Assistant Secretary for Human Development Services.

Filed 10-12-78; 8:45 am

USE OF AERONAUTICAL ADVISORY FREQUENCIES

BY AERONAUTICAL UTILITY MOBILE AREAS WHICH DO NOT HAVE A CONTROL TOWER OR FAA FLIGHT SERVICE STATION

Proposed Authorization

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes to amend the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and Reply Comments must be received on or before November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station, Gen. docket No. 78-323, RM 3058.


SUMMARY

1. In this notice we are proposing to amend the Commission's rules to permit certain ground vehicles which routinely operate on airports that have no functioning control tower or FAA flight service station, but which are served by an aeronautical advisory station, to utilize aeronautical advisory frequencies for safety related communications.

BACKGROUND

2. The Commission has received a letter from the Federal Aviation Administration (FAA) requesting that the rules be amended to allow FAA vehicles and certain other ground vehicles to utilize aeronautical advisory frequencies while operating on landing areas not served by a control tower or FAA flight service station. FAA feels that safety and operating efficiency would be enhanced at these airports by permitting vehicles used for inspections, maintenance, emergencies and the like, to communicate with the local aeronautical advisory station (unicom) when operating on the airfield. Primarily, these vehicles would be expected to monitor the appropriate frequency and only transmit or acknowledge relevant safety information. FAA recommends that communications by such vehicles, if authorized, be subject to the supervision of the advisory station operator. Also it is recommended that nonsafety communications, such as dispatching, not be permitted. We note that from time to time the Commission has received, and in appropriate cases granted, requests for waivers to provide similar communications capabilities for certain ground vehicles operating on non-tower airports.

3. Presently, aeronautical advisory frequencies are limited to the necessities of safe and expeditious operation of private aircraft, such as runway conditions, types of fuel available, wind conditions, weather information and dispatching. Further, only one aeronautical advisory station is permitted on a landing area. Due to congestion problems on the then one available aeronautical advisory frequency at uncontrolled airports, the Commission amended the rules to provide two additional frequencies for advisory purposes at these landing areas. In view of the nature of this radio service and the potential that increased traffic would negate the beneficial effects of the two additional frequencies recently provided, we are cautious regarding the grant of broader access to the advisory frequencies.

4. However, it appears that with appropriate safeguards, as discussed below, the FAA recommended rule change would provide an added safety feature at many uncontrolled airports without appreciably increasing message traffic on the advisory frequencies. Therefore, we propose to amend the rules substantially as requested by FAA, to permit FAA vehicles and aeronautical utility mobile stations to utilize aeronautical advisory frequencies on a noninterference basis, at airports which have an aeronautical advisory station but no control tower or FAA flight service station (FSS). Also, at landing areas which have a part-time control tower and/or part-time FSS, utility mobile stations will be permitted to use advisory frequencies during the hours that neither the control tower nor FSS is in operation, on the same basis as utility mobile stations at non-tower, non-FSS airports. Communications by utility mobile stations on advisory frequencies will be limited to the necessities of safety (such as runway conditions and hazards on the landing area). Further, these stations will be required to discontinue transmission when so requested by the advisory station operator.

5. Eligibility for authority to operate utility mobile stations will be limited to the applicants able to demonstrate a legitimate need and authority to operate a ground vehicle on the particular airport movement area. An airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramps and parking areas. For example, the use of ground vehicles for inspection of airport movement areas by airport operators and state and local governmental organizations,

and the various emergency and support vehicles, such as crash trucks and snowplows, customarily used on an airfield, would satisfy the proposed eligibility requirement. On the other hand, fuel trucks which normally operate only on ramp and parking areas, serve as an example of the type of vehicle not contemplated to be eligible.

Our intention in proposing this rule amendment is to provide a means for vehicles which routinely operate on a nontower, non-FSS landing area to monitor the advisory frequency and communicate when safety considerations so dictate.

PROPOSAL

6. Accordingly, we propose to amend §§ 2.105, 87.257 and subpart J of part 87 of the Commission's rules to permit aeronautical advisory frequencies to be utilized on a noninterference basis by FAA vehicles and aeronautical utility mobile stations authorized to operate at landing areas having an aeronautical advisory station and either a part-time or no control tower or FAA flight service station.

7. The proposed amendments to the Commission's rules, as set forth below, are issued pursuant to the authority contained in sections 203(b), 303(b), (c), (d) and (r) of the Communications Act of 1934, as amended.

COMMEN TS

8. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1978, and reply comments on or before November 27, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the docket reference room in the Commission's Offices in Washington, D.C.


FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. Trigger,
Secretary.

Parts 2 and 87 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In Section 2.106 footnote US31 is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

U.S. Footnotes

US31 Except as provided below the band 121.295-123.025 MHz is reserved for use by private aircraft stations.

The frequencies 122.750, 122.755, 122.800, 122.950, 122.975, 123.000, 123.050, and 123.075 MHz may be assigned to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas.

PART 87—AVIATION SERVICES

1. In § 87.257, paragraph (d)(5) is added to read as follows:

§ 87.257 Scope of service.

(d) * * *

(5) Aeronautical advisory stations may communicate with aeronautical utility mobile stations and FAA ground vehicles, concerning runway conditions and safety hazards on the landing area when neither an air-drome control tower nor FAA flight service station is in operation. (Transmissions by aeronautical utility mobile stations are subject to the control of the aeronautical advisory station to the extent that communications by ground vehicles must be discontinued when so requested by the aeronautical advisory station.)

2. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) At landing areas having an air-drome control tower or an FAA flight service station, the frequencies 121.600 through 121.925 MHz listed in § 87.410(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.410(a) may be assigned to utility mobile stations on such landing areas only after FCC coordination with FAA. The frequency that will be assigned to the utility mobile station at an airport served by a control tower or flight service station, is the frequency that is used by the control tower for ground traffic control or the flight service station to communicate with ground vehicles.

(b) In addition to the frequencies described in paragraph (a) of this section, at landing areas which have a part-time air-drome control tower or part-time FAA flight service station and an aeronautical advisory station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. Aeronautical utility mobile stations may transmit on the advisory frequency only when the control tower or flight service station has ceased operations.

(c) At landing areas which have an aeronautical advisory station but no air-drome control tower or FAA flight service station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. The frequencies available for assignment to aeronautical advisory stations are described in § 87.253.

3. Section 87.432 is amended to read as follows:

§ 87.432 Eligibility.

(a) Authorization to operate an aeronautical utility mobile station on the frequencies described in § 87.431(a) will be issued only for operation at landing areas having an air-drome control tower or FAA flight service station.

(b) Authorization to operate an aeronautical utility mobile station on an aeronautical advisory frequency will be issued only for operation at landing areas having an aeronautical advisory station and either a part-time or no air-drome control tower or FAA flight service station. In addition, an applicant must: (1) Demonstrate a need to routinely operate a ground vehicle on the airport movement area (the airport movement area is defined as the runways, taxiways and other areas which are utilized for taxing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas; (2) identify the vehicle in which the station is to be located; and (3) either attach a statement that the applicant is the airport owner or operator, or a state or local governmental aeronautical agency; or attach a statement from the airport owner of operator granting permission to operate the subject vehicle(s) on the specified airport movement area.

4. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

(a) Communications by an aeronautical utility mobile station at a landing area which has an air-drome control tower or FAA flight service station in operation, are limited to the management of ground traffic at the airport.

(b) Aeronautical utility mobile stations which operate on the aeronautical advisory station frequency are authorized only to transmit and acknowledge information relating to safety, such as runway conditions and hazards on the airfield. (Such stations are expected to be employed primarily for monitoring advisory communications.)

5. Section 87.437, including the heading, is amended to read as follows:

§ 87.437 Supervision by operator of air-drome control tower, FAA flight service station or aeronautical advisory station.

(a) Transmissions by an aeronautical utility mobile station are subject to the control of the air-drome control tower, the FAA flight service station or the aeronautical advisory station, as appropriate at the particular landing area. When so requested by the control tower, the flight service station or advisory station, a utility mobile station must discontinue transmitting immediately.

(b) An aeronautical utility mobile station must guard its assigned frequency during periods of operation.

6. Section 87.439 is amended to read as follows:

§ 87.439 Frequency change.

In the event that the utility frequency is changed by the Federal Aviation Administration (to a frequency in the band 121.600-121.925 MHz) or by the Federal Communications Commission, an aeronautical utility mobile station licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license. An application for modification of the station license to specify the new frequency must be submitted within ten days from the date that the station commences operation on the new frequency.
PROPOSED RULES
11 (KGLD) and channel 13 (KUPF-TV), Randall (pop. 195), in Jewell County (pop. 6,999), is located in north-central Kansas, approximately 65 kilometers (40 miles) north of Lincoln Center, Kans. It presently has no television assignments. Lincoln Center (pop. 1,582), seat of Lincoln County (pop. 4,582), is located in north-central Kansas, approximately 50 kilometers (30 miles) northwest of Salina, Kans. Channel 9 (unoccupied and unappplied for) is the only television channel assigned to Lincoln Center.

3. Petitioner states that it is a part of the educational system of the State of Kansas and as such has been designated by the Kansas Public television Board ("KPTB") to implement KPTB's proposal to establish and educational television station in Garden City, thereby fulfilling KPTB's objectives of providing educational television to southwestern Kansas. It claims that the proposed facility in Garden City would provide coverage to approximately 120,700 persons and would make educational programming available to a substantial population currently lacking such service. Petitioner asserts that assigning channel 9 for Lincoln Center to Randall would be consistent with KPTB's network plan for the State which is designed to serve many rural constituencies presently unserved by public television. Petitioner further states that KPTB proposes to activate a station on the proposed Randall channel 9 assignment if these changes are adopted.

4. The proposed assignments meet the Commission's distance separation requirements. The channel deletion at Lincoln Center represents the only change in any existing assignment in the table of assignments required by petitioner's proposal. No interest has been shown for use of the Lincoln Center channel since its assignment to that community in 1966. Because the proposed assignments could be used to bring noncommercial educational television service to areas now unserved, we believe it is in the public interest to consider this proposal in a rulemaking proceeding.

5. Accordingly, it is proposed to amend the television table of assignment, §73.606(b) of the Commission's rules, with respect to the cities listed below, as follows:

<table>
<thead>
<tr>
<th>City</th>
<th>Channel No.</th>
<th>Present</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garden City, Kans.</td>
<td>11-13</td>
<td>&quot;9.11-13&quot;</td>
<td>11-13 &quot;9.&quot;</td>
</tr>
<tr>
<td>Lincoln Center, Kans.</td>
<td>&quot;9&quot;</td>
<td>&quot;9&quot;</td>
<td>&quot;9&quot;</td>
</tr>
<tr>
<td>Randall, Kans.</td>
<td>&quot;9&quot;</td>
<td>&quot;9&quot;</td>
<td>&quot;9&quot;</td>
</tr>
</tbody>
</table>

6. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest with respect to each proposal is required by par. 2 of the appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 13, 14, 15, and 16 of the Communications Act of 1934, as amended, and §0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, §73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. Stations required. Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proposed assignments will be expected to answer whatever questions are presented in initial comments. The proposal of a proposed assignment is also expected to file comments even if it only submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cutoff procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket. (See §1.420(b) of Commission rules.)
PROPOSED RULES

5. Number of copies. In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours at the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

[FR Doc. 78-29057 Filed 10-12-78; 8:45 am]

6712-01-M

[47 CFR Parts 73 and 76]

MULTIPLE OWNERSHIP OF AM, FM AND TELEVISION STATIONS AND CATV SYSTEMS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments in a proceeding concerning the amendment of Commission rules relating to multiple ownership of AM, FM and television stations and CATV systems. Petitioner, Citizens Communications Center, states the additional time is necessary so that it can respond to the issues involved.

DATES: Comments must be filed on or before November 27, 1978, and reply comments on or before December 29, 1978.


FOR FURTHER INFORMATION CONTACT: Bonnie H. Lea, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:


Released: October 6, 1978.

In the matter of amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's rules relating to Multiple ownership of AM, FM and Television stations and CATV systems, BC Docket No. 78-239.

1. On August 16, 1978, the Commission issued a Notice of Inquiry and notice of proposed rulemaking, 43 FR 36978, (August 21, 1978) concerning the above-entitled proceeding. The comment and reply comment dates for that notice are October 12, and November 13, 1978, respectively.

2. On September 27, 1978, a request was filed by the Citizens Communications Center ("Citizens"), seeking an extension of time for filing comments to and including December 12, 1978.

Citizens states that because of the numerous complex issues raised by the Commission's notice, which involve interrelated questions of law, economics and basic public policy, Citizens intends to assemble for the Commission data and analysis analogous to that recently provided in the "Top-50" (Docket 78-101) proceeding. It contends that preparation of comments encompassing such a project will entail far more time than that which has been originally envisioned by the Commission. Citizens states further that it anticipates petitioning the Commission for financial assistance in obtaining the expert consultants necessary to insure that the Commission obtains the best possible sources of detailed, accurate and relevant information upon which to rely in the instant proceeding. 4. Accordingly, it is ordered, That the request for extension of time filed by the Citizens Communications Center is granted to the extent that the dates for filing comments and reply comments are extended to and including November 27, and December 29, 1978, respectively, and is denied in all other respects.

5. This action is taken pursuant to sections 4(d), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Broadcast Bureau.

[FR Doc. 78-29056 Filed 10-12-78; 8:45 am]

3510-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611 and 672]

PACIFIC COD

Limitation on the Foreign Harvest

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendment to proposed regulations; approval of fishery management plan amendment.

SUMMARY: An amendment to the fishery management plan (FMP) for groundfish in the Gulf of Alaska, submuted by the North Pacific Fishery Management Council (Council), is approved. The amendment permits foreign longline fishermen to take the entire Chirikof total allowable level of foreign fishing (TALFF) and any allocated reserves for Pacific cod in that portion of the Chirikof subarea west of 157° W. longitude. The proposed regulations are proposed to implement the FMP amendment.

DATE: Comments are invited until November 20, 1978.

ADDRESS: Comments may be submitted to Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

FOR FURTHER INFORMATION CONTACT:

Person and address mentioned above.

SUPPLEMENTARY INFORMATION:

The FMP for the groundfish fishery of the Gulf of Alaska (43 FR 17242), published on April 21, 1978, would limit the total foreign longline harvest of Pacific cod in the area west of 157° W. longitude, an area which includes 40 percent of the Chirikof statistical area. The FMP established an optimum yield (OY), reserve, and TALFF for all of the Chirikof area, and would limit the foreign longline catch of Pacific cod in the area west 157° W. longitude to 40 percent of that reserve and TALFF. On June 29, 1978, the Council submitted an amendment to the FMP which would allow foreign longline vessels to harvest the reserves and TALFF of the entire Chirikof area in the directed longline fishery west of 157° W. longitude. That amendment was approved on September 8, 1978.

The Assistant Administrator for Fisheries has found that the amendment is consistent with the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq. (Act), the national standards of the Act, and other applicable law. Under the Act, Pacific cod in the Chirikof statistical area are considered a single stock. Therefore, the amendment will not lead to overfishing of local stocks. The OY's and TALFF's established in the FMP are unchanged. Incidental catch of halibut will not be increased, and may be reduced if longliners (instead of trawl vessels) harvest a higher proportion of the Pacific cod TALFF.

The Assistant Administrator for Fisheries has determined that this is not a significant action requiring the preparation of a regulatory impact analysis under Executive Order 12044. The Assistant Administrator, having reviewed the Act and the available information relating to this action, has determined that there would be no significant environmental impact result-
Commenters should be aware that two additional amendments to this FMP, and proposed implementing regulations, have been published. The first (43 FR 34825) extends the OY's, TALFF's, reserves and assessments of domestic capacity for this FMP until October 31, 1979. The second amendment, published on October 6, 1978, proposes establishment of a "special joint venture" reserve and lowers the initial TALFF's for all species regulated by the FMP. Therefore, the TALFF's reserves and domestic capacity assessments stated in this amendment may be reduced in the final amendment and regulations to be consistent with other FMP amendments.

Signed in Washington, D.C., this 6th day of October 1978.

WINFRED H. MERRIHAN,  
Acting Executive Director,  
National Marine Fisheries Service.

The FMP is amended as follows:

Part 611—FOREIGN FISHING

§ 611.92 [Amended]

1. It is proposed to amend 50 CFR 611.92(b)(1) (43 FR 17015) as follows: In table I, footnote 1, strike "20 percent." Strike "6,233" and substitute "7,600.

2. It is proposed to amend § 611.92(b)(3)(i)(c) (43 FR 17016) as follows: Strike each occurrence of "4,000" and substitute "4,860." Strike "6,233" and substitute "7,600.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. In table 62 (43 FR 17315), footnote 2, strike "20 percent." Also strike "6,233" and substitute "7,600" so that the last footnote reads:

"The maximum allowable foreign catch (including the reserve) for the area would be 7,600 mt.

4. In table 63 (43 FR 17315), footnote 1, add at the end of the sentence a second sentence:

* * * Because all of the Pacific cod in the Chirikof statistical area are considered one stock, the TALFF for longliners may include all of the TAC (and the reserve if later apportioned to the foreign fishery) available in that statistical area.

5. In table 64 (43 FR 17316), footnote 3, strike "only" after "total." Strike "6,233" and substitute "7,600" so that the sentence reads:

* * * (including the reserve) 7,600 mt can be taken west of 137° W. longitude.

[Federal Register, Vol. 43, No. 199—Friday, October 13, 1978]
DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

Intent for Decisionmaking on the 1979 program and Opportunity For Public Comment.

SUMMARY

The Administrator of the Agricultural Stabilization and Conservation Service hereby gives advance notice of forthcoming decisions to be made in certain aspects of the Agricultural Conservation Program (ACP).

The pending Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1979, provides specific direction concerning the ACP. Among other things, the act provides that assistance will not be used for carrying out measures and practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits. Due to a general lack of information with respect to specific impacts of conservation and pollution abatement practices, it would be difficult to implement this direction by way of binding regulations without risking significant adverse social and environmental impacts. Consequently, the agency proposes to implement the directive contained in the 1979 Appropriations Act by means of guidelines, criteria, and procedures so as to allow flexibility to quickly accommodate new information as it becomes available. However, the public participation aspects of rulemaking procedures will be followed as a means of helping to provide an adequate basis for decisions.

On or about November 1, 1978, proposed guidelines, criteria, and procedures by which to select soil and water conservation and environmental protection practices to be eligible for Federal financial assistance under the ACP will be issued for publication in the Federal Register together with a preliminary list of practices thought to meet the proposed criteria.

PUBLIC COMMENTS

The ASCS invites and requests suggestion, comments, or other inputs from the public concerning the development of the criteria, guidelines, and procedures to govern the ACP. All suggestions, comments and other inputs received by October 30, 1978, will be considered in the development of the proposed guidelines, criteria, and procedures. Suggestions, comments and other inputs may be delivered by mail or in person to:


In addition, suggestions, comments and other inputs may be delivered at the following public meetings:


GENERAL INFORMATION

Public comment on the proposed guidelines, criteria, and procedures will be solicited for 60 days following their publication. Comments may be delivered by mail or in person to an address to be published with the proposal.

Final decisions on the guidelines, criteria, and procedures to be used to govern the ACP will be published on or about January 1, 1979. A list of conservation and environmental protection practices which are determined, at that time, to be eligible for Federal financial assistance will also be published. The Administrator recognizes, however, that conditions may warrant revising the list of practices eligible for financial assistance. Accordingly, procedures will be established to provide for a periodic (or continuous) review and updating of the list of practices which are eligible for financial assistance.

FOR FURTHER INFORMATION CONTACT:


Signed at Washington, D.C., on October 5, 1978.

S. N. Smith,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[3410-05-M]

CIVIL RIGHTS COMMISSION

HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on November 14, 1978, in Washington, D.C. More specific information on the location on the hearing will be published in the FEDERAL REGISTER on or about November 1, 1978, and may also be obtained by calling the Office of the General Counsel, 202-254-6871, after that date. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States.


Arthur S. Flemming,
Chairman.

[FR Doc. 78-29207 Filed 10-12-78; 9:05 am]
CIVIL SERVICE COMMISSION

ESTABLISHMENT OF PRESCRIBED MINIMUM EDUCATIONAL REQUIREMENTS

Ecology Series, GS-408

AGENCY: U.S. Civil Service Commission.

ACTION: Notice.

SUMMARY: The Civil-Service Commission has revised the prescribed minimum educational requirement of ecologists employed within the Federal service. Ecology is a professional occupation whose minimum educational requirement was initially established in May 1977. The changes will facilitate the procurement of qualified candidates at grade levels GS-5 through GS-15 for ecologists employed within the Federal service.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

In accordance with Section 3308 of title 5, United States Code, the Civil Service Commission in May 1977 established a prescribed minimum educational requirement for ecologists employed within the Federal service. The subsequent revised requirement reduces the required course work in the biological, physical, and mathematical sciences, and in ecology.

The Ecology Series, GS-408 GS-5 through GS-15

Minimum Educational Requirements.

Candidates must have successfully completed a course of study in an accredited college or university leading to a bachelor’s or higher degree in biology or a related field of science underlying ecological research. This total course of study must have included at least 30 semester hours in basic and applied biological sciences, including a total of at least 9 semester hours in ecology. In addition, candidates’ total course of study must also include at least 12 semester hours in the physical or mathematical sciences. The nature and quality of this required course work must have been such that it would serve as a prerequisite for more advanced study in ecology.

UNITED STATES CIVIL SERVICE COMMISSION.

JAMES C. SPYR,
Executive Assistant to the Commissioners.

[FR Doc. 78-29096 Filed 10-12-78; 8:45 am]

DEPARTMENT OF COMMERCE

THE NATIONAL OFFICE

Notices

DISTRICT OFFICE

RICHARD B. RUSSELL AGRICULTURAL RESEARCH CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(e) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6866C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 76-00453. Applicant: Richard B. Russell Agricultural Research Center, U.S. Department of Agriculture, Research Service/USDA, P.O. Box 5877, Athens, Ga. 30604. Article: NMR Spectrometer System, Model JNM-P5/PFT 100. Manufacturer: JEOL Ltd., Japan. Intended use of article: This scientific article is intended to be used in experiments in which the following objectives will be pursued:

(a) Determination of the structural features of the polymeric compounds which are the cell wall constituents affecting digestibility.

(b) Structural elucidation of beneficial and/or deleterious biologically active constituents in forages and feeds.

(c) Determination of sites of silica deposition in plants and elucidation of the process of silica deposition.

(d) Identification and determination of pesticide residues and metabolites in forages, feeds, and animals ingesting forages and feeds.

(e) Elucidation of protein structure and conformation.

(f) Evaluation of the nature of polyester cross-linking in cell wall constituents.

Comments: Comments dated August 6, 1976 were received from Varian Associates (Varian) which allege inter alia that the model XL 100-15 is of equivalent scientific value to the foreign article.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This scientific article provides a frequency in the range between 105-111 gigahertz. The National Bureau of Standards (NBS) advises in its memorandum dated August 31, 1976, that: (1) The capability of the article described above is pertinent to the applicant’s research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.05, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 76-29066 Filed 10-12-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
NOTICES

**to question 8.** The applicant alleges that the foreign article provides certain features which are pertinent to, the intended use of the article that are unmatched in comparable domestic instruments. In reviewing these claims, the Department of Health, Education, and Welfare (HEW) advises in its memoranda dated January 17, 1977 and November 26, 1977 (which reaffirms its basis on the applicant's prior submissions), that these features are either not pertinent within the meaning of §301.2(n) of the regulations or were matched by a comparable domestic instrument which was available at the time of pub-lish or date. A Varian's XL 100-15 nuclear magnetic resonance spectrometer (NMR) equipped with pulsed Fourier Transform (PFT), external lock and variable temperature control.

HEW indicated that this Varian instrument is scientifically equivalent to the foreign article for its intended pur-
poses.

A discussion of the applicant's allegations relative to pertinency and domestic availability follows.

**High Pulse Power**

Power in a PFT instrument is needed to achieve a short intense pulse. The power in watts needed to achieve such a pulse is a true indication of pulse power since some systems are more efficient than others. Thus, both the foreign and the domestic manufacturers specify pulse power in watts needed to achieve such a pulse. A power which provides an even more meaningful measure of power, manufacturers define this capability as the pulse width that can impart a specific pulse angle (e.g., 90°) to a particular nucleus (e.g., $^{13}$C). In comparing instruments with respect to pulse power, comparable specifications should be used. The pulse width of the foreign article is described in several ways. First, there is the description provided in the applicant's request for quote (RFQ). Although the applicant claims a need for a 90° pulse in the vicinity of 20 micro-
seconds ($\mu$-sec) for the performance of the purposes described in response to question 7, it is noted that RFQ 61-
RN-ARS-72, incorporating these same purposes (as the intended use of the article), indicated that a pulse width of up to 150 $\mu$-sec would be satisfactory. Next, there are the specifications provided in the foreign manufacturer's literature on the article. Wherein pulse power amplifier output is given as sufficient to achieve a 20 $\mu$-sec width of 90° pulse. Finally, there is the quotation of the foreign manufacturer which states, more precisely, that the 90°, 90° pulse width is 30 $\mu$-sec in a 10 mm tube. Almost 2 months before the foreign article was ordered, Varian delivered an XL-100-15 system providing a $^{13}$C, 90° pulse width of 40 $\mu$-sec in a 12 mm tube. The foreign manufacturer has printed a supplement to the brochure describing the foreign article indicating that the article provides a $^{13}$C, 90° pulse width of 20 $\mu$-sec in an 8 mm tube and 30 $\mu$-sec in a 10 mm tube. Thus, at best, the foreign article has but a slightly superior pulse width.

The applicant cited both pulse power and pulse width as pertinent specifications and claimed that Varian's pulse width at the time the article was ordered was 150 $\mu$-sec. After review of the initial application HEW advised that the applicant had not demonstrated a clear relation between planned experiments and specific instrumental characteristics claimed to be lacking in the domestic instrument. HEW further advised that Varian had furnished proof that it could deliver and XL 100-15 NMR system with 40 $\mu$-sec pulse power at the time of order, well within the specifications in the applicant's RFQ. HEW's advice was conveyed to the applicant via the Department's denial without prejudice to resubmission.

In the second submission (docket No. 74-00226-33-77030), the applicant's response to question 8 was similar to that of the initial submission. The requirement for pulse power and width was described as follows:

1. Available pulse power limits the chemical shift range over which accurate measurements can be made. In the Varian system, the strength of the pulsed field is too low to permit accurate measurements on $^{13}$C; this would eliminate some of the studies mentioned in section 7a.(3)(a) and (e). (Section 7a.(3)(a) and (e) refer to specific portions of the applicant's response to question 7.)

2. Pulse widths must be small compared to the relaxation times to be studied. Varian's pulse widths are about (150) $\mu$-sec for 90° (90° pulse width) and 300 $\mu$-sec for 180°, at least a factor of seven greater than those of the foreign article. Since crystalline samples often have $T_1$ values of 100 $\mu$-sec and 19 F in gas samples are known to have $T_1$ of the order of, of 100 $\mu$-sec, the utility of Varian's instrument is again questionable in the studies of section 7a.(3)(a) and (e). In section 7a.(3)(a) the $^{13}$C and $^1H$ spectra of certain relatively insoluble polyacrylates are to be measured or near the glass transition temperature where, according to the applicant, $T_1$ and $T_2$ values can be 1 millisecond (msec) or less. In this connection, HEW provided the following advice:

1. Repeated references are given to measurements of $T_1$, yet neither the Varian system nor the foreign article is equipped to carry out such measurements in the manner indicated.

2. It is implied that the samples will be dissolved, but a "glass transition temperature" is referred to, where a $T_1$ of 1 msec is expected. It is not clear whether this number is intended to refer to protons or $^{13}$C. Unless (certain) specific species are present (which the applicant has not described), it is almost certain that a $^{13}$C, not protons, for which much shorter pulse widths would be obtained with the Varian spectrometer.

Section 7a.(3)(e) involves $^{13}$C, T$_2$ and $T_4$ measurements on very low concentrations of proteins and model protein systems requiring (among other things) long data accumulations with minimum drift over a 24-hour period. HEW advises that this experiment can be performed equally well with the Varian system or the foreign articles. (In this connection, the Department notes that 7a.(3)(e) bears a similarity to an experiment on lignin described in the applicant's third submission with respect to long data accumulations. The lignin experiment, as can be seen in the discussion under the heading "Short Receiver Dead Time and Pulse Width" below, provided no grounds for duty-free entry.) HEW's advice on the second submission was conveyed to the applicant in the denial without prejudice to resubmission.

Except for corrections of typographical errors the applicant's response to question 8 in this, the third submission, is identical to that of the second. However, the applicant, in a letter attached to the application dated June 17, 1976, did attempt to correct the deficiencies pointed out by HEW in its recommendation relating to docket No. 74-00226-33-77030.

In connection with pulse power, the applicant described an experiment of 100,000 or more pulses in which "the combination of higher pulse power, short receiver dead time and consequently shorter pulse width" was stated to provide an advantage. The
applicant also discussed the possibility (not yet attained) of obtaining accurate T1's below 1 msec. This additional material as shown in separate treatments under the headings "Short Receiver Dead Time and Pulse Width" and "T1, for 13C in the Range of a Millisecond" below, provides no justification for duty-free entry. In view of the foregoing, HEW advises that the applicant's specified pulse power provides no scientifically significant advantage over that of the domestic instrument for any of the applicant's planned work. The Department concurs.

**SHORT RECEIVER DEAD TIME**

No documentation is provided to support the applicant's statement that the receiver dead time of the foreign article is 12 μ-sec. In RFQ 61-RN-ARS-72 the applicant requested a recovery time of 150 μ-sec. In both the foreign manufacturer's quotation to the applicant (dated Apr. 12, 1972), and the specifications, the recovery time is given simply as less than 20 μ-sec. In any case, the applicant states in this third submission (docket No. 76-00453) that this feature is connected with spans. As will be shown below the combination of pulse power, short receiver dead time and pulse width of the articles provides no scientifically significant advantage with respect to the applicant's intended experiments.

Thus, HEW advises, and we concur, that short receiver dead time is not pertinent.

**SHORT RECEIVER DEAD TIME AND SHORT PULSE WIDTH**

The applicant agrees that the combination of higher pulse power, and shorter receiver dead time (and consequently shorter pulse widths than the domestic instrument) would save time on long experiments (upwards of 100,000 pulses) such as 13C studies on lignin. The applicant also states that this time-saving feature combined with the article's "single scan" 13C sensitivity makes the article superior to any comparable equipped 100-megahertz (MHz) instrument on the market today. The article's "single scan" 13C sensitivity, measured in the applicant's laboratory, is allegedly to be 470:1 on the largest peak of a 90 percent ethylbenzene sample in an 10 mm tube at ambient temperature with 5,000 Hertz (Hz) spectral width. The applicant further alleges that as of May 3, 1976 Varian's stated maximum sensitivity under these conditions was 200:1.

Regarding the saving of time, HEW advises that the sample cited a saving of only 11 seconds in a total experiment time of close to 24 hours would accrue. Thus HEW finds, and the Department concurs, that the differences in receiver pulse power, receiver dead time and pulse width between the article and Varian's XL 100-15 is not pertinent for the planned work.

Regarding sensitivity, the following is noted:

1. The procedure of denial without prejudice to resubmission affords the applicant an opportunity to correct deficiencies in an application which are pointed out in writing. (Sensitivity was not alleged to be pertinent and unmatched by domestic instruments in either of the two prior applications for duty-free entry of the article although eight other features were repeatedly discussed in reply to question 8.) Although the question of single scan 13C sensitivity is being raised for the first time in this third submission, the denial without prejudice to resubmission procedure is not intended to be a route for the introduction of wholly unexpected or previously unexplored issues ad infinitum. 2. 470:1 value for sensitivity provided by the applicant is not the guaranteed sensitivity of the article (which according to the foreign manufacturer's quotation is 30:1 under the conditions described by the applicant) but rather one stated to have been measured in the applicant's laboratory. Subsection 301.11(a) of the regulations stipulates that in our comparison of the foreign article with domestic instruments guaranteed specifications are to be considered. The applicant's RFQ does not specify a single pulse sensitivity but does specify a continuous wave 13C sensitivity of 30:1 in an 8 mm tube. Varian's letter of April 12, 1972 listing exceptions to the applicant's RFQ did not take exception to any of the applicant's sensitivity specifications. Varian, in its comments, states a belief that its guaranteed signal to noise sensitivity specifications have always been equal to or greater than those guaranteed by the manufacturer of the foreign article.

Thus, the 470:1 figure provided by the applicant cannot be a factor in our deliberations. The applicant, in the above-cited letter of June 17, 1976 (item A1.), acknowledges that where guaranteed sensitivity of the article and the Varian system can be compared (i.e., for continuous wave 1H), the two instruments are equivalent.

**ACCURATE DIGITAL PULSE PROGRAMMING**

The applicant alleged in response to question 8 that the article allows applications for duty-free entry of the foreign article that this feature is required in DEFT (driven equilibrium Fourier transform) and Carr-Purcell experiments. DEFT and a form of the Carr-Purcell method known as SEFT (spin echo Fourier transform) are of interest for enhancing signals above those attainable by ordinary Fourier transform techniques when certain conditions prevail, i.e., the spin-lattice relaxation time, T1, is very long and T2 is approximately equal to the spin-spin relaxation time, T2. The Carr-Purcell sequence is also used for finding T2. In its recommendation relating to the applicant's initial submission (docket No. 73-00058-33-77030), HEW advised that there was no indication that Carr-Purcell is in any way related to experiments that the applicant intends to perform and, after review of the applicant's second submission (docket No. 74-00226-33-77030), HEW advised that in the applicant's description of experiments to be conducted there are repeated references to the measurement of T2, yet neither the Varian instrument nor the foreign article is equipped to carry out such experiments in the manner indicated. In this third submission, the applicant did not provide any new information on the requirement for Carr-Purcell but did expand on the requirement for DEFT. The applicant "visualized" that DEFT could be useful on lignin, lignin-carbohydrate complexes, and polysaccharides. HEW notes that the cell walls of these tissues have better signal-to-noise ratios (S/N) than attainable with a normal single pulse sequence without a significant increase in the total time required for an experiment. In connection with the requirement for DEFT, HEW advises that DEFT is useful in improving the efficiency of 13C NMR only in cases where T1 is long and T2 is approximately equal to T2. HEW further advises that because of spin coupling between T1 and protons, T2 for polysaccharides and other compounds cited by the applicant is expected to be appreciably shorter than T1 (HEW references Shoup, Becker and Farrar, J. Magnetic Resonance 3, 382 (1972) as well as references given therein for further detail). Finally, in connection with the use of Carr-Purcell for measurement of T2, the Department notes that T2 can be measured in other ways. For example, T2 can be derived from the width of a spectral line in many samples (such as polysaccharides) where the line width is much greater than magnetic field in homogeneity. HEW further advises that at the time of order no manufacturer, domestic or foreign, offered Carr-Purcell measurements on a high resolution Fourier transform NMR spectrometer.

**CAPABILITY OF OPERATING IN EITHER INTERNATIONAL OR EXTERNAL-LOCKED MODE**

Although HEW advises that an external lock is pertinent to the applicant's work, the Department of Commerce has established, and HEW con-
discuss, that the XL-100-15 system could be provided with internal and external locks at the time the foreign article was ordered to match the pertinent specification of the article. In this connection, it is noted that Varian shipped an XL-100-15 system with internal and external locks more than one year before the article was ordered.

**CAPABILITY OF RUNNING WIDE SWEEPS IN A LOCKED MODE**

The Department notes that the applicant refers to his response in question 7.a.(3) (a) and (e) to establish the pertinency of this feature of the article. This work cited by the applicant will require the Fourier Transform capabilities of the article. The Department is cognizant that the wide sweeps in a locked mode provided by the article are used only in continuous wave (cw) nuclear magnetic resonance spectrometry and are not used in the Fourier Transform mode. Generally, cw work is the done when FTP is available. Several texts point out that the spectral range or sweep width in the Fourier Transform mode is determined by the amount of power applied to the sample and the rate at which the computer digitizes the data (e.g., T. C. Farrar and E. D. Becker, Pulsed and Fourier Transform NMR. Introduction to Theory and Methods, pp. 67, 69-71. Academic Press, New York (1971)). HEW advises that this feature is not pertinent for the work described by the applicant. The Department concurs.

**SUFFICIENTLY WIDE TEMPERATURE RANGE**

Although HEW advises that the need for a variable temperature capability is pertinent to the applicant's work, the Department of Commerce has established, and HEW concurs, that the XL-100-15 system could be provided with variable temperature capability in the range required by the applicant. (-150°C to +200°C centigrade) for the size tube required by the applicant (a sample tube of 10 mm or greater) at the time the foreign article was ordered (These features were offered with the domestic instrument introduced in 1969 and continued to be offered with the XL-100-15 FTP). Thus, this feature is matched in the XL-100-15 system.

In addition, the applicant in his response to question 8.(c)3 alleged, "In addition to having a wider temperature range available, [the article's] variable temperature system is better in that it provides a calibrated readout of the temperature at the sample, which Varian's system does not." In his letter of June 17, 1976 the applicant states, "JEOL on the other hand offered a 10 mm VT probe with direct temperature readout." We note the applicant's RFQ specified VT for an 8 mm tube and a 10 mm VT was not offered. Further, it provided no instructions relative to calibrated readout of temperature at the sample. Moreover, this feature is not described in the specifications of the article or the foreign manufacturer's quotation. However, technical literature permitted comparison of the instruments in question with respect to "readout." Both the variable temperature accessory of the article and XL-100-15 provide dials and/or meters for indication of temperature in the vicinity of the sample tube (for 10 mm or larger tubes), once temperature has been calibrated by an acceptable method. The foreign article provides a temperature meter on the magnet whereas Varian provides a temperature setting dial plus a temperature variation meter on the console. Precise temperature work in both cases would require exacting calibration techniques which provide the actual temperature inside the sample tube. One such technique utilizes compounds with temperature sensitive lines which can be added directly to the sample or placed in a capillary inserted therein. Another very precise technique utilizes a special thermometer which can be placed in the sample tube cavity (or even sample tube). Since similar variable temperature experiments can be carried out in both the foreign and the domestic systems, we find these systems to be scientifically equivalent with respect to temperature identification for the applicant's intended use. In any event, HEW did not find "calibrated readout of temperature at the sample" to be pertinent.

**WATER COOLING OF PROBE**

Varian claims that the probe of the XL-100-15 system can be operated without water cooling because the electrical shim coils are mounted on the pole caps and therefore do not transmit any heat to the NMR sample area. In our denial without prejudice to resubmission of the applicant's initial submission, the applicant was informed that Varian claimed its probe design was such that there was no transmission of heat to the sample area. The applicant in two subsequent submission provided no new information on the issue of the cooled probe. In any case, HEW advises that this design feature is not pertinent to the applicant's work.

**T FOR **13C** IN THE RANGE OF A MILLISECOND**

In the applicant's letter of June 17, 1976, the applicant states that although accurate T's below 1 msec (millisecond) have not been obtained, such values are not inconceivable for glycerol backbone carbons in the very viscous natural states in the plant cell. However, HEW advises that with regard to possible T's for **13C** T's of less than 20 msec. HEW further advises that contrary to the applicant's statement, increase in the range of the sample will cause T to go through a minimum of about 20 msec and then increase, while T continues to decrease. Thus, HEW advises that this feature is not pertinent to the planned work.

**AVAILABLE DOMESTIC INSTRUMENT**

Applicant's allegations.—Although the XL-100-15 was discussed the applicant alleged that the Department should base its determination on a comparison of the foreign article with the XL-100-12. In a letter, dated November 16, 1973 addressed to the second application (docket No. 77-00226-33-77030), the applicant stated, "The government can only accept prototype equipment when it is the only source. Our solicitation was for an advertised system, Varian did not bid the XL-100-15 and took several exceptions for the XL-100-15. * * * * * Comments concerning the Varian XL-100-15 may be irrelevant to the discussion since Varian Associates did not bid that instrument, * * * * *" Consideration of these allegations by the Department involved criteria for determining domestic availability. Varian's comments, Varian's quote in response to the applicant's RFQ, less formal contact of the applicant with Varian and factual information in the public domain.

Criteria for determining domestic availability.—Although an applicant has exceeded that the XL-100-15 was an unadvertised prototype, it must be pointed out that the specific purchasing policies of the applicant are not standards of domestic availability for purposes of duty-free entry. According to §301.11(b) of the regulations a domestic instrument or apparatus is considered available (whether produced for stock, produced on order or custom made). If the U.S. manufacturer is able and willing to produce it and have it available without unreasonable delay. The subsection also indicates that normal commercial practices applicable to the production and delivery of the instrument in question is to be considered in the determination of domestic availability. As will be shown below, the XL-100-15 system meets the criteria of §301.11(b). Varian's comments.—Varian stated that (1) its records show that both the XL-100-12 and the XL-100-15 were
freely available at the time the XL-100-12 was quoted [April 12, 1972], (2) the XL-100-15 was, and is, the higher volume article matching the article from Varian, which is the lowest acceptable bidder. In accordance with § 301.2(n), difference in cost between the article and the most closely comparable domestic instrument is not considered a basis for duty-free entry.

Information in public domain.—Varian's willingness and ability to supply the XL-100-15 was clearly a matter of public record at the time the foreign article was ordered. The instrument was first introduced in 1969. At that time FPT for proton was offered as an option. The basic Instrument and its improvement with time has been advertised in the trade literature, demonstrated at exhibits and at Varian's applications laboratory, discussed at owner's conferences, described in catalogs, ordered, shipped, discussed in application for duty-free entry etc. from 1969 to 1972. Further, the publicity on the XL 100 series clearly indicated that the XL 100-15 had significantly higher capability than the XL 100-12. Thus, Varian demonstrated its willingness to supply the XL 100-15 by quoting its XL 100-15 quotations, timely advertisements etc. and Varian demonstrated its ability to supply the XL 100-15 by manufacturing it (to a greater extent than the XL 100-12) and shipping it. The Department has documentation to support the statement that Varian shipped and offered units of its XL 100-15 FPT NMR spectrometer system comparable to the foreign article. Varian shipped such a unit to Harvard University on March 30, 1972 (i.e., before the article was ordered) and quoted similar units to Pennsylvania State University and Albert Einstein College of Medicine on February 24, 1972 and July 22, 1972 respectively. Varian and Albert Einstein College of Medicine applied for and obtained duty-free entry of instruments essentially identical to the foreign article (docket Nos. 74-00052-01-12 and 74-00172-01-12 respectively). In the second submission (docket No. 74-0026-33-77030) the applicant quoted two cases as precedents and stated that the XL 100-15 was "unavailable" (citation of these precedents was not repeated on resubmission). The Department's approval of these applications, however, were not based on the nonavailability of a comparable XL 100-15 system but the inability of that system to perform certain specific experiments within the capability of its foreign counterpart. Such specific experiments are not described in any of the applications that are the subject of this decision.

In view of the above, the Department finds that Varian was both willing and able to provide an XL 100-15 FPT NMR spectrometer with all necessary accessories for the purposes intended uses at the time the foreign article was ordered. The Department further finds that difference in cost between the foreign article and this domestic instrument and Varian's knowledge that this difference did not exist is critical in the award of the purchase contract is a reasonable explanation of Varian's bid of an XL 100-12. Based on the foregoing considerations, HEW advice, our own review of the application as well as other factual information in our possession (specifications, textbooks etc.) we find that the model XL 100-15 NMR system was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FPR Doc. 78-28963 Filed 10-12-78 8:45 am]

[3510-25-M]

UNIVERSITY OF ILLINOIS-URBANA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00028. Applicant: University of Illinois Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Reflection-Transmission Unit for Beckman-RIC FS-720 Fourier infrared spectrometer. Manufacturer: Beckman-RIC Ltd., United Kingdom. Intended use of article: The article is intended to be used for reflectance and transmission studies of materials such as TaSe5, and Vd5, which have interactions between vibrations of the atoms and the electrons responsible for electrical conductivity. The frequency range of interest is the far infrared. No comments have been received with respect to this application.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
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Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards (NBS) advises in its memorandum dated August 30, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Richard M. Seppa, Director, Statutory Import Programs Staff.)

[FR Doc. 78-28964 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF WISCONSIN—MADISON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 4 p.m. daily at the Office of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00256. Applicant: University of Wisconsin—Madison Plasma Physics, 1150 University Avenue, Madison, Wis. 53706. Article: 35 GHz, 15 W extended interaction oscillator, type VSK 2420E. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used in a microwave scattering experiment in which density fluctuations in the plasma will be probed revealing their characteristic frequencies and wavelengths. The density fluctuations to be studied are common to octupoles, tokamaks, and many other devices.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high power source (75 watts) required to generate microwave radiation in the 35 gigahertz range. The National Bureau of Standards (NBS) advises in its memorandum dated September 5, 1978 that (1) the specification described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Richard M. Seppa, Director, Statutory Import Programs Staff.)

[FR Doc. 78-28965 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA, DAVIS SCHOOL OF VETERINARY MEDICINE ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(d) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897). Interested persons may present their views with respect to the applications.

Applications received by the Commissioner of Customs: September 13, 1978.

Docket No. 78-00422. Applicant: University of California, Davis, School of Veterinary Medicine, Davis, Calif. 95616. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for ultrastructural studies of animal tissues and morphological investigations of animal virus structures. The most important projects for which the article is to be used as an essential investigative tool are:

I. Pulmonary effects of environmental oxidant pollutants.

II. Ultrastructural characterization of animal viruses.

III. Ultrastructural pathology of the musculoskeletal system.

IV. Trypanosomiasis.

V. Abortion in cattle and sheep.

VI. Procedures for rapid viral diagnosis.

VII. Special post mortem diagnostic procedures.

VIII. Effects of beta/lactam and cationic proteins on morphology of bacteria.

Undergraduate, graduate and professional (veterinary) students in the following courses will use the article during laboratory exercises and for examining specimens.


2. Pathology 282—Tumor Pathology.

3. Pathology 299—Research in Veterinary Pathology.


5. Veterinary Microbiology 130—Animal Virology Laboratory.

6. Veterinary Microbiology 239—Research.

7. Veterinary Medicine 150B—Agents of Disease and Host Responses.

Application received by the Commissioner of Customs: September 13, 1978.

Docket No. 78-00425. Applicant: Max C. Cohen, Ph.D., Department of Pathology, C.S. 10008, Toledo, Ohio 43609. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (human and animal tissues) which have been embedded in hardened epoxy resins for sectioning. Experiments to be conducted will include cyto and histochemical studies of enzyme and subcellular organelle localization in cells and tissues and subcellular changes in cells induced by changes due to infectious agents, biochemical and/or physical environmental. In addition, the article will be used in the course diagnostic electron microscopy to introduce students to the principles and techniques of electron microscopy in order to apply gained knowledge to diagnostic pathology. Application received by the Commissioner of Customs: September 14, 1978.

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Docket No. 78-00427. Applicant: Yale University, Biology Department, Kline Biology Tower, New Haven, Conn. Article: LKB 2088 Ultrotome V Ultramicrotome, with LKB 14800-3 Cryokit and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended for studies of cell ultrastructure and intracellular localization of elements in: (a) Plant cells that undergo large rhythmic and light-regulated changes in turgon; (b) Protoplasts isolated from cereals and regenerating new walls; (c) Cells of plants subjected to gravitational stimulation; (d) Cells of plants subjected to environmental pollutants; (e) Pathological and normal tissue from animals and plants. The article will also be used in the course Cell Biology by advanced students who are learning cryoultramicrotomy. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00428. Applicant: Veterans' Administration Hospital, 1600 V.F.W. Parkway, West Roxbury, Mass. 02132. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended for studies of cell ultrastructure and intracellular localization of elements in normal and pathologic tissues, developmental studies on fungal and bacterial systems, cytotoxic and biochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at cell-cell interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes in clinical cases seen in human diseased tissues. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00429. Applicant: Purdue University, ADM Building, West Lafayette, Ind. 47907. Article: Electron Microscope, Model JEM 100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the ultrastructure of single-celled eucaryotes to whole organisms. Ultrastructure of the development and subcellular organelles in the above-listed biological materials will be done. In addition, the article will be used in the courses MCS 653, Electron Microscopy and MCS 655 EM Cytochemistry to give students thorough training in EM techniques so that they may use the article in their dissertation research. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00430. Applicant: University of Florida, Institute of Food and Agricultural Sciences, McCarty Hall, Department of Microbiology, Gainesville, Fla. 32611. Article: Electron Microscope, Model JEM-100CX with standard side entry and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine and analyze biological materials ranging from naked DNA to viruses to bacteria to single-celled eucaryotes to whole organisms. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00431. Applicant: New York University Medical School, 550 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cultured cells of the animal nervous system including clonal lines with neural properties. Various types of cells from animal tumors will be studied as well as synapse specimens from the human and animal nervous system. The experiments to be conducted will involve studying the organization of subcellular fibrous organelles and their alterations during the development and aging process as well as the changes which they might undergo in neoplastic transformation. Attempts will be made to experimentally alter the distributions and connections of these organelles. Other studies will be done to monitor the subcellular fractionation and purification of both fibrous organelles and membranes from tissues as a correlate to biochemical studies. In addition, the article will be used to instruct graduate students, students in the M.D.-Ph. D. program and postdoctoral fellows in the basic techniques of electron microscopy and their application to the study of drug mechanisms of action and drug effects on living systems. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00432. Applicant: Northwestern University, Chemistry Department, Evanston, Ill. 60201. Article: Rare Gas Halide Laser Kit and accessories. Manufacturer: Lumonics Research, Canada. Intended use of article: The article is intended to be used to create large quantities of molecular fragments which will be used with respect to measuring the initial energy distribution of these fragments. This will allow for the testing and formulation of theories of chemical dynamics and the reactivity of excited molecules. In another set of experiments the article will be used as a HF laser to pump energy into overtone vibrations of molecules. The reactivity of these excited molecules will then be studied. In a third set of experiments, the output of this laser will be used in the 300-nm region of the spectrum to pump a dye laser which will then be used to probe excited state molecular fragment energy distributions. The article will also be used for students' research experiments in which high peak power is very important. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00433. Applicant: Wayne State University, 540 East Canfield Avenue, Detroit, Mich. 48201. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of a variety of mammalian tissues, organs, and glands in addition to isolated cells, membrane fragments, and other cellular components. Investigations will include ultrastructural studies of the effects of a variety of drugs on whole mammalian exocrine glands, and dispersed glandular cell preparations, toxicological studies of agents affecting the liver cytochemical localization of enzymes in hepatic membrane preparations and in isolated vas deferens membranes and ultrastructural changes induced by drugs or ionic shifts in cardiac muscle fibers. A workshop entitled "Basic Techniques in Electron Microscopy" is the instructional course in which this instrument will be used. The workshop is intended as an introduction to the techniques of specimen preparation and to the use of the electron microscope as a tool for studying biological fine structure and various subcellular organelles. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00434. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, Mass. 02115. Article: PMV Cryo-Microtome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, specifically tissue from animal spe-
The experiments to be conducted will probably include ultramicroscopic studies on human tissues, cells, or by-products, will be sectioned. Ultrastructural investigation includes measuring the rates of oxygen consumption in the central nervous system by using the (C4)2 deoxyglucose method and the autoradiography technique, followed by histological examination of the cells' morphology. The objectives of this research are to demonstrate the anatomical system and the function of the visual cortex's two independent systems: The ocular dominance columns and the orientation columns. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00437. Applicant: Northwest Community Hospital, 800 West Central Road, Arlington Heights, Ill. 60004. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, especially human tissues from surgically excised specimens, autopsy tissues, body fluids, and blood cells, bacteria and fungi. Many intentions of the article include: applications in MCDB-132 Cell and Tissue Biology and Methods in Plant Pathology to furnish graduate level training in plant pathology. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00440. Applicant: The Regents of the University of California, Irvine, Calif.; California College of Medicine, Irvine, Calif. 92717. Article: Electron Microscope, Model EM-400 and accessories. Manufacturer: Philips Electronics Instruments NV, The Netherlands. Intended use of article: The article is intended to be used to examine tissues at low, intermediate, and high magnification, to examine freeze-etch replicas of biological membranes and tissue sections at various magnifications, for various applications of histochemical procedures from low to high magnification, to examine thick specimens, to examine stereo pairs of membranes and various tissues with both freeze-etch and thin section preparations, and to apply analytical electron microscopy to various tissue systems. Examples of the research projects include:

1. Diabetic angiopathy and neovascularization.
2. Identity of nascent capillaries.
3. Investigation of localization of 14C-insulin on purified plasma membrane preparations.
5. Studies of the endocrine pancreas in streptozotocin-induced diabetic mice.

The article will also be used in an electron microscope course being designed for graduate students and research fellows. In this course, the techniques and applications of EM will be heavily emphasized, and an independent EM project will be expected. Application received by Commissioner of Customs: September 22, 1978.
The study of osmotic membranes using relaxation time measurements to follow the behavior of water molecules at the membrane.

The study of the kinetics of the sulfite ion cleavage of thiamine in the presence of other nucleophiles using the auto-stacking feature and to search for a sulfite ion adduct by proton and carbon T2 measurements at the ring sites.

Synthesis of polymers by use of novel organic reactions, a study of the mechanisms of the polymerization reactions, and determination of the fundamental physical properties of the polymers.

Research devoted to the synthesis and synthetic use of novel heterocyclic systems.

The study of reversible and irreversible rearrangement processes in organometallic complexes at low concentrations.

Use of relaxation times of proton and carbon resonance as a probe of the transport of paramagnetic and quadrupolar ions.

Relaxation time measurements on substances related to cell wall materials.

Application received by Commissioner of Customs: January 23, 1978.


Docket No. 78-00252. Applicant: Vanderbilt University (Chemistry Department), Nashville, Tenn. 37235. Article: JNM/PX-90Q High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide range of different experiments in the areas of organic chemistry, inorganic chemistry, analytical chemistry, biochemistry, pharmacology and related biomedical sciences. Categories of the principal research projects which will use the article are:

1. Characterization of newly synthesized organic compounds including (1) alkaloids, (2) polyketides, (3) terpenes, (4) prospective 'drugs', (5) nonbenzenoid polycyclic aromatic compounds, (6) novel chelating agents, (7) novel amino acids and (8) intermediates in their synthesis.

Docket No. 78-00109. Applicant: University of California, 1156 High Street, Santa Cruz, Calif. 95064. Article: JNM/FM-100R Nuclear Magnetic Resonance Spectrometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a large variety of research studies of molecular structure, molecular association, and molecular dynamics for biochemical, organic chemical, biological, and marine studies problems. These research applications will consist of the following:

1. The Structure and Dynamics of Lipids in Biological Membranes.
2. NMR Characterization of Enzyme-Substrate Intermediate Trapped at Subzero Temperatures.
4. Natural Products Chemistry of Marine Organisms.
5. New Synthetic Methods and Their Use in Natural Product Total Synthesis.

The article will also be used for educational purposes in the following chemistry courses:

Chemistry 125. Biophysical Chemistry.
Chemistry 140. Advanced Organic Laboratory.
Chemistry 164. Physical Chemistry Laboratory.
Chemistry 180A-B-C. Senior Research.
Chemistry 189. Tutorial.
Chemistry 243. Physical Properties and Molecular Structure.


Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides the capability for making T2 measurements. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the specification of each article described above is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent specification at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.
NOTICES

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28967 Filed 10-12-78; 8:45 am]

[3510-25-M]
TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Meeting Cancellation

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice was published in 43 FR 43551 on September 26, 1978, that a meeting of the Telecommunications Equipment Technical Advisory Committee would be held on October 17, 1978. This is a notice that the meeting has been cancelled.


RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-28965 Filed 10-10-78; 3:39 pm]

[3510-22-M]
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council, established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established an Advisory Subpanel on Groundfish. This panel will meet to review a draft fishery management plan.

DATES: The meeting will convene on Monday, October 31, 1978 at 10 a.m. and adjourn at 5 p.m. and Tuesday, October 31, 1978, at 8 a.m. and adjourn at 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Capri Room of the international American Motor Inn, 2601 South Avenue, Metairie, La.

FOR FURTHER INFORMATION CONTACT:
Wayne Swingle, Executive Director, Gulf of Mexico Fishery Manage-

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER, 13, 1978
NOTICES

[3810–25–M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

FEDERATIVE REPUBLIC OF BRAZIL

Increasing Import Restraint Level for Certain Cotton Apparel Products


AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import restraint level established for women's, girls', and infants' cotton knit shirts and blouses in category 339, produced or manufactured in Brazil, at the increased level of 250,573 dozen during the agreement year which began on April 1, 1978.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.


COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On July 7, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on April 1, 1978 and ending through March 31, 1979 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Brazil, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.

Under the terms of the Arrangement Regarding International Trade In Textiles done at Geneva on December 20, 1976, as amended, between the Governments of the United States and the Fedeative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 31, 1978, as amended by Executive Order 11851 of January 6, 1977, you are directed, effective on October 10, 1978, to extend the 12-month level of restraint established for cotton textile products in category 339 to 250,573 dozen.

The actions taken with respect to the Government of the Fedeative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc.78-28961 Filed 10-12-78; 8:45 am]

[6820–33–M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 15, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 1009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703–557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS NONE

Mattress, bed, inner spring (commercial), 38"x75", 53"x75".

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[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP '78-12]

ESCALATORS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

SUMMARY: The Commission denies a petition requesting it to develop a mandatory safety standard addressing risks of injury associated with escalators. The Commission denies the petition because the currently available information is insufficient to indicate that escalators as they are presently constructed and designed present an unreasonable risk of injury to consumers.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION:

Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the Federal Register.

On April 18, 1978, the Commission received a petition and supporting documents from members of the Ad Hoc Committee for Greater Safety on Escalators of Cleveland, Ohio. The petition alleged that escalators present an unreasonable risk of injury, particularly to children and the elderly, due to inadequate warning signs and unsafe construction and design. The petition called particular attention to the risk of body parts being pulled into the escalator mechanism.

In analyzing this petition, the Commission considered injury information submitted by the petitioners, its own investigation of injury data, economic and engineering data, and applicable voluntary standards.

Two major hazards patterns emerged from a search of the Commission's National Injury Information Clearinghouse data: Falls, and entrapment of body parts or shoes between moving components of the escalator. Falls appear to be the most common type of accident associated with escalators and usually involve the elderly. Entrapment of shoes, feet, hands, and so forth is the second most common type of accident associated with escalators. This hazard seems to involve primarily children under 12.

The causes of entrapment accidents are generally quite specific—the victim is typically wearing soft soled shoe which becomes caught in the mechanism, or the child is playing with the escalator in such a way as to expose fingers or clothing to moving parts of the escalator. Most reports of falling incidents give only general statements as to cause, such as “lost balance,” with no identifiable reason for losing balance.

A search of the National Electronics Injury-Surveillance System (NEISS) revealed 125 accidents associated with escalators during the period January 1, 1977 through May 31, 1978. The age range of the victims was from five to 65+, with injuries ranging from contusions, to strains and sprains, to lacerations and fractures, with virtually all body parts being affected. As a result of 21 in-depth investigation reports dating from 1977-77 disclosed 13 entrapment incidents and eight falls. In addition, 6 deaths involving escalators have been reported to the Commission. It appears that 2 of the 6 deaths may be classified as industrial in nature due to the type of injuries involved. The other 4 victims were injured when they fell down escalators.

Commission investigation reveals that these accidents are occurring in the context of at least 32 billion escalator rides per year, on 18,000 escalator units (a unit is either an up or down escalator).

The Commission notes that many States have statewide elevator and escalator codes. The American National Standards Institute (ANSI) Code for Elevators, Dumbwaiters, Escalators, and Moving Walks (ANSI A17.1), which has been adopted at least as a technical basis for a State code in 22 States, contains many safety features relating to fall, entrapment, and pinching hazards. In addition, Commission staff have been informed that the ANSI Escalator Subcommittee has recently approved and transmitted to the Executive Subcommittee a proposed revision of the escalator standard which would provide for the uniform placement of emergency on-off stop switches and would establish requirements for the size, wording, and location of warning signs for escalators. It is anticipated that this revision will be approved some time before the end of the year.

However, the Commission has noted that the current A 17.1 may be inadequate in two other respects. The injury data involving escalators suggest that the severity of injuries suffered once a foot entrapment occurs may be related to the duration of en-
trapment and the distance the victim is dragged along the length of the escalator before the escalator stops. A 17.1 presently requires one automatic shutoff device. (skirt obstruction devices) near the lower combs. Further investigation is needed to determine whether and to what extent increasing the number of skirt obstruction devices on an escalator will reduce the severity of entrapment injuries. In addition, the maximum ¾" side clearance (between the step and the balustrade) permitted by the ANSI Code may be too large to prevent many entrapment accidents.

The Commission has carefully considered the matters raised in the petition and the injury and technical data submitted by the staff. Based on this information, the Commission concludes that considering that millions of consumers use escalators daily, the injury data are insufficient to indicate that escalators present an unreasonable risk of injury. Accordingly, the Commission has denied the petition.

In reaching this decision, the Commission considered the relative priority of escalators in the context of Commission resources available for rulemaking for all hazardous consumer products. The Commission recognizes, however, that skirt obstruction devices and allowable side clearance may be factors in the number and severity of entrapment injuries. Therefore, the Commission has indicated an interest in the staff encouraging an industry effort to determine whether skirt obstruction devices capable of detecting entrapment along the entire length of an escalator, and whether less side clearance than that currently permitted by A 17.1 would appreciably reduce the number and severity of these injuries. If a determination is made that the presence of more skirt obstruction devices and less side clearance would result in a significant reduction in number and severity of entrapment injuries, Commission staff would then encourage and monitor appropriate amendments of ANSI A 17.1.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW, Washington, D.C. 20207.


SADEE E. DUNN,
Secretary, Consumer Product Safety Commission.
[FR Doc. 78-29008 Filed 10-12-78; 8:45 am]

This listing is provided for use with the Armed Forces Discharge Review/Correction Boards Index. Its purpose is to assign numerical codes to various "reasons for Discharge" used in the index in connection with discharge cases, and to issues which have been identified as being addressed in both discharge and other types of cases.
NOTICES

(04.03) Counseling—proper and adequate
(04.04) Counseling—lack of or inadequate
(04.05) Discharge authority/action—proper and adequate
(04.06) Discharge authority/action—improper or inadequate
(04.07) Discharge authority/action—delegation
(04.08) Expedient discharge
(04.09) Failure to follow regulations
(04.10) Improper—proper and adequate
(04.11) Hearing—improper or denied
(04.12) Legal counsel—proper and adequate
(04.13) Legal counsel—ineffective or absence of
(04.14) Legal counsel—nonlawyer
(04.15) Medical and psychiatric report—proper and adequate
(04.16) Medical and psychiatric report—lack of or inadequate
(04.17) Notice—proper and adequate
(04.18) Notice—lack of or inadequate
(04.19) Notice—not timely
(04.20) Rehabilitative transfer/effort—proper and adequate
(04.21) Rehabilitative transfer/effort—inadequate or denied
(04.22) Statements submitted
(04.23) Statement not submitted
(04.24) Waiver—proper and adequate
(04.25) Waiver—unknowing or unintelligent
(04.26) Waiver—coerced
(04.27) Other
(05.00) AFQT Scores
(05.01) Improper or inadequate
(05.02) Considered as an indication of ability to perform
(06.00) Alcohol
(06.01) Alcoholism
(06.02) Alcohol-related offenses
(07.00) Arbitrary/Capricious Command Action
(07.01) Board actions
(07.02) Good of service discharge
(07.03) Discharge for good of service
(07.04) Civil convictions discharge
(08.00) Article 32
(09.00) Article 138 Complaint
(10.00) AWOL
(10.01) Extenuating/mitigating factors—length
(10.02) Extenuating/mitigating factors—voluntary return
(10.03) Extenuating/mitigating factors—personal
(10.04) Unjustified
(10.05) Other
(11.00) Bad Conduct Discharge
(11.01) Equivalences of
(11.02) Legal sufficiency
(11.03) Other
(12.00) Civil Conviction
(12.01) Appellate process not completed
(12.02) Status changed subsequent to discharge
(12.03) Current standards
(12.04) Combat Duty
(14.00) Combat Service
(14.01) Board actions
(14.02) Good of service discharges
(14.03) Civil conviction discharges
(15.00) Confession
(15.01) Proper and adequate
(15.02) Article 31
(16.00) Conscientious Objection
(16.01) Board actions
(16.02) Good of service discharges
(17.00) Conscientious Objector
(17.01) Proper and adequate denial
(17.02) Improper or inadequate denial
(17.03) Eligible
(17.04) No application
(18.00) Convenience of the Government
(18.01) Aggravating—nature of offense
(18.02) Extenuating/mitigating—sentence
(18.03) Extenuating/mitigating—nature of offense
(18.04) Extenuating/mitigating—sentence
(18.05) Extenuating/mitigating—drug
(18.06) Extenuating/mitigating—alcohol related
(18.07) Extenuating/mitigating—pardon
(18.08) Rights
(18.09) Status change subsequent to discharge
(18.10) Other
(19.00) Counseling
(19.01) Improper or inadequate
(19.02) Extenuating/mitigating factors—
(19.03) Courts Martial
(19.04) Conviction/special
(19.05) Conviction/special
(19.06) Due process error
(19.07) Inadequate/improper counsel

D
(20.00) Denotement Board
(21.00) Desertion
(22.00) Discharge Based on Conduct Previously Considered at Administrative/Judicial Process
(22.01) Board actions
(22.02) Good of service discharges
(22.03) Discharge for Good of the Service (Chapter 10)
(22.04) Counseling
(22.05) Procedural error
(22.06) Record of service overall
(23.00) Discrimination
(24.01) Institutional
(24.02) Other
(24.03) Other
(25.00) Drugs/Possession
(25.01) Aggravation
(25.02) Extenuating/motivating, aggravating factors
(25.03) Intent to sell inferred
(25.04) Investigative
(25.05) Laird Memo
(25.06) Limited privileged communications program
(25.07) Post-Laird
(25.08) Pre-Laird
(25.09) Sale/transfer/trafficking
(25.10) Treatment
(25.11) Type, quantity
(25.12) Urinalysis
(25.13) Use/possession
(25.14) Other
(26.00) Drug Sale
(26.01) Extenuating/motivating, aggravating factors
(26.02) Versus more transfer/agent
(26.03) Other

E
(27.00) Enlistment
(27.01) Enlistment contract—proper and adequate
(27.02) Enlistment contract—breach of
(27.03) Erroneous
(27.04) Other
(28.00) Errors/omissions
(28.01) Extenuating/mitigating
(28.02) Induction
(29.00) Executive Clemency
(30.00) Expedient Discharge
(30.01) Offered counseling
(30.02) Procedural error
(30.03) Record of service overall
(75.00) Expiration of Required Service

F
(31.00) Failure To Pay Debts
(31.01) Dishonorable discharge
(31.02) Lack of evidence of dishonorable discharge
(32.00) First Amendment
(32.01) Free speech
(32.02) Free assembly
(32.03) Free religion
(32.04) Free political activities
(33.00) Fraudulent Entry
(33.01) Civil record
(33.02) Drug
(33.03) Homosexual
(33.04) Medical disqualifications
(33.05) Mental disqualifications
(33.06) Age
(33.07) Recruiter connivance
(33.08) Prior service
(33.09) Counseling
(33.10) Procedural error
(33.11) Service record overall

G
(34.00) General Misconduct
(34.01) Absenteeism and desertion
(34.02) Bad conduct discharge by special court-martial
(34.03) Civil court disposition
(34.04) Drug abuse
(34.05) Failure to pay just debts
(34.06) Failure to support dependents
(34.07) Fraudulent enlistment
(34.08) Frequent involvement—military or military
(34.09) Resignation and discharge for the good of the service
(34.10) Sexual perversion
(34.11) Shaming—established pattern

H
(35.00) Handicap
(35.01) Financial
(35.02) Marital/family
(35.03) Medical
(36.00) Homosexuality
(36.01) Aggravating factors—minor
(36.02) Aggravating factors—force
(36.03) Aggravating factors—non-discreet
(36.04) Extenuating/mitigating factors—youth
(36.05) Extenuating/mitigating factors—isolated
(36.06) Extenuating/mitigating factors—off-base
(36.07) Extenuating/mitigating factors—off-duty
(36.08) Extenuating/mitigating factors—treatment
(36.09) Extenuating/mitigating factors—duress
(36.10) Extenuating/mitigating factors—consenting adults
(36.11) Proper processing
(36.12) Improper processing
(36.13) Tendencies
(36.14) Isolated incidents
(36.15) Confirmed
(36.16) Counseling
(36.17) Procedural error
(36.18) Service record overall
(36.19) Other
(37.00) Current standards
(37.00) Humanitarian Reasons

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(49.02) Good of service discharges
(49.03) Civil conviction discharges
(49.04) Expeditious discharges
(50.00) Post Service Conduct
(50.01) Aggravating
(50.02) Board actions
(50.03) Civil conviction discharges
(50.04) Good of service discharges
(50.05) Expeditious discharges
(50.06) Mitigating
(51.00) Procedur/LEGAL Error
(51.01) Board actions
(51.02) Good of service discharges
(51.03) Expeditious/trainee discharges
(51.04) Civil conviction discharges
(52.00) Project 100,000
(53.00) Promotions/Transfers/Intimidation
(53.01) Chain of command
(53.02) Peers
(53.03) Recruiter
(53.04) Defense counsel

(54.00) Qualitative Management Program

(55.00) Racial Discrimination
(56.00) Record of Service Overall
(56.01) Board actions
(56.02) Good of service discharges
(56.03) Civil conviction discharges
(56.04) Expeditious discharges
(57.00) Rehabilitation
(57.01) Not waived
(57.02) Failure
(58.00) Religious Discrimination
(59.00) Request for Discharge for the Good of the Service

(60.00) Search and Seizure
(61.00) Selective Reenlistment Program
(62.00) Stacking of Offenses
(62.01) Board actions
(62.02) Good of the service discharges

(63.00) Trainee Discharge Program
(63.01) Counseling
(63.02) Procedural errors
(64.00) TWSR

(65.00) Unfitness (see general misconduct)
(66.00) Unsuitability
(66.01) Alcohol abuse
(66.02) Apathy, defective attitude, and inability to expend effort constructively
(66.03) Financial irresponsibility
(66.04) Homosexual or other aberrant tendencies
(66.05) Character and behavior disorders (personality disorders)
(66.06) Inaptitude
(66.07) Personal abuse of drugs
(66.08) Personality disorder
(66.09) Unsanitary habits
(66.10) Unspecified

(67.00) Vietnam—Special Discharge Review Program
(67.11) Tour in Southeast Asia or Western Pacific
(67.12) Wounded in combat
(67.13) Decorated for valor/merit
(67.14) Previous Honorable Discharge
(67.15) Satisfactorily served 24 months prior to discharge
(67.16) Completed alternate service or was excused in accordance with Presidential Proclamation 4313

(67.21) Age, aptitude, length of service at time of discharge
(67.22) Education level
(67.23) Deprived background
(67.24) Personal distress
(67.25) Warrant to enlist
(67.26) Conscience
(67.27) Drugs of alcohol
(67.28) Good citizenship
(67.29) Other factors
(67.31) Discharged for acts(s) of violence
(67.32) Discharged for acts(s) of dishonor
(67.33) Discharged for desertion in or from combat theater
(67.34) Discharged for offense(s) subject to civilian criminal prosecution

(67.40) President Ford Memo 19 January 1977

(68.00) W

(69.00) X

(70.00) Z

(71.00) Notice Numbers 72.00-99.00 have been reserved for future use, if required, by the DRB.

Section IB

Index numbers used to index discharge cases listed in Supplement 5 and all subsequent supplements.

Numerical Codes A00.01-A99.99

OUTLINE TO THE REVISED SUBJECT/CATEGORY LISTING.

Propriety Considerations

Part A—Common Elements to All Discharges (Index Nos (A01.00-A01.32))

Part B—Common Elements to Discharges Where SM Has Right to Board Hearing (Index Nos (A02.00-A02.32))

Part C—Reasons for Discharge and Specific Elements Pertaining to These Discharges (Index Nos (A03.00-A84.00))

Part D—Specifically Retroactive Policy Changes (Index Nos (A85.00-A89.00))

Equity Considerations

Part E—Policy Changes Not Specifically Retroactive (Index Nos (A90.00-A91.06))

Part F—Quality of Service (Index Nos (A92.00-A92.32))

Part G—Capability To Serve (Index Nos (A93.00-A93.30))

Part H—Other Equitable Considerations (Index Nos (A94.00-A88.00))

Other Considerations

Part I—Administrative Actions Indirectly Related to Discharge (Index Nos (A99.00-A99.16))

Part J—Special Programs (Index Nos (A99.00-A99.58))

REVIEWED SUBJECT/CATEGORY LISTING (1978)

Propriety Considerations

Part A—Common Elements Throughout the Discharge Process

(A01.01/02) Separation action not properly initiated

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(A03.07/8) Characterization based on Mental Status or other Medical Evaluation

(A03.09/10) Characterization improperly changed by Commanding Officer of Transfer Activity, and appropriate entries not made in file showing reason

(A04.00) Discharge For CONVENIENCE OF GOVERNMENT (See Specific Categories A65.-A67) below

(A05.00) Reduction in Strength (Service Manpower)

(A05.09) Improper Denial of Request to Separation

(A08.00) Conviction by Civil Authorities (Forfeiture or Domestic)

(A09.00) Discharge for Security Reasons

(A10.00) Discharge for UNFITNESS (See Specific Categories A51.-A58 below)

(A11.00) Inability to Perform Duties Due to Parenthood

(A12.00) Discharge for Pregnancy or Childbirth

(A13.00) Discharge for Mental Status Evaluation

(A14.00) Discharge for Motion/Travel/Sickness

(A15.00) Unsworn Testimony or Statement Improperly Considered

(A16.00) Discharge for Expiration of Term of Service

(A17.00) Discharge for Enlistment-Reenlistment

(A18.00) Physically Disqualified for Officer Candidate School

(A19.00) SM erroneously Denied Punitively Discharge Before Review

(A20.00) Discharge for Allergy to Clothing

(A21.00) SM Serving Constructive Enlistment with Defective Contract

(A22.00) Discharge for Pregnancy or Marriage

(A23.00) Discharge for Conscientious Objector

(A24.00) Marginal Performer Discharge (EDP/QMP); Non-Trainee

(A24.01/02) SM not properly counseled by Command

(A24.03/04) SM met required Standards of Performance after award of MOS

(A24.05/06) SM not in Unit from which separated required Period of Time

(A24.07/08) SM did not consent to Discharge

(A24.09/10) Improper Counsel for Consultation (when required)

(A24.11/12) Mental Status Evaluation

(A24.13/14) Not separated within specified Period of Time in Service

(A25.00) Marginal Performer Discharge (TPD); Trainee

(A25.01/02) SM not discharged within required Period of Time after Enlistment

(A25.03/04) Trainee Discharge not properly characterized as Honorable

(A25.05/06) Trainee not properly counseled by Command before Discharge

(A25.07/08) Statement/Rebuttal submitted not considered

(A26.00) Substandard Performance/Behavior (Petty Officer)

(A27.00) Substandard Performance/Behavior (Non-Petty Officer)

(A28.00) Condition/Medical Disability which interferes with Performance of duties, not a Physical Disability

(A29.00) Inability to Perform Duties

(A30.00) Conviction

(A31.00) Discharge for Physical Disability

(A32.00) Discharge (Characterization) as a Result of DHR Action

(A33.00) Discharge (Characterization) as a Result of other Official Board Action (e.g. Clemency & Parole, Correction of Military Records)

(A34.00) Discharge for Minority

(A35.00) Discharge for Dependency or Hardship

(A36.00) Discharge for Security Reasons

(A37.00) SM

(A38.00) SM

(A39.00) SM

(A40.00) Discharge for UNSUITABILITY (See Specific Categories A41.-A48, below)

(A41.00/02) Counseling Requirements not met or waived

(A42.00/02) Neuropsychiatric (NP) Evaluation not proper/present

(A43.00) Apathy

(A44.00) Enuresis

(A45.00) Alcohol Abuse

(A46.00) Homosexual Tendencies

(A48.00) SM

(A49.00) SM

(A50.00) Discharge for UNFITNESS (See Specific Categories A51.-A58, below)

(A51.00/02) Counseling Requirements not met or waived

(A52.00/04) Rehabilitative Requirements not met or waived

(A53.00/06) Mental Status Evaluation (when required) not conducted

(A54.00/08) Requested Psychiatric or Psychological Report not conducted

(A55.00) Frequent Involvement with Civil Authorities

(A56.00) SM

(A57.00/02) Counseling Requirements not met or waived

(A59.00) Conviction for Physical Disability

(A60.00) Discharge for MISCONDUCT (See Specific Categories A61.-A66, below)

(A61.00) Conviction by Civil Authorities (Forfeiture or Domestic)

(A62.00/02) No Conviction which met UCMJ Punishment Standards

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100.04 Presumption of Death
100.05 Change of MOS/Designation

101.00 Archive Cases
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[3128-01-M] DEPARTMENT OF ENERGY
Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of two public meetings to be held to discuss BPA's fiscal year 1980 draft program environmental statement. The purpose of the meeting is twofold: To present to the public BPA's proposed fiscal year 1980 program (including major new proposed facilities included as part of this program), and to solicit comments from the public with respect to the environmental impact of BPA's proposed program. This fiscal year 1980 program EIS also contains a draft facility planning supplement discussing proposed upgrading of electric service in the Salem-Albany area of northwestern Oregon, for which comments are also being solicited.

The meetings will be held as follows: November 16, 1978, at 7 to 10 p.m. in the Willamette High School, 916 Strong, Salem, Oreg.; November 17, 1978, at 7 to 10 p.m. in the Albany Main Public Library, 1900 Southeast Waverly Drive, Albany, Oreg.

For those who cannot attend the meetings, written comments will be accepted until the close of comment date, November 24, 1978. Copies of the environmental statement as well as additional or clarifying information may be obtained by writing or calling the Environmental Manager’s Office, Bonneville Power Administration, P.O. Box 2621, Portland, Oreg. 97208, 503-234-3361, extension 5137.

Dated at Washington, D.C., this 6th day of October 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28668 Filed 10-12-78; 8:45 am]

[3128-01-M] Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Availability of Draft Environmental Impact Statement and Public Hearing

AGENCY: Department of Energy.


SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, et seq., and 10 CFR 208.15(a) and 306.5, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of a draft environmental impact statement prepared concerning the proposed issuance of a Notice of Effectiveness (NOE) to the following powerplant prohibition order recipient:

Docket No. Owner Generating station Powerplant No. Location

<table>
<thead>
<tr>
<th>Docket No.</th>
<th>Owner</th>
<th>Generating station</th>
<th>Powerplant No.</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>OFU-075</td>
<td>New England Electric System</td>
<td>Brayton Point</td>
<td>1 and 2</td>
<td>Somerset, Mass.</td>
</tr>
</tbody>
</table>

Pursuant to a prohibition order issued to these powerplants on June 30, 1977, the DOE has performed an analysis and review of the environmental impact of the proposed issuance of an NOE to these powerplants and has determined that making the prohibition order effective will have a significant impact on the quality of the human environment, within the meaning of NEPA. DOE has prepared a draft environmental impact statement detailing significant impacts and now requests public comments. As a part of the public comment process, DOE will also receive oral statements at a public hearing. After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

DATES: Comments by December 1, 1978, 4:30 p.m.; Requests to speak by November 8, 1978, 4:30 p.m.; Hearing Date: November 21, 1978, 2 to 5 p.m., 7 to 9 p.m., November 22, 1978, 5:30 a.m.

ADDRESSES: Written comments to Office of Public Hearing Management, Department of Energy, Box U4, Room 2151, 2000 M Street NW, Washington, D.C. 20461; requests to speak to DOE, Region I, 150 Causeway Street, Boston, Mass. 02114, telephone...
NOTICES

Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

II. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested parties are invited to submit written comments with respect to this draft environmental impact statement to the Office of Public Hearing Management, Box VU, Department of Energy, Room 2213, 200 M Street NW., Washington, D.C. 20461. All comments should be received by DOE no later than December 1, 1978, in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted (one copy only) in accordance with the procedures set forth at 10 CFR 205.9(c). Any material not filed in accordance with such section will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it accordingly to that determination.

B. PUBLIC HEARING

The time and place for the hearing are indicated in the dates section of this notice. If you have an interest in this matter or represent a group or class of persons that has an interest in the matter, you may request an opportunity to speak. If selected to speak you will be notified by DOE, Region I, before 4:30 p.m., November 14, 1978, and must bring 7 copies (for the hearing panel’s use) of your statement to the hearing site on the day of the hearing.

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination. Each speaker will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statement will follow the conclusion of each initial statement and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to DOE, Region I, at the address indicated in the address section of this notice, before 4:30 p.m., November 29, 1978. If you wish to ask a question at the hearing you may submit the question, in writing, to the presiding officer. The ERA, or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may buy a copy of the transcript from the reporter.

After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.


BARTON R. HOUSE, Assistant Administrator, Fuels Regulation, Economic Regulation Administration.

[FR Doc. 78-28903 Filed 10-12-78; 8:45 am]

[3128-01-M]

HANFORD GENERATING PROJECT

Amendment to Order Confirming and Approving Special Contract Rates for Sale of Thermal Power

On September 26, 1978, the Assistant Administrator for Utility Systems, Economic Regulatory Administration (ERA), upon request and with approval of the Secretary for Resource Applications (Assistant Secretary), issued an order confirming and approving special contract rates for the sale of thermal power and energy from the Hanford generating project, ERA Docket No. BPA 78-3. The order was published in the Federal Register on October 3, 1978 (43 FR 45650-1). The rates that were confirmed and approved in ERA’s order are contained in contracts between the Bonneville Power Administration and investor-owned utilities (contract No. 14-03-79120) and between the Bonneville Power administration and direct-service industries (contract No. 14-03-79121). The order failed to specify that ERA’s confirmation and approval of the rates contained in the direct-service industries contract applies to sales authorized by such contract of withdrawn Hanford project power to third parties as well as to sales of power to the direct-service industries. Therefore, the Acting Assistant Administrator for Utility

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Systems, Economic Regulatory Administration, hereby amends the order, issued September 26, 1978, confirming and approving the special contract rates to redesignate paragraph No. 3 of the Assistant Administrator’s order on page 5 (43 FR 46631) as paragraph No. 4 and to insert the following as new paragraph No. 3:

3. The proposed rates and charges contained in contract No. 14-03-79121 are hereby confirmed and approved for a period ending June 30, 1983, for sales to entities other than the direct-service industries of that portion of Hanford project generation withdrawn by the Bonneville Power Administration pursuant to the provisions of such contract.

Issued in Washington, D.C., this 5th day of October 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator
For Utility Systems, Economic
Regulatory Administration,
Department of Energy.

[FR Doc. 78-28899 Filed 10-12-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP76-10 (PGA78-31)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

October 5, 1978.

Take notice that on September 29, 1978, Arkansas Louisiana Gas Co. (Arkla) tendered for filing 16th Revised Sheet No. 185 to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective November 1, 1978.

Arkla states that the purpose of 16th Revised Sheet No. 185 is to track producer and pipeline supplier price changes as of November 1, 1978, and to recover the accumulated deferred purchased gas costs as of July 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla’s purchased gas cost adjustment clause contained in its FERC Rate Schedule No. X-26.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla’s jurisdictional customers and other interested parties affected by this tariff change.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission’s rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protested parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28875 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP78-265, CP78-267]

BEAR CREEK STORAGE CO.

Technical Conference


In the matter of Bear Creek Storage Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co. Take notice that a 1 p.m. on Tuesday, October 10, 1978, staff will meet with representatives of the above-mentioned companies for the purposes of obtaining clarification of certain data already submitted regarding the calculation of depreciation allowance and other matters of accounting and finance.

The conference will be held in Room 3200 of the Commission’s office at 941 North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28970 Filed 10-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-65 (PGA No. 78-4)] (AP No. 78-12)

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff


Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1978: Forty-seventh Revised Sheet No. 16.

Columbia states the Forty-seventh Revised Sheet No. 16 is necessary in order to comply with Commission order issued January 20, 1978, at docket No. RP73-65 which provides for phased removal of its multiple zone system. In compliance with the above-mentioned order the rates contained in this filing reflect a further one-sixth movement to be effective November 1, 1978, toward a systems-wide rate structure.

Copies of this filing were served upon the company’s jurisdictional customers, interested State commissions, and to each of the parties set forth on the official service list in this proceeding.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission’s rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protested parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28971 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-953]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff


Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1978: Forty-seventh Revised Sheet No. 16.

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Copies of this filing were served upon the company’s jurisdictional customers, interested State commissions, and to each of the parties set forth on the official service list in this proceeding.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission’s rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protested parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28971 Filed 10-12-78; 8:45 am]
NOTICES

KENTUCKY UTILITIES CO.
Order Accepting Filing and SUSPENDING SUPPLEMENTAL SERVICE AGREEMENT AND DIRECTING FURTHER COMPLIANCE


On July 6, 1978, Kentucky Utilities Co. (KU) tendered for filing in docket No. ER78-417, a proposed new service agreement with Jackson Purchase Electric Cooperative Corp. (Jackson Purchase) and other of KU's wholesale sale for resale customers. The revised rate schedule, identified by KU as rate schedule WPS-78, was intended to govern service to Jackson Purchase at 19 existing delivery points.

By order issued on August 4, 1978, in docket Nos. ER78-417 and EL78-22, the Commission, inter alia, accepted KU's submittal for filing, denied certain motions, granted interventions, suspended the effectiveness of the proposed WPS-78 rate filing, and instituted hearing procedures. In addition, for reasons that were fully developed in the August 4 order, we dismissed an application for an order directing KU to permit an additional physical connection of facilities which was filed on May 12, 1978, by Jackson Purchase and Big Rivers Electric Corp. (Big Rivers), in docket No. ER78-184.

KU's observation is somewhat curious in view of the fact that its September 1, 1978 submittal, as indicated above, purported to be in compliance with the Commission's order of August 4, 1978.

With regard to the second requirement, set forth in our prior order, KU states that it does currently stand ready to initiate service at the Reidland Substation in accordance with its earlier representations. However, KU asserts that its consent to the proposed new delivery point has been and continues to be limited by the prerequisite that Jackson Purchase first execute a suitable contract prescribing the applicable rates, terms, and conditions of service. The substance of KU's response is summarized in its conclud-

[FR Doc. 78-28980 Filed 10-12-78; 8:45 am]

KENTUCKY UTILITIES CO.
Order Accepting Filing and SUSPENDING SUPPLEMENTAL SERVICE AGREEMENT AND DIRECTING FURTHER COMPLIANCE


On July 6, 1978, Kentucky Utilities Co. (KU) tendered for filing in docket No. ER78-417, a proposed new service agreement with Jackson Purchase Electric Cooperative Corp. (Jackson Purchase) and other of KU's wholesale sale for resale customers. The revised rate schedule, identified by KU as rate schedule WPS-78, was intended to govern service to Jackson Purchase at 19 existing delivery points.

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[FR Doc. 78-28980 Filed 10-12-78; 8:45 am]

KENTUCKY UTILITIES CO.
Order Accepting Filing and SUSPENDING SUPPLEMENTAL SERVICE AGREEMENT AND DIRECTING FURTHER COMPLIANCE


On July 6, 1978, Kentucky Utilities Co. (KU) tendered for filing in docket No. ER78-417, a proposed new service agreement with Jackson Purchase Electric Cooperative Corp. (Jackson Purchase) and other of KU's wholesale sale for resale customers. The revised rate schedule, identified by KU as rate schedule WPS-78, was intended to govern service to Jackson Purchase at 19 existing delivery points.

By order issued on August 4, 1978, in docket Nos. ER78-417 and EL78-22, the Commission, inter alia, accepted KU's submittal for filing, denied certain motions, granted interventions, suspended the effectiveness of the proposed WPS-78 rate filing, and instituted hearing procedures. In addition, for reasons that were fully developed in the August 4 order, we dismissed an application for an order directing KU to permit an additional physical connection of facilities which was filed on May 12, 1978, by Jackson Purchase and Big Rivers Electric Corp. (Big Rivers), in docket No. ER78-184.

KU's observation is somewhat curious in view of the fact that its September 1, 1978 submittal, as indicated above, purported to be in compliance with the Commission's order of August 4, 1978.

With regard to the second requirement, set forth in our prior order, KU states that it does currently stand ready to initiate service at the Reidland Substation in accordance with its earlier representations. However, KU asserts that its consent to the proposed new delivery point has been and continues to be limited by the prerequisite that Jackson Purchase first execute a suitable contract prescribing the applicable rates, terms, and conditions of service. The substance of KU's response is summarized in its conclud-

[FR Doc. 78-28980 Filed 10-12-78; 8:45 am]
ing statement that KU should not be expected to prejudice its rights by voluntarily recommencing service at the new delivery point only under a rate schedule and without a reciprocal contractual commitment by Jackson Purchase.

Jackson Purchase addresses the foregoing contentions in a reply to KU’s response which was filed by Jackson Purchase on September 11, 1978. It notes that our August 4, 1978 order did not require KU to submit an executed agreement for service at the Reidland Substation delivery point, but simply directed KU to tend its own planning and to tender a format similar to the previously filed for Jackson Purchase’s other 19 delivery points.

Jackson Purchase correctly construes our prior order in these docket which were unexecuted. Moreover, the rates, terms and conditions applicable to the Reidland delivery point would not differ from those embodied in the remaining service agreements; the justness and reasonableness of the WPS-78 rates as well as each of the contractual terms and conditions proposed by KU will be subject to inquiry in the hearing to be convened in docket No. ER78-417. As we indicated in the August 4, 1978 order, that hearing will provide a suitable forum in which to litigate disputed provisions of the proposed service agreements and rate schedule as applied to any of Jackson Purchase’s delivery points, including the Reidland Substation. As with any service agreement or rate schedule which is permitted to become effective subject to refund, the terms and conditions of KU’s proposed agreement will apply to service at the Reidland Substation, pending such modifications as the Commission may determine to be appropriate and in the public interest. We continue to believe that the procedures established in our order of August 4, 1978, fully accommodate the interests of the public and of the parties to this proceeding.

KU’s continued recalcitrance with respect to initiation of service at the Reidland Substation is in derogation of our earlier order and such noncompliance with Commission mandates cannot be countenanced. Accordingly, we will require KU to make service available at the Reidland delivery point immediately.

Despite KU’s apparent disclaimer of compliance with the supplemental filing requirement set forth in the August 4, 1978, order, we find that KU’s submittal of September 1, 1978, does comport with the Commission’s directive. Our August 4 order provided that upon timely filing of the supplemental service agreement, we would grant an effective date for that agreement, subject to the effective date established for the filing submitted in docket No. ER78-417. At that time we anticipated that the Reidland interconnection would be energized on or about September 6, 1978, in compliance with the Commission’s order. Such has not been the case and it would be unreasonable to permit KU to invoke certain minimum monthly bill provisions prescribed in the proposed service agreement prior to the actual initiation of service under that agreement. Accordingly, we will accept the additional service agreement and accompanying documents for filing and suspend them, to become effective subject to refund, upon initiation of service at the Reidland Substation as herein ordered.

The Commission orders:

(A) KU is hereby directed, in accordance with the Commission’s order of August 4, 1978, in docket Nos. ER78-417 and EL78-22, to immediately stand ready to initiate service at the Reidland Substation. KU shall perfect the proposed service agreement prior to the Reidland Substation delivery point and to make such service available under the rates, terms, and conditions specified in KU’s September 1, 1978, submittal, subject to refund and such modifications as the Commission may hereafter direct.

(B) Pending the hearing initiated by the Commission’s order of August 4, 1978, and decision thereon, KU’s supplemental filing of September 1, 1978, is hereby accepted for filing and suspended, to become effective subject to refund, upon initiation of service at the Reidland delivery point as ordered in paragraph (A) above.

(C) The Secretary should cause prompt publication of this order to be made in the Federal Register.

By the Commission.

LOIS D. CASHREL, Acting Secretary.

[FED DOc. 78-22981 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. RP74-100 (PGA78-8))

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Establishing Procedures


On August 28, 1978, National Fuel Gas Supply Corp. (National Fuel) filed revised tariff sheets ¹ to become effective October 1, 1978, reflecting (1) a 0.54-cent-per-Mcf increase in current purchased gas costs of $1,065,680 annually from pipeline and producer suppliers (2) a 5.11-cent decrease in the surcharge increase provided for Jackson Purchase’s delivery points, including the Reidland Substation. Pursuant to the Commission’s order issued Aug. 4, 1978, National Fuel’s proposed PGA rates include the costs of local purchases from small producers within New York. Based on a review of this filing as well as other data in our files concerning the physical location and operation of this pipeline system, the Commission has concluded that these volumes purchased locally cannot flow across the New York border into Pennsylvania, the other State served by National Fuel. Because this gas is produced, transported, and consumed totally within the State of New York, these sales and the prices paid to the producers are not subject to the Commission’s jurisdiction under section 1(b) of the Natural Gas Act. Nonetheless, the Commission has full jurisdiction over National Fuel’s collection of these gas cost plus surcharges from its customers. See, Colorado Interstate Gas Company, docket No. RP72-122 and RP78-51, order issued September 1, 1978.

The PGA filing indicates that these local purchases have been made at rates in excess of the nationwide rates. These excess rates apparently result from “favored nations” clauses in the New York producer contracts. There is insufficient evidence for the Commission to find that the prices paid for these purchases were at rates a prudent pipeline would have paid under similar circumstances. Accordingly, the Commission shall suspend National Fuel’s PGA filing for 1 day, until October 2, 1978, at which time it may be made effective subject to refund. We will also set for hearing the question of the prudence of these nonjurisdictional purchases.

Public notice of National Fuel’s filing was issued on September 7, 1978, with protests and petitions to intervene due on or before September 20, 1978.

The Commission orders: (A) National Fuel’s proposed tariff sheets referenced herein are hereby accepted for filing and suspended for 1 day, until October 2, 1978, when they shall become effective subject to refund.

(B) Pursuant to the authority of the Natural Gas Act and the Commission’s

¹Commission order issued Dec. 15, 1977, in docket No. RP74-100 (PGA76-1 and 78-1A) provided for a special refund surcharge credit to be effective Dec. 1, 1977, through Sept. 30, 1978.

rules and regulations, a public hearing shall be held in this proceeding to
determine the prudency of National Fuel's nonjurisdictional New
York producer purchases.
(C) National Fuel's case-in-chief in
support of the prudence of the above-
referred purchases shall be filed with the Commission no later than
October 27, 1978.
(D) Staff's statement of position shall be filed on or before November 30, 1978.
(E) A presiding administrative law
judge, to be designated by the Chief
Administrative Law Judge (18 CFR
3.5(d)) shall convene a settlement
conference in this proceeding to be held
within 10 days after the service
of staff's statement of position in a hear-
ing room of the Federal Energy Regu-
latory Commission, 825 North Capitol
Street NE, Washington, D.C. 20426.
The presiding administrative law
judge is authorized to establish such
further procedural dates as may be
necessary and to rule on all motions
(except motions to sever, consolidate,
or dismiss) as provided for in the rules
of practice and procedure.
(F) The Secretary shall cause prompt
publication of this order in the
FEDERAL REGISTER.
By the Commission.
LOIS D. CASHELL,
Acting Secretary.
[FR Doc. 78-28982 Filed 10-12-78; 8:45 am]

[6740-02-M]

NEW BEDFORD GAS & EDISON LIGHT CO.
Filing of Unit Power Sale Rate Schedule
Taken notice that on September 21, 1978, New Bedford Gas & Edison
Light Co. (New Bedford) filed a rate
schedule governing the sale of New
Bedford of a portion of its entitlement
to capacity and related energy pro-
duced by Canal Electric Co.'s Unit No.
2 (the Unit).
By provisions of the tendered rate
schedule, New Bedford indicated that
it proposes to sell to the Holden Mu-
nicipal Light Department 0.1712
percent of the net capability of the Unit
(as defined at article III of the ten-
dered rate schedule) plus the energy
related thereto for a 12-month period
beginning November 1, 1978.
A copy of this filing has been served
upon Holden, according to the company.
Any person desiring to be heard or
to protest said filing should file a petition
to intervene or protest with the Federal Energy Regulatory Commissi-
on, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance
with sections 1.8 and 1.10 of the Com-
misison's rules of practice and proce-
dure (18 CFR 1.8, 1.10). All such pet-
tions or protests should be filed on or
before October 13, 1978. Protests will
be considered by the Commission in
determining the prudency of New Bed-
ford's nonjurisdictional New York
producer purchases.

KENNETH F. PLUMB,
Secretary.
[FR Doc. 78-28983 Filed 10-12-78; 8:45 am]

[6740-02-M]

NEW YORK STATE ELECTRIC & GAS CORP.
Application for Major License (Constructed)
OCTOBER 5, 1978.
Take notice that on November 8, 1973, New York State Electric & Gas
Corp. (NYESGC) (correspondence to: L.
Theodore Everett, Vice President, New
York State Electric & Gas Corp., P.O.
Box 287, Ithaca, N.Y. 14850, and
Huber, Magill, Lawrence & Farrell, 99
Park Avenue, New York N.Y. 10016)
filed an application for a major license
with the Federal Energy Regulatory
Commission for the construction proj-
et No. 2738 located on the Saranac
River in Clinton County, N.Y.
The project consists of four develop-
ments:
A. High Falls, which is located near
Moffittsville, consists of: (1) A rein-
forced concrete gravity dam, 274 feet
wide and 65 feet high; (2) an eastern
wingwall 80 feet long and a western
one 320 feet long; (3) a reservoir with
550 acre-feet of storage at a normal
pool elevation of 1032.0 feet msl; (4) a
horseshoe-shaped forebay canal 800
feet long and 25 feet wide; (5) a steel
penstock 10 feet in diameter and 1,442
feet long; (6) an 11- by 12-foot con-
crete-lined tunnel 3,581 feet long; (7)
another steel penstock 6 feet in
diameter and 487 feet long; (8) a steel
surge tank 30 feet in diameter and 67
feet high; (9) a concrete and brick
powerhouse 5,500 feet downstream
from the dam; (10) two generators,
rated 4.0 MW each under a design
head of 265 feet and one generator
rated at 6.5 MW under a head of 230
feet; and (11) appurtenant facilities.
B. Cadenville, which is located 10
miles downstream from the High Falls
Development, consists of: (1) A rein-
forced concrete gravity dam 237 feet
wide and 50 feet high with stone mas-
sonry and concrete wingwalls; (2) a
reservoir with 575 acre-feet of storage
at crest elevation of 728.33 feet msl;
(3) a concrete intake structure 62 feet
long and 20 feet wide leading to a steel
penstock 10 feet in diameter and 1,654
feet long; (4) a two-story brick and
concrete powerhouse 1,350 feet down-
stream from the dam; (5) two generat-
ing units, one at 1.25 MW each under
a design head of 77 feet; and (6) app-
urtenant facilities.
C. Mill "C", which is approximately
4,000 feet downstream from the Cad-
ville Development, consists of: (1) A
stone masonry gravity dam approxi-
mately 350 feet wide and 57 feet high;
(2) a reservoir with 20 acre-feet of
storage at a crest elevation of 649.2
feet msl; (3) a riveted steel penstock
402 feet long ranging in diameter from
9.5 to 12 feet; (4) a cinder block and
stone masonry powerhouse 400 feet
downstream from the dam; (5) two gener-
ating units, one at 1.25 MW and one at 1.0
MW each under a design head of 86 feet;
and (6) appurtenant facilities.
D. Kent Falls, located 1 mile below
mill "C", consists of: (1) A reinforce-
d concrete hollow arch dam, 165 feet
wide and 58 feet high; (2) a reservoir
with 95 acre-feet of storage at a
normal pool elevation of 580.27 feet
msl; (3) a stone and concrete head-
works structure; (4) a steel penstock 11
feet in diameter and 2,068 feet long,
bifurcating into two steel penstocks
6 feet in diameter and 140 feet
long; (5) a surge tank 28 feet in diam-
eter and 47 feet high; (6) a concrete
and brick powerhouse 2,700 feet down-
stream from the dam; (7) two generat-
ing units each rated at 3.2 MW under
a design head of 161 feet; and (7) ap-
purtenant facilities.
The applicant integrates the power
developed from the project into its
main transmission system for delivery
to its customers within New York
State.
Existing recreational facilities in-
clude a swimming area, picnic tables,
and fireplaces on land leased to the
town of Plattsburgh, and a small boat
launching ramp at the Cadville site.
The applicant states that, in general,
steep banks, a steep river slope, and
the small water surface areas of the
ponds preclude the development of
any future recreational facilities other
than parking areas for fishermen.
Anyone desiring to be heard or to
make any protest about this applica-
tion should file a petition to intervene
or a protest with the Federal Energy
Regulatory Commission, in accord-
cance with the requirements of the Commis-
sion's rules of practice and procedure,
18 CFR § 1.8 or § 1.10 (1977). In deter-
mining the appropriate action to take,
the Commission will consider all pro-
tests filed, but a person who merely
files a protest does not become a party
to the proceeding. To become a party,
or to participate in any hearing, a

FEDERAL REGISTER, VOL 43, NO. 199-FRIDAY, OCTOBER 13, 1978
person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is 2105 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMES, Secretary.
(Insert Doc. 76-28984 Filed 10-12-78; 8:45 a.m.)

[NORTHWEST PIPELINE CORP.
Application


Take notice that, on September 29, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-546 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 Southwest Gas Corp. (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to transport for Southwest's account up to 6,000 Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of natural gas presently developed on an acreage dedicated to Southwest plus the authority to transport such additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected to the facilities of Applicant.

The subject of the instant application is a certain Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport, and deliver to Southwest up to 6,000 Mcf of natural gas per day which Southwest controls in Grand and Uintah Counties, Utah, and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to its natural gas transmission system, it is said.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 6,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth on exhibit "A" to the Agreement, which can be connected to Southwest's facilities. It is stated that the acreage dedicated to Southwest is in the general proximity of Applicant's Bar-X gathering facilities and/or Applicant's Bar-X gathering system in Garfield County, Colo., and Grand County, Utah. Applicant contemplates that it would construct and operate the facilities necessary to connect Southwest's existing wells to Applicant's Bar-X gathering system and/or to Applicant's transmission system. It is stated that the final determination of those volumes of natural gas to be transported to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of Applicant's facilities and upon the nature of the terrain in the general area. It is further stated that initially, Applicant would connect one existing well to its mainline transmission system. It is stated that Applicant would transport, by displacement or otherwise, the volumes received at the wellhead for the account of Southwest, less 23.05 percent of such volumes which Applicant has the right to purchase from Southwest and less applicable fuel and line loss, to either:

(a) An existing point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is said that Applicant understands that El Paso would deliver equivalent volumes to Southwest. It is further said that the volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in Arizona or southern Nevada.

(b) A point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is said that Applicant understands that El Paso would deliver equivalent volume to Southwest. It is further said that the volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in Arizona or southern Nevada.

The application states that, in consideration for the proposed gathering and transportation service, Applicant proposes to charge Southwest a gathering charge of 23.05 cents per Mcf plus a transmission charge which represents 23.05 percent of those volumes physically transported on Applicant's main transmission system or 50 percent of that amount, i.e., 10.345 cents per Mcf, for those volumes delivered for Southwest's account by displacement. It is said that initially, any volumes delivered at the El Paso delivery point for the account of Southwest, would be by displacement and, therefore, Southwest would be charged the 50-percent rate. It is further said that volumes delivered to Southwest at the Idaho-Nevada border would be physically transported and Applicant would charge Southwest the full transportation rate of 20.69 cents for such deliveries.

It is said that initially, Applicant estimates that approximately 200 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation at a cost equal to 25 cents less the actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to participate as a party in any hearing required to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing thereon 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 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 provided for, unless otherwise advised, it will be un-
necessary for Applicant to appear or be represented at the hearing.

KENNETH P. PLUMB,
Secretary.

[FR Doc. 78-28995 Filed 10-12-78; 8:45 am]

[6740-02-M]

NORTHWEST PIPELINE CORP.

Application


Take notice that on September 28, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-547 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 Southwest Gas Corp. (Southwest), all as more fully set forth in said application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to gather and transport for Southwest's account up to 2,000 Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of gas presently developed on an acreage dedicated to Southwest's gathering system and those additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected by Applicant to the gathering system of RMNG Gathering Co. (RMNG).

The subject of the instant Application is a certain Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport and deliver to Southwest up to 800 Mcf of natural gas per day, which Southwest controls in Grand and Uintah Counties, Utah and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to RMNG's gathering system.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 2,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth in exhibit "A" to the Agreement, which can be connected to RMNG's gathering system. The acreage dedicated to Southwest is in the general, proximity of RMNG's gathering system in Garfield County, Colo., it is stated. Applicant contemplates that it would construct and operate the facilities necessary to connect-Southwest's existing wells to RMNG's gathering system. It is asserted that the final determination of the precise route of the gathering facilities to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of RMNG's facilities and upon the nature of the terrain in the general area. Initially, it is stated, Applicant would connect three existing wells to RMNG's gathering system.

It is further stated that pursuant to a Gas Purchase, Transportation and Exchange Agreement between Applicant and RMNG, RMNG would transport all volumes delivered into its gathering system and deliver equivalent volumes, adjusted for heating value loss, to either Southwest or the Idaho-Nevada delivery point. Any volumes delivered at the Idaho-Nevada delivery point for the account of Southwest would be physically transported and Applicant would charge Southwest the full-transportation rate of 20.69 cents per Mcf for such deliveries.

It is further stated, in addition to the aforementioned gathering and transportation charges, Southwest would reimburse Applicant for the 8 cents per Mcf to be paid RMNG for RMNG's transportation service.

It is stated that initially, Applicant estimates that approximately 600 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation hereunder. It is also stated that pursuant to the Agreement, Applicant would purchase from Southwest up to 25 percent of the volumes delivered for gathering and transportation at a cost equal to Southwest's actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to effectuate the proposal herein pursuant to the authorization granted Applicant by the order issued September 30, 1977 in docket No. CP77-507 for budget-type gas purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 19, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-
NOTICES

TOWN OF VIDALIA, LA.

Application for Preliminary Permit

OCTOBER 5, 1978.

Take notice that on June 18, 1978, the town of Vidalia, La. (correspondence to: Sidney A. Murray, Jr., Mayor, Town Hall, Vidalia, La. 71373, and J. B. Lancaster, Jr., Forte and Tablada, Inc., P.O. Box 84944, Baton Rouge, La. 70896), filed an application for a preliminary permit with the Federal Energy Regulatory Commission for the proposed Old River project No. 2854, to be located in Concordia Parish, La., about 1 mile southwest of the Mississippi-Louisiana border on the Old River control structure outflow channel which regulates flows between the Mississippi and Red-Atchafalaya Rivers.

The proposed project would use water diverted by the Corps of Engineers between the Mississippi River and Red-Atchafalaya Rivers, navigable waters of the United States, and would affect lands of the United States under the jurisdiction of the Corps of Engineers.

The Old River project No. 2854 would be operated as a run-of-river project and would consist of: (1) A concrete dam approximately 65 feet high to provide approximately 11 feet of head; (2) a powerplant located approximately 2,000 feet down channel from the existing Corps of Engineers low silt structure; (3) 15 hydroturbine/generators each rated at 8.1 MW capable of total annual generation of 760.4 million kilowatt-hours; (4) 110 miles of 230 kV transmission lines, running both north to the vicinity of the town of Vidalia and south to Big Cajun station near New Roads, La.; and (5) aparment facilities.

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 and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Applicant proposes to utilize power from this project to meet its present and anticipated load requirements with any surplus capacity or energy—being sold to, or exchanged with, electric utilities in the area.

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 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest 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 protest or petition to intervene must be filed on or before December 8, 1978. 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. 78-28987 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2554]

ABOVE OIL AND GAS CORP.

Notice of Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 14, 1978, Adobe Oil and Gas Corp. (Adobe), 1100 Western United Life Building, Midland, Tex. 79701, filed a petition for special relief in Docket No. R178-94 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Adobe states rising operating expenses with lower production from its Mathias-Davis "A" No. 1 Well, located in the Keyes Area Field, Cimarron County, Okla., uneconomical under the present rate (36 cents). Adobe seeks a rate of 77 cents which it believes will enable it to recover the remaining reserves and to avoid abandonment. Gas produced from this well is sold to Panhandle Eastern Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with the requirement 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 October 27, 1978. All protests filed with the Commission will be considered by it in determining the appropri-
state action to be taken but will not serve to make the protestants parties to the proceeding. Anyone wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission’s Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-29009 Filed 10-12-78; 8:45 a.m]

[6740-02-M]  
[Docket No. RA-78-41]  
BAYOU STATE OIL CORP.  
Notice Granting Extension of Time  
On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to the petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary, and it is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78 29010 Filed 10-12-78; 8:45 a.m]

[6740-02-M]  
[Docket No. CP78-544]  
COLUMBIA GULF TRANSMISSION CO. AND TRANCONTINENTAL GAS PIPE LINE CORP.  
Notice of Application  
OCTOBER 5, 1978.  
Take notice that on September 28, 1978, Columbia Gulf Transmission Co. (Columbia), 3805 West Alabama, Houston, Tex. 77005, and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1398, Houston, Tex. 77001, (Applicants) filed in Docket No. CP78-544 a joint 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 by Columbia and the exchange of natural gas between Applicants, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia requests authorization to transport up to 80,000 Mcf of natural gas per day through existing facilities for Transco pursuant to a transportation agreement and exchange agreement dated August 8, 1978, between Applicants, which gas Columbia would receive into its existing facilities at the terminus of a pipeline system owned by Sea Robin Pipeline Co. (Sea Robin), near Erath, La., and transported to Columbia’s Rayne, La., Compressor Station (Exchange Point) at which point, Columbia would retain such gas as exchange gas.

Pursuant to said August 8, 1978, Agreement, Columbia would deliver to Transco at a proposed point of interconnection in Terrebonne Parish, La., the thermal equivalent of the gas received by Columbia at the terminus of the Sea Robin pipeline, adjusted for the removal of liquefiable hydrocarbons and for a pro rata share of the volume of gas unaccounted for and/or used as fuel in the facilities through which the gas is transported to the Exchange Point, it is stated. Columbia also seeks authorization to operate for itself and Transco the facilities at the point of delivery in Terrebonne Parish.

It is indicated that Columbia would need to construct minor facilities at Transco’s expense, at the point of delivery in Terrebonne Parish.

The application states that Transco would pay Columbia for the proposed transportation service a monthly demand charge of 71.0 cents per Mcf (at 14.73 psia) of Contract Demand or such other charge as may be determined by the Commission in an appropriate proceeding.

Applicants assert that the proposed transportation arrangements would connect an estimated 37,300,000 Mcf of gas reserves to Transco’s system for initial delivery during the latter part of the 1978-79 winter season which would likely be a period of high demand on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protesters parties to the proceeding.

Anyone so desiring, 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 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. 78-29011 Filed 10-12-78; 8:45 a.m]

[6740-02-M]  
[Docket No. CP78-529]  
CONSOLIDATED GAS SUPPLY CORP., ET AL  
Notice of Application  
OCTOBER 5, 1978.  
Take notice that on September 19, 1978, Consolidated Gas Supply Corp. (Consolidated), 455 West Main Street, Clarksburg, W. Va. 26301, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-529 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing consolidated limited-term transportation and storage service for the West Ohio Gas Co. (West Ohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated proposes to accept from West Ohio and inject into storage, during an injection period commencing on or about October 1, 1978, and ending no later than October 19, 1978, up to 200,000 Mcf at 14.73 psia of natural gas at reasonably constant daily rates. Commencing on or about November 1, 1978, and ending on November 29, 1978, Consolidated would withdraw the subject storage gas and deliver the same to West Ohio, also at reasonably constant daily rates, it is said, and the entire transaction would take place in less than 60 consecutive days.

It is indicated as consideration for the described storage service, West Ohio has agreed to pay Consolidated in accordance with the rates contained in Consolidated’s GSS rate schedule in its effective FERC Gas Tariff, adjusted to an average rate per dekatherm.
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 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 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 Consolidated, Columbia or Texas Gas to appear or be represented at the hearing.

KENNETH F. FLYNN, Secretary.

_Docket No. C178-1207_

ESTATE OF H. L. HUNT

Petition for Special Relief

October 5, 1978.

Take notice that on September 18, 1978, the Estate of H. L. Hunt (Petitioner), 2500 First National Bank Building, Dallas, Texas, filed a petition for special relief in Docket No. C178-1207.


Petitioner further states that on January 13, 1975, the Estate of H. L. Hunt and Shenandoah Oil Corp. entered into a gas gathering and compression agreement. Under this agreement, Petitioner, in its unit facilities, gathered, dehydrated, and compressed gas produced by Shenandoah for delivery to Trunkline Gas Co. Petitioner believes that Shenandoah Oil Corp. holds a small producer certificate which covers its gas sales to Trunkline.

Petitioner's sales to Trunkline ceased in December of 1976 due to insufficient production. However, Petitioner states that during the calendar year 1977, Shenandoah's gas was flowing through the unit facilities of Petitioner, and that Petitioner inadvertently used 43,492 Mcf of Shenandoah's gas for its own unit gathering and production of oil. Since the unit has been unproductive, Petitioner is without gas with which to compensate either Shenandoah or Trunkline.

Petitioner requests authorization to pay to either Trunkline Gas Co. or Shenandoah Oil Corp. a sum of money as consideration for the gas inadvertently diverted. In the event that Trunkline Gas Co. objects to Petitioner's proposal for payment and insists upon additional remedies, Petitioner requests authorization to purchase 43,492 Mcf of gas which is not dedicated in interstate commerce and to cause that gas to be delivered to Trunkline Gas Co. In the event that such a purchase is necessary, Petitioner further requests that the Commission's authorization be structured so as to subject the sellers of said gas to the jurisdiction of the Commission for this limited purpose only.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements 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 October 27, 1978. 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 in-
tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29013 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. R78-651)

JOSEPH P. MUeller
Petition for Special Relief

October 5, 1978.

Take notice that on September 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78407, filed a petition for special relief in Docket No. R78-95 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner requests authorization to charge 101.21¢ per Mcf at 14.65 psia for the sale of gas from its Tomas Saenz, No. 1 Well and its Isabelle R. Ferrell "C"-1 Well, Ramirena Field, Live Oak County, Tex., to Valley Gas Transmission Co. Petitioner asserts that due to water influx and lower flowing pressures additional two-stage compression is required in order to continue production. Therefore, petitioner maintains that the above mentioned rate increase is necessary if future production is to be economically feasible.

Any person desiring to be heard or to protest said filing should file an 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 October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29014 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. EL78-34)

METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO

Granting Second Extension of Time

October 2, 1978.

On September 22, 1978, Counsel for the Metropolitan Sanitary District of Greater Chicago filed a motion for a second extension of time within which to answer the Commission's Order to Show Cause issued August 14, 1978, in the captioned proceeding. The motion noted that an amended draft form has been submitted to the Commission.

Upon consideration, notice is hereby given that a second extension of time is granted to and including October 11, 1978, for the Metropolitan Sanitary District of Greater Chicago to file a complete response to the Show Cause Order in this proceeding.

LOI S D. CASHELL,
Acting Secretary.

[FR Doc. 78-29026 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. CP74-316)

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Amendment

October 5, 1978.

Take notice that on September 21, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP74-316 an amendment to its pending petition to amend filed in the instant docket pursuant to Section (c) of the Natural Gas Act so as to provide for the construction and operation of two 3,600 horsepower compressor units, in lieu of the 3,000 horsepower units which Applicant previously requested authorization to construct and operate, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of July 7, 1977, in the instant docket Applicant was authorized, among other things, to acquire and develop as an underground storage field the Leonard Field in Oakland County, Mich., and that on May 24, 1978, Applicant filed a petition to amend said order so as to authorize the acquisition and development for underground natural gas storage of the South Chester 15 Field in Ossage County, Mich., including the construction and operation of facilities incident thereto, in lieu of developing the Leonard Field, which facilities included two 3,000 horsepower compressor units.

The amendment states that Applicant solicited and received quotations from engine manufacturers for the 3,000 horsepower compressor units. However, the engine manufacturer submitting the lowest quotation found, in compiling performance curves, that its 3,600 horsepower compressor units had distinct advantages over the smaller units and suggested that consideration be given to their se-

lection, it is said. Applicant states that in response to this suggestion, it requested and has received from the manufacturer a formal quotation of the 3,600 horsepower units, and that after a detailed engineering analysis, it has concluded that the 3,600 horsepower units are preferable for the following reasons:

1. The 3,600 horsepower unit is environmentally superior in that its nitrogen oxide emissions are lower.

2. The larger engines would permit higher rates of injection into storage early in the storage injection cycle.

3. The cost of the proposed 3,600 horsepower units is lower than the cost estimate of the 3,000 horsepower units. The bid price for the two 3,600 horsepower units is $2,092,712, or some $100,000 less than had been estimated, it is said. It indicated that an offsetting factor is the increased installation cost of the larger units. Even after reflecting this increase, the net increase in the total cost of the compressor station is only $173,000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29015 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. E-9502)

MINNESOTA POWER & LIGHT CO.

Granting Extension of Time

October 6, 1978.

On September 25, 1978, Counsel for Minnesota Power & Light Co. (M.P. & L.) filed a motion for extension of time within which to comply with ordering paragraph (B) of Commission order No. 20 issued August 3, 1978 in the captioned proceeding. The motion notes that M.P. & L. has recently compiled with numerous Commission data requests.

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Upon consideration, notice is hereby given that an extension of time is granted to and including October 16, 1978, for M.P. & L. to comply with ordering paragraph (B) of Commission opinion No. 20 in this proceeding.

KENNETH F. PLUM, Secretary.

[FDR Doc. 78-29916 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. CP78-533)

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

October 5, 1978.

Take notice that on September 26, 1978, Mountain Fuel Supply Co. (Mountain Fuel), 180 East First South Street, P.O. Box 11368, Salt Lake City, Utah 84139, filed in docket No. CP78-533 an application pursuant to section 7(e) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 1,000 Mcf per day of natural gas with Northwest Pipeline Co. (Northwest), all as Mountain Fuel's transmission system and that Mountain Fuel has the right.

It is asserted that the facilities necessary to gather Northwest's volumes and to connect these facilities to Mountain Fuel's transmission system are already in place. Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestors 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 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. PLUM, Secretary.

[FDR Doc. 29017 Filed 10-12-78; 8:45 am]

[6740-02-M]

(Docket No. CP78-534)

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

October 5, 1978.

Take notice that on September 22, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-534 an application pursuant to section 7(e) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for South Texas Natural Gas Gathering Co. (South Texas) and the construction and operation of facilities, all or more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Applicant and South Texas have entered into a Transportation Agreement dated August 18, 1978, whereby Applicant would charge South Texas for a primary term of 15 years commencing on the first day of the month following the initiation of deliveries, and on a year-to-year basis thereafter.

It is asserted that the facilities necessary to gather Northwest's volumes and to connect these facilities to Mountain Fuel's transmission system are already in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestors 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 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. PLUM, Secretary.

[FDR Doc. 29017 Filed 10-12-78; 8:45 am]

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tion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion, believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, Secretary.

(FR Doc. 78-29018 Filed 10-12-78; 8:45 am)

[6740-02-M]

[Docket No. RP71-125 (PGA No. 78-2)]

NATURAL GAS PIPELINE CO. OF AMERICA

Granting Revised Procedural Schedule

October 5, 1978

On September 25, 1978, Counsel for Natural Gas Pipeline Co. of America (Natural) filed a motion to revise the procedural schedule in the captioned proceeding pursuant to the Commission's order of August 31, 1978. The motion stated that staff counsel agrees to the proposed schedule revision.

Upon consideration, notice is hereby given that the following procedural schedule is established for this proceeding:

October 20, 1978—Service of Natural's response to interrogatories

October 31, 1978—Prehearing Conference

November 14, 1978—Service of Natural's case-in-chief

December 14, 1978—Staff's statement of position

KENNETH F. PLUMB, Secretary.

(FR Doc. 78-29019 Filed 10-12-78; 8:45 am)

[6740-02-M]

[Project No. 2736]

NEW YORK STATE ELECTRIC & GAS Corp.

Application for Major License (Construction)

October 5, 1978.

Take notice that on November 8, 1973, New York State Electric & Gas Corp. (NYSEG) (correspondence to: L. Theodore Everett, Vice President, New York State Electric & Gas Corp., P.O. Box 237, Ithaca, N.Y. 14850, and Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York, N.Y. 10016) filed an application for a major license with the Federal Energy Regulatory Commission for the construction of the Project No. 2736 located on the Saranac River in Clinton County, N.Y.

The project consists of four developments:

A. High Falls, which is located near Moffatville, consists of: (1) a reinforced concrete gravity dam, 274 feet wide and 65 feet high; (2) an eastern wingwall 80 feet long and a western one 320 feet long; (2) a reservoir with 850 acre-feet of storage at a normal pool elevation of 1332 feet m.s.l.; (3) a steel penstock 10 feet in diameter and 1,442 feet long; (4) an 11 foot concrete lined tunnel, 681 feet long; (6) another steel pipe penstock 6 feet in diameter and 487 feet long; (8) a steam surge tank 30 feet in diameter and 67 feet high; (9) a concrete and brick powerhouse 5,200 feet downstream from the dam; (10) two generating units rated 4.0 MW each under a design head of 255 feet and one generator rated at 6.1 MW under a head of 230 feet; and (11) appurtenant facilities.

B. Cadville, which is located 10 miles downstream from the High Falls Development, consists of: (1) a reinforced concrete gravity dam 237 feet wide and 50 feet high with stone masonry and concrete wingwalls; (2) a reservoir with 785 acre-feet of storage at crest elevation of 728.33 feet m.s.l.; (3) a concrete intake structure 62 feet long and 20 feet wide leading to a steel penstock 10 feet in diameter and 1,954 feet long; (4) two story brick and concrete powerhouse 1,350 feet downstream from the dam; (5) two generating units rated at 1.2 MW each under a design head of 77 feet; and (6) appurtenant facilities.

C. Mill "C" which is approximately 4,000 feet downstream from the Cadville Development, consists of: (1) a stone masonry gravity dam approximately 350 feet wide and 57 feet high; (2) a reservoir with 90 acre-feet of storage at a crest elevation of 692.9 feet m.s.l.; (3) a riveted steel penstock 402 feet long ranging in diameter from 9.5 to 12 feet; (4) a cinder block and stone masonry powerhouse 400 feet downstream from the dam; (5) two generating units, one rated at 1.25 MW and one at 1.0 MW, each under a design head of 66 feet; and (6) appurtenant facilities.

D. Kent Falls, located one mile below Mill "C", consists of: (1) a reinforced concrete hollow arch dam, 165 feet wide and 58 feet high; (2) a reservoir with 95 acre-feet of storage at a normal pool elevation of 990.27 feet m.s.l.; (3) a stone and concrete headworks structure; (4) a steel penstock 11 feet in diameter and 2,668 feet long, bifurcating into two steel penstocks each 6 feet in diameter and 140 feet long; (5) a surge tank 28 feet in diameter and 47 feet high; (6) a concrete and brick powerhouse 2,700 feet downstream from the dam; (7) two generating units each rated at 32 MW under a design head of 161 feet; and (8) appurtenant facilities.

The applicant integrates the power developed from the project into its main transmission system for delivery to its customers within New York State.

Existing recreational facilities include a swimming area, picnic tables, and fireplaces on land leased to the town of Plattsburgh, and a small boat launching ramp at the Cadville site. The applicant states that in general, steep banks, a steep river slope, and the small water surface areas of the ponds preclude the development of any future recreational facilities other than parking areas for fishermen.

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 (1977). In determining the appropriate action to take, the Commission will consider all petitions and protests filed, but a person who merely files a protest 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 protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street N.W., Washington, D.C. 20426.

The application is filed with the Commission and is available for public inspection.

KENNETH F. PLUMB, Secretary.

(FR Doc. 78-29020 Filed 10-12-78; 8:45 am)

[6740-02-M]

[Docket No. ES78-681]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

October 5, 1978.

Take notice that on September 25, 1978, Northwestern Public Service Co. filed an application with the Commission pursuant to section 294 of the Act and Part 34 of the Regulations, for authorization to engage in negotiations for the sale of up to $12 million first Mortgage Bonds and up to 400,000 shares of Common Stock, par value $7 each, in accordance with section 34.1(a)(4) and 34.2(c)(2) of the Regulations under the Act.

Applicant is incorporated under the laws of the State of Delaware, with its principal business offices at Huron, S.
Upon consideration, notice is hereby given that an extension of time is granted to and including October 25, 1978, for FSC to comply with the Commission’s order of August 25, 1978 in this proceeding.

KENNETH F. PLUMS, Secretary.

[FR Doc. 78-29022 Filed 10-12-78 8:45 am]

[6740-02-M]

SOUTHERN NATURAL GAS CO.
Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 20, 1978, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend pursuant to sections 7(b) and (c) of the Natural Gas Act the order of the Commission of October 29, 19691 (42 F.R. 9444), as amended, issued in said docket pursuant to section 7(c) of the Natural Gas Act issuing a certificate of public convenience and necessity authorizing the sale and delivery of natural gas. Southern proposes to increase its contract demand sales of natural gas to Atlanta Gas Light Co. (Atlanta) from 739,550 Mcf per day to 740,080 Mcf per day, to deliver such additional gas at the delivery point formerly used to serve the city of Temple, Ga., and to abandon its sales of natural gas to the latter customer. Southern’s proposals are more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Southern states that Atlanta has been informed by Atlanta that Atlanta purchased from the city of Temple the gas system of the city of Temple and as a part of such purchase Southern’s maximum delivery obligation to the city of Temple of 530 Mcf per day was assigned to Atlanta. Southern requests that it be authorized to sell to Atlanta an additional contract demand of 530 Mcf per day, that it be authorized to deliver this gas to Atlanta at the delivery point formerly utilized by the city of Temple, and that it be permitted to abandon its sales and deliveries to the city of Temple.

Any person desiring to be heard or to protest said petition should file a protest to intervene or a protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission’s Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protests shall be filed on or before October 17, 1978. Protests will be considered by the Commission 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 must file a petition to intervene in accordance with the Commission’s Rules.

KENNETH F. PLUMS, Secretary.

[FR Doc. 78-29024 Filed 10-12-78 8:45 am]

[6740-02-M]

TEXAS EASTERN TRANSMISSION CORP.

Granting Extension of Time

OCTOBER 5, 1978.

On September 21, 1978, Counsel for Texas Eastern Transmission Corp. (Texas Eastern) filed a motion for extension of time within which to file its case-in-chief in the captioned proceeding pursuant to the Commission’s order of September 1, 1978. The motion stated that staff agrees to the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 10, 1978, for the filing of Texas Eastern’s case-in-chief in this proceeding. Staff’s statement of position shall be filed on or before November 22, 1978.

KENNETH F. PLUMS, Secretary.

[FR Doc. 78-29025 Filed 10-12-78 8:45 am]

[6740-02-M]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Co. (Petitioner), P.O. Box 1398, Houston, Tex. 77001, filed in Docket No. CP78-227 a petition to amend the order of June 22, 1978, issued in the instant docket (77 FPC — ) pursuant to section 7(c) of the Natural Gas Act so as to authorize the continued transportation of natural gas for Trunkline Gas Co. (Trunkline) through December 31, 1978, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of June 22, 1978, Petitioner was authorized to

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transport on an interruptible basis up to 75,000 Mcf of natural gas per day for Trunkline during a limited period ending December 31, 1978. Petitioner states that Trunkline delivers or causes the subject gas to be delivered into Petitioner's Southwest Louisiana Gathering System in Cameron Parish, La., and that Petitioner delivers a thermally equivalent quantity (less compressor fuel and line loss makeup) to Trunkline at existing interconnections between the two systems near Katy, Walker County, Tex., and Ragley, Beauregard Parish, La. It is asserted that the transportation service assists Trunkline by delivering to its system pending the installation of expanded facilities on Trunkline's Lakeside Lateral, substantial volumes of gas available to Trunkline in the High Island Area, offshore Texas and delivered to Petitioner in Cameron Parish through facilities of High Island Offshore System and U-T Offshore System. Pursuant to the Transportation agreement between Petitioner and Trunkline date February 1, 1978, the subject transportation would continue in effect from April 1, 1978, until the date Trunkline has installed and placed in service the expanded facilities on its Lake Side Lateral, presently expected to be in service by November 1, 1978 or until December 31, 1978, whichever first occurs. It is stated.

It is indicated that Trunkline has advised Petitioner that its capacity problem in the Southeastern area would continue past the present termination date of the February 1, 1978, agreement and requests that Petitioner extend the term of said agreement through December 31, 1978. Consequently, Petitioner and Trunkline have entered into an amending agreement dated September 6, 1978, which agreement extends the term of the transportation service through December 31, 1978.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 7.26 and 7.76). All protests filed with the Commission shall 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.
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[6740–02–M]

CITIES SERVICE GAS CO.
Proposed Changes in FERC Gas Tariff


Take notice that Cities Service Gas Co. (Cities Service) on September 22, 1978, tendered for filing third revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1, Cities Service states that this filing is in compliance with the Commission’s order issued December 21, 1977, in Docket No. RP78–135, approving the September 13, 1977, Stipulation and Agreement (Article V, Section 2).

Cities Service states that copies of its filing were served on all jurisdictional customers, interested State commissions and all parties to the proceedings in Docket Nos. RP72–142, RP74–4, and RP78–135.

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 N.E., Washington, D.C. 20426, on or before October 20, 1978. Protocols will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78–28992 Filed 10–12–78; 8:45 am]

[6740–02–M]

MAFCO Inc.
Petition for Special Relief


Take notice that on September 12, 1978, MAFCO Inc., 1800 South Baltimore Avenue, Tulsa, Okla. 74119 (Petitioner), pursuant to the provisions of § 2.76 of the Statements of General Policy and Interpretations of the Federal Energy Regulatory Commission, filed a petition for Special Relief from the applicable adjusted rate ceiling for residue natural gas to be sold from a proposed new replacement processing plant at Tyrone, Okla. Petitioner requests authority to increase its sales price of residue gas to Northern Natural Gas Co. under its Gas Rate Schedule No. 10 in the amount of $2.4240 cents per Mcf above the applicable adjusted rate. Petitioner asserts that the replacement processing plant will conserve and make available significant volumes of residue gas now consumed as fuel at the existing processing plant, plus the production of additional volumes of natural gas liquids, the Department of Energy’s Office of Hearings and Appeals has already granted MAFCO Inc.’s Application for Exception, conditionally permitting it to sell the natural gas liquids produced at the new replacement processing plant at a price in excess of that specified in Subpart K of the Department of Energy’s Mandatory Petroleum Price Regulations. Under the order, the exception relief granted by DOE is contingent upon Petitioner filing a petition for special relief pursuant to 18 CFR 2.76. The DOE will make appropriate adjustments in the level of exception relief applicable to the natural gas liquids depending on the extent of relief granted by the FERC. Special rate relief is requested from the FERC as a means of equitably distributing the costs generated by the investment between consumers of the additional volumes of residue gas and natural gas liquids to be made available by construction of the new replacement processing plant. The requested special rate relief would apportion to the residue gas a share of the cost of the relief awarded by the Department of Energy’s Office of Hearings and Appeals calculated on the basis of the ratio between the respective Btu contents of the additional volumes of residue gas and natural gas liquids which will result from construction of the replacement gas plant.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.5 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 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. 78–28993 Filed 10–12–78; 8:45 am]

[6740–02–M]

MID-CENTRAL CONTINENT GAS STORAGE CO., ET AL.
Settlement Proposal

OCTOBER 5, 1978.


Take notice that on October 2, 1978, the above-captioned parties filed a proposed Stipulation and Agreement and a motion for approval thereof in hopes of securing a settlement in the instant docket. The substance of the proposal is quoted as follows:

STORAGE SERVICE

Southern has a serious need to increase its permanent storage capacity in order to satisfy its peak day requirements as has been demonstrated during the past two winters. In the 1976–77 winter, southern was required to curtail 100 percent of the gas allocated for industrial use on its system for the entire period beginning January 11, 1977, and ending February 22, 1977. For 2 days in the middle of Janu—
ary during this period, Southern had to curtail deliveries partially to priority 1 customers (residential and small commercial requirements) because of extended cold temperatures, similar but less severe weather experienced during the 1977-78 winter. All priority 3 requirements were curtailed from January 22, 1978, through March 18, 1978, as were 49 percent of priority 2 from February 9, 1978, through March 11, 1978, if the proposed storage service had been available to Southern at the time, it would have been able to serve all of its high priority 1 through 3 requirements during the past winter. Testimony submitted in Docket No. TC78-25, Southern's omnibus filing, projects that due to an improvement in gas supply all priority 1 through 3 needs can be met during the 1978-79 winter even under colder than normal conditions. However, that projection is partly based on the assumption that the instant storage proposal will be operational.

To meet its need on a long term basis, Southern, along with Tennessee & Bear Creek Storage Co., has applied to the Commission to develop a natural gas storage field in the Bear Creek field located in Bien ville Parish, La. Because the Bear Creek project is not expected to be operational before the winter of 1981-82, Southern contracted with Mid-Continent for a temporary storage service until that time.

The Limited Term Storage Agreement (Agreement) between Mid-Contin ent and Southern, dated March 23, 1978, provides that Mid-Continent will provide Southern with up to 15 Bcf of storage capacity for each injection period (April 1 through November 30) during the Agreement period.

By providing Southern with immediate storage capacity through the 1980-81 winter, the proposed storage service fulfills Southern's temporary storage needs. For this reason, all parties agree that the proposed storage service is in the public interest and that the present and future public convenience and necessity require certification of the services proposed by Southern and the granting of a limited term certificate with prorated abandonment to Mid-Continent to Docket No. CP78-327.

Since the parties believe the proposed storage service is in the public interest, a settlement price of 82.40 cents per Mcf of storage capacity has been agreed to. The amendment to the Agreement providing for this price (and certain other minor necessary modifications to the Agreement) is attached as Exhibit A. An affidavit by William E. Matthews, IV, Senior Vice President of Southern, supporting the reasonableness of this price is attached as Exhibit B.

**Jurisdiction**

In order to provide the proposed storage services to Southern, Mid-Continent has leased an undivided interest in NI-Gas' intrastate storage and related transportation system pursuant to the terms and provisions of a "Limited Term Storage Leasing Agreement" dated March 23, 1978 (the "Lease"). The Lease is for an express limited term ending November 30, 1981. This Lease does not involve NI-Gas in any interstate transportation or sale of natural gas.

Under the terms of the Lease, Mid-Continent must accept injection gas from Southern at the already existing interconnection of NI-Gas' intrastate facilities with those of Midwestern Gas Transmission Co. ("Midwestern") or one or more of NI-Gas' other existing pipeline suppliers. The net effect of the Lease upon NI-Gas is that during some months, deliveries from Midwestern will increase but will be decreased by a corresponding equivalent amount during other months.

"Withdrawal" of storage gas will be accomplished by NI-Gas backing off its interstate takes and causing such volumes to be made available to Southern via Midwestern and Tennessee. Physically, such an arrangement will not result in any increase of annual deliveries to NI-Gas and all gas received by NI-Gas from Mid-Continent under the terms and provisions of the Lease will be physically received and consumed in Illinois. None of the gas so received by NI-Gas can or will at any time thereafter flow outside the State of Illinois or in interstate commerce.

In the course of the settlement discussions, questions were raised as to the effect of the transactions contemplated under the Lease upon NI-Gas' status under the Natural Gas Act. As a public utility with all of its operations conducted solely within the State of Illinois, NI-Gas is subject to the Jurisdiction of the Illinois Commerce Commission (III. C.C.) under the Public Utilities Act and the Lease is subject to III. C.C. review and approval. Pursuant to an Order issued July 26, 1956, in Docket No. G-10632, NI-Gas is exempt from the provisions of the Natural Gas Act under Section 1(c) thereof. In Docket No. G-10632, NI-Gas requested the Commission to issue an order declaring that its existing exemption under Section 1(c) will not be affected by the lease arrangement with Mid-Continent.

This Stipulation and Agreement recognizes that (1) Mid-Continent will be a jurisdicational natural gas company subject to Commission jurisdiction and (2) by conditioning the certificate in accordance with this Stipulation and Agreement, the Commission will have exercised plenary jurisdiction over the subject storage transaction. Therefore, since the Lease is conditioned upon the continuation of NI-Gas' nonjurisdictional status under the Natural Gas Act it is agreed that the exemption order requested by NI-Gas in Docket No. G-10632 should be issued.

**Transportation**

In Docket No. CP78-349, Tennessee requested authorization to transport all injection and withdrawal volumes of gas to Southern. For this transportation service, Southern has agreed to pay 21.09 cents per Mcf of gas delivered to Tennessee for Southern's account for injection into storage (see exhibit D for the derivation of this rate) and to permit Tennessee to retain 4.67 percent of the volumes of gas delivered to Tennessee by Southern for transportation for fuel, company use, and loss and unaccounted for gas incurred by Tennessee in rendering the transportation services. In the event the amount paid by Tennessee is less than $2,109,000, then Southern will pay an additional charge equal to the difference between $2,109,000 and the amount actually paid. Southern will receive a credit against such charge to the extent that Tennessee's inability to transport gas results in less than 10 Bcf of gas being transported during any injection period. Tennessee has contracted with Midwestern for the transportation, in part, of Southern's gas and has agreed to pay Midwestern 1.48 cents per Mcf of gas delivered for Southern's account for injection into storage and to permit Midwestern to retain a portion of the 4.67 percent fuel and use volume. Tennessee will also pay a minimum bill based upon the transportation of 10 Bcf during each injection period and will also receive a credit against said minimum bill to the extent Midwestern's inability to transport gas results in less than 10 Bcf being transported during any injection period.

In the same docket, Southern requested authorization to modify the existing facilities at the interconnection of its system and Tennessee's system near Pugh, Miss., and to install certain new facilities at this point of interconnection in order to facilitate the delivery and receipt of the injec-
tion and withdrawal volumes. The estimated cost of these modifications is approximately $142,447.

The parties agree that it is in the public interest for Tennessee and Midwestern to render the proposed transportation services at the proposed rates and for Southern to make the proposed modification to the interconnection system with Tennessee's system near Pugh, Miss., and that the present and future public convenience and necessity require certification of the activities proposed by Tennessee, Midwestern, and Southern in Docket No. CP78-346.

**Effectiveness**

This Stipulation and Agreement shall become effective upon the receipt and acceptance of the Commission's order approving the same without modification or condition, provided however, that if any party shall file a petition for rehearing of said order, the effectiveness of this Stipulation and Agreement shall abate at the option of either Southern or Midcontinent until said order shall have become final and no longer subject to judicial review.

Comments to the proposed Stipulation and Agreement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 16, 1978. Such comments will be considered by the Commission in determining appropriate action, but will not serve to make commenters parties to the proceeding.

The record in this proceeding, including the Stipulation and Agreement, the motion for approval tariff, determinations of public interest; for Tennessee and Midwestern; and Agreement may be filed with the Commission.

\[\text{[6740-02-M]}\]

**NOTICES**

**[FR Doc. 78-28994 Filed 10-12-78; 8:45 am]**

**[Project No. 2216]**

**POWER AUTHORITY OF THE STATE OF NEW YORK**

Notice Granting Intervention

October 2, 1978.

The Power Authority of the State of New York (PASNY) filed a Petition for Declaratory Order on March 6, 1976. PASNY requests the entire amount of replacement power (445,000 kilowatts) Niagara Mohawk Power Corp. (Niagara Mohawk) receives from PASNY under Article 22 of the license for the Niagara Project No. 2216 be allocated by Niagara Mohawk to industries located in the western New York area.

On May 24, 1978, the Municipal Electric Utilities Association of New York State (MEUA) filed a petition to intervene. MEUA is a nonprofit corporation consisting of 46 municipal and rural electric cooperatives in New York State. MEUA states that, as preference customers, they are entitled to at least 50 percent of the power made available for sale from the Niagara Project No. 2216. MEUA further states that they are not currently receiving their 50 percent and request that the 173 MW of power subject to dispute in this case be allocated to and reserved for preferential use by MEUA members.

No responses to MEUA's petition have been filed.

Pursuant to §3.5(a) of the Commission's Rules of Practice and Procedure, 18 CFR 3.5(a), as promulgated by the FERC Rulemaking RM78-9 (issued August 14, 1978), MEUA is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791a(a)-823(c). Participation of the Intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petitions to intervene. The admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMES, Secretary.

[FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978]
NOTICES

PUBLIC SERVICE CO. OF COLORADO

Order Accepting Rates for Filing, Suspending Proposed Rate Increase, Allowing Interventions, and Establishing Procedures


On July 27, 1978, as completed September 5, 1978, Public Service Co. of Colorado (PSCC) tendered for filing a proposed rate increase to five municipals, two private utilities, and two cooperative customers. The proposed rate increase would result in additional revenues of approximately $2,052,707 (7.8%), based upon a test period consisting of the 12 months ending December 31, 1978.

Public notice of PSCC's filing was issued on July 27, 1978, with responses due on or before August 11, 1978.

On August 11, 1978, Intermountain Rural Electric Association (IREA) and Colorado Central Telephone & Utilities Co. (CTU), filed protests to PSCC's application and petitions to intervene. IREA requested a 1-day suspension of PSCC's proposed rates. On August 28, 1978, the town of Lyons, Colo. (Lyons) filed a Motion to Permit Late Filing of Protest and Petition to Intervene. Lyons urges the Commission to institute a hearing and suspend the proposed rates for the full statutory period.

In support of its filing, PSCC states that the rate increase is necessary because of the effect on PSCC's operations of escalating costs and inadequate rate of return on its investment.

We note that PSCC's case-in-chief includes an allocation of a portion of Liquid Metal Fast Breeder Reactor (LMFBR) research contributions and Electric Power Research Institute (EPRI) contributions to the resale cost of service. In Carolina Power & Light Co., Opinion No. 19, we affirmed that part of the Initial Decision in which the Presiding Judge removed LMFBR contributions from the wholesale customers' cost of service. Contributions to EPRI are voluntary and are made on the basis of retail sales. Moreover, many wholesale customers make contributions to LMFBR and EPRI on the basis of their retail sales. Accordingly, we shall summarily dispose of the allocation to resale cost.

Public Service Co. of Colorado are hereby accepted for filing and suspended for 4 months, to become effective as of February 5, 1979, subject to refund.

(C) The Federal Energy Regulatory Commission staff shall prepare and serve top sheets on all parties on or before January 27, 1979.

(D) All petitioners are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, That participation by these intervenors shall be limited to matters set forth in their respective petitions to intervene; and Provided, further, That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission in this proceeding.

(E) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a hearing in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426. Said law judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH P. PLUMB, Secretary.

ATTACHMENT A—PUBLIC SERVICE CO. OF COLORADO RATE SCHEDULE DESIGNATIONS

Filing date: September 5, 1978.

Dated: Undated.

Other parties: wholesale customers, as indicated.

DESIGNATION AND DESCRIPTION

City of Aspen, Colo.

Supplement No. 7 to rate schedule FPC No. 3 (supersedes supp. No. 6)—Schedule of rates for service.

Town of Lyons, Colo.

Supplement No. 7 to rate schedule FPC No. 6 (supersedes supp. No. 6)—Schedule of rates for service.

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Home Light & Power Co.

Supplement No. 11 to rate schedule FPC No. 9 (supersedes supp. No. 10)—Schedule of rates for service.

Supplement No. 1 to supplement No. 11 to rate schedule FPC No. 11 (redesignation of supp. No. 1 to supp. No. 10)—Fuel cost adjustment clause.

City of Glenwood Springs, Colo.

Supplement No. 6 to rate schedule FPC No. 11 (supersedes supp. No. 5)—Schedule of rates for service.

Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 11 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

Colorado-Ute Electric Association, Inc.

Supplement No. 12 to rate schedule FPC No. 12 (supersedes supp. No. 11)—Schedule of rates for service. (including transmission agreement).

Supplement No. 1 to supplement No. 12 to rate schedule FPC No. 12 (redesignation of supp. No. 1 to supp. No. 11)—Fuel cost adjustment clause.

Central Telephone & Utilities Corp.

(Southern Colorado Power Division)

Supplement No. 7 to rate schedule FPC No. 13 (supersedes supp. No. 6)—Schedule of rates for service.

Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 13 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.

Intermountain Rural Electric Association.

Supplement No. 6 to rate schedule FPC No. 14 (supersedes supp. No. 5)—Schedule of rates for service.

Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 14 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

City of Burlington, Colo.

Supplement No. 6 to rate schedule FPC No. 15 (supersedes supp. No. 5)—Schedule of rates for service.

Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 15 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

Town of Center, Colo.

Supplement No. 2 to rate schedule FPC No. 17—Schedule of rates for service.

Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 17 (redesignation of supp. No. 1 to supp. No. 2)—Fuel cost adjustment clause.

[FR Doc. 78-29023 Filed 10-12-78; 8:45 am]

SOUTHERN NATURAL GAS

Declaratory Order Requiring Payment of Interest on Refunds

October 2, 1978.

Take note that on September 1, 1978, the Alabama Municipal Distributors Group (MDG) filed with the Commission a petition for Declaratory Order Requiring Payment of Interest on Refunds in the above-referenced docket. On September 14, 1978, Alabama Gas Co. joined that petition.

MDG states that Southern Natural Gas Co., Docket Nos. AR61-1, AR 67-1 & AR69-1, et al., G-13285, G-18512, G-20500 & RP70-10, RP74-31, RP75-5 & RP78-16, RP79-39, and RP72-91, et al., has had in its possession certain producer refund dollars for varying periods of time and has refunded to its customers only the amounts actually earned by Southern (including in some instances principal and interest for certain producer's refunds). MDG further states that Southern has not refunded to its customers any interest for the various periods during which Southern has held the producer refunds. MDG further states that Southern is obligated to include interest for the period of time it held the producer refunds and should be required to make a refund of this interest to its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or comments should be filed on, or serve to make protestants parties to the proceeding. Any petition to intervene or comments should be filed on, or serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection.

[FR Doc. 78-29997 Filed 10-12-78; 8:45 am]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

October 2, 1978.

Take notice that on September 25, 1978, Tennessee Gas pipeline Co., a Division of Tenneco Inc. (Tennessee), filed a plan for disposition of refunds which it received from Sea Robin Pipeline Co. in Docket No. RP77-5.

Tennessee states that upon Commission approval of its refund plan it will flow through to its customers the entire $499,265.30 which was received by means of a credit to its Uncovered Purchased Gas Cost Account.

Any person desiring to be heard or to protest said $499,265.30 should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the rules of practice and procedure (18 CFR 1.8, 1.10). All persons filing with the Commission will be considered in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene. Any person desiring to be heard or to protest said filing should file a petition to intervene or comments should be filed on, or serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection.
NOTICES

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 October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FRR Doc. 78-29000 Filed 10-12-78; 8:45 am]

KENNETH F. PLUMB,
Secretary.

[FRR Doc. 78-29000 Filed 10-12-78; 8:45 am]

[6740-02-M]

TIPPERARY OIL & GAS CORP.
Petition for Special Relief

Take notice that on September 5, 1978, Tipperary Oil & Gas Corp., 502 West Illinois, P.O. Box 3179, Midland, Tex. 79702 (Petitioner) filed a petition for special relief from the pricing provisions of FPC Opinion No. 710-A, issued November 5, 1976, with regard to the Calf Canyon Unit, Garfield County, Colo. Petitioner requests that $1.50 per Mcf be added to the applicable FERC regulated price and paid to the working interest owner (Petitioner) in order to permit an equitable return on a proposed gathering system that would serve the Calf Canyon Unit. Petitioner states that the applicable wellhead natural gas prices, to which the $1.50 rate would be added, vary from $0.697 to $1.20 per Mcf. The purchaser of the gas is identified as Northwest Pipeline Corp., P.O. Box 15267, Salt Lake City, Utah 84110. Petitioner also states that seven Calf Canyon Unit wells have been drilled to date, with one more planned during 1978.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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.

[FRR Doc. CP78-5411]

TRANSCONTINENTAL GAS PIPE LINE CORP.
Application

October 5, 1978.
Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-541 an application pursuant to Section 7(c) of the Natural Gas Act and §157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing October 22, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant’s ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $12,000,000, with the cost of no single offshore project to exceed $2,500,000 and the cost of no single onshore project to exceed $1,500,000. Applicant indicates that the cost of the proposed facilities would be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission’s Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission’s Rules and 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.

[FRR Doc. 78-29028 Filed 10-12-78; 8:45 am]
NOTICES

[6740-02-M]

IDocket No. RA78-51

YOUNG REFINING CORP.

Notice Granting Extension of Time

October 2, 1978.

On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29030 Filed 10-12-78; 8:45 am]

[3128-01-M]

Office of Hearings and Appeals

NATURAL GAS PLANT OPERATORS

Applications for Exception; Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Departmental Determinations with Respect to Amendments to 10 CFR, Part 212, Subpart K.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) hereby gives notice of the procedures which it has adopted and will follow with respect to Applications for Exception from 10 CFR, Part 212, Subpart K. On December 6, 1978, the DOE adopted amendments to those regulations effective November 1, 1978, concerning nonproduct cost passsthroughs for natural gas plant operators. 43 FR 42984 (Sept. 21, 1978).

The parties affected by this Notice include operators of approximately 450 gas plants whose current exception relief expires after November 1, 1978; 20 firms which have filed initial applications for exception relief; 20 firms to whom Proposed Decisions and Orders have been issued; 9 firms who have objections outstanding to Proposed Decisions and Orders, and approximately 47 firms which have applied for extensions of previous exception relief.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

The Department of Energy has adopted amendments to 10 CFR, Part 212, Subpart K, which govern the prices at which natural gas liquids (NGLs) and natural gas liquid products (NGLP's) may be sold. See 43 FR 42984 (Sept. 21, 1978). These regulatory amendments, which will become effective on November 1, 1978, permit natural gas plant operators to pass through certain increased nonproduct costs relating to the processing and marketing of NGL's and NGLP's.

Under the provisions of § 212.165 of Subpart K which existed prior to the September 21 modifications and which will expire in an effective until November 1, 1978, natural gas plant operators have been permitted to increase the prices of NGL's and NGLP's to reflect certain increased nonproduct costs, up to $0.005 per gallon for NGL's and $0.00375 for NGLP's. In a preamble to the rulemaking proceeding in which the original Subpart K was promulgated, the Federal Energy Administration recognized that some natural gas plant operators could experience inequities as a result of the regulatory limitations on cost pass-throughs. Accordingly, the FEA indicated:

Any firms that have increased nonproduct costs of gas processing that would justify a greater price increase than 0.5 cents per gallon may request permission to charge higher prices, on a case-by-case basis through the exceptions process.

Under the provisions of 39 FR 44407 (Dec. 24, 1974).

On May 28, 1975, the Superior Oil Co. filed an Application for Exception in which it stated that it had incurred increased nonproduct costs since May 15, 1973 at four of its natural gas processing plants. According to Superior, these increases ranged from $0.009 per gallon to $0.032 per gallon. The firm claimed that its inability to increase its selling prices to reflect these increased nonproduct costs constituted an inequity. In reviewing that contention, the FEA found that:

No public purpose will be served by prohibiting natural gas processors which have incurred nonproduct cost increases substantially in excess of $0.005 per gallon from passing through these cost increases.


The FEA noted that exception relief to allow the passthrough of those costs would prevent continued inequitable treatment of natural gas plant operators and could also provide an incentive for these firms to increase their production to alleviate the nationwide shortage of NGL's. Therefore, the FEA granted exception relief to Superior, permitting the firm to increase its selling prices to reflect the increased nonproduct costs which it had incurred. In addition, the FEA stated that it would, as a general rule:
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Notice

Grant exception relief to any gas processing plant which can demonstrate that its nonproduct costs, since May 1973, have increased substantially in excess of the $50,005 per gas plant authorized under the provisions of § 212.165.

Firms with Exception Relief in Effect After November 1

The DOE has granted exception relief with respect to approximately 550 natural gas plants which will expire under the terms of the respective orders, after the November 1, 1978 effective date of the new Subpart K regulations. In anticipation of the adoption of amendments to Subpart K, each Decision and Order included the following ordering paragraph:

If § 212.165 which specifies the limitation on the pass-through of nonproduct cost increases is amended subsequent to the effective date of this Order or if the applicant alters its operations at any of its plants to produce natural gas liquid products rather than natural gas liquids, then the exception relief granted above shall be reduced by any excess of (i) the average level of increased nonproduct cost increases specified in the Decision and Order issued to those applicants in final form.

The DOE has received applications for extension of exception relief from the former version of Subpart K. See Estates of Inez and Loyce Phillips, Case No. DEE-0319 (D.O.E. filed November 25, 1977). This application will be processed in the course of the normal review process administered by the Office of Hearings and Appeals.

Pending Proposed Decisions and Orders

From July 24 through August 22, 1978, the Office of Hearings and Appeals issued twenty Proposed Decisions and Orders, involving 51 natural gas processing plants, concerning requests for exception relief from the existing nonproduct cost pass-through ceilings. With respect to those Proposed Decisions and Orders for which no Notice of Objection has been filed, the Office of Hearings and Appeals has determined that the exception relief specified in those Proposed Decisions will be granted in final form. See, e.g., Allied Chemical Company, et al., 2 DOE Par. (September 29, 1978). As indicated in that determination, the exception relief will expire on October 31, 1978, instead of continuing in effect throughout the normal 6-month period. This result will provide exception relief to this class of affected firms until the regulatory changes take effect on November 1, 1978. Once the amended regulations are effective, however, nonproduct cost increases will be passed through in accordance with the new regulatory provisions.

Objections to Proposed Decisions and Orders have been received from 9 firms, involving 22 gas plants. Those Objections will be reviewed in accordance with the normal adjudicatory procedures, and determinations will be issued to those applicants in final form.

Pending Applications for Extension of Exception Relief

The Office of Hearings and Appeals has received applications for extension of exception relief from approximately 47 firms, involving 301 gas plants. Each of those firms was previously granted exception relief which expires on or before September 30, 1978. On October 2, 1978, the DOE issued a Proposed Decision and Order granting each firm an extension of exception relief for the period October 1 through October 31, 1978. Allied Chemical Corporation, et al., Cases Nos. DDE-1561, et al., Proposed Decision and Order (D.O.E. October 2, 1978). The pass-through allowed under the Proposed Decision and Order is

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equal in amount to the exception relief most recently granted for each gas plant by the Office of Hearings and Appeals.


Issued in Washington, D.C., October 6, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-39064 filed 10-12-78; 8:35 am]

OFFICE OF HEARINGS AND APPEALS

Issuance of Proposed Decisions and Orders;
September 18 through September 22, 1978

Notice is hereby given that during the period September 18 through September 22, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy. Notice is given with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures 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 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of receipt 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. The new 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 NW, Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.


MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

PROPOSED DECISIONS AND ORDERS


Amin Oil, U.S.A., Inc., filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Amin Oil, U.S.A., Inc. to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.


Charter Oil Co., filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Charter Oil Co. to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Custer Gas Service, Custer, S. Dak., D.EE-1077, propane.

Custer Gas Service filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Custer Gas Service to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

DeMenno Resources, Los Angeles, Calif., D.EE-0965, crude oil.

DeMenno Resources filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit DeMenno Resources to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Getty Oil Co., Los Angeles, Calif., D.EE-1777 through D.EE-1381, crude oil.

Getty Oil Co. filed five applications for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell the crude oil produced from the five leases in the Zaca Field located near Santa Maria, Calif., at prices in excess of the levels set forth in 10 CFR, Part 212, Subpart D. On September 22, 1978, the DOE issued a proposed decision and order in which it determined that exception relief should be granted in part for the five leases.

Kexcane Oil Co., Tulsa, Okla., DXE-1238, crude oil.

Kexcane Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Kexcane Oil Co. and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the South Stanley Lease located in Burbank Field, Osage County, Okla. On September 19, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.


Little America Refining Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Little America to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Newhall Refining Co., Inc., Dallas, Tex., D.XE-1352, crude oil.

Newhall Refining Co., Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Newhall Refining Co., Inc. and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the Tule Creek South Field in Roosevelt County, Mont. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.


P & M Petroleum Management filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to P & M Petroleum Management. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Pierremont Petroleum Corp., Scott County, Miss., D.EE-1429, crude oil.

Pierremont Petroleum Corp. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Pierremont Petroleum Corp. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.


FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
NOTICES

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Case Filed Week of September 22 through September 29, 1978

Notice is hereby given that during the week of September 22 through September 29, 1978, 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 this case may file with the DOE written comments on the application within 10 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 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 GOLSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 5, 1978.

APPENDIX.—List of Cases Received by the Office of Hearings and Appeals

(WEEK OF SEPTEMBER 22 THROUGH SEPTEMBER 29, 1978)

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept. 22, 1978</td>
<td>Kerr, Houston, Tex.</td>
<td>DFA-0231</td>
<td>Appeal of an information request denial. If granted: The Aug. 18, 1978 information request denial would be rescinded and MXR would receive access to additional DOE data concerning Tabor Oil Co.</td>
</tr>
<tr>
<td>D9</td>
<td>Sun Co., Inc., Dallas, Tex.</td>
<td>DXE-1869</td>
<td>Price exception (sec. 212.165). If granted: Sun Co., Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Dragon Trail, Lovelace, Okeene, Slaughter, and Womack plants.</td>
</tr>
<tr>
<td>D9</td>
<td>Continental Oil Co., Houston, Tex.</td>
<td>DEE-1869</td>
<td>Price exception (sec. 212.165). If granted: Continental Oil Co. would be permitted to adjust the May 1973 marketing base to reflect its subsequent divestiture of motor gasoline marketing facilities.</td>
</tr>
<tr>
<td>D9</td>
<td>Craft Petroleum Co., Inc., Jackson, Miss.</td>
<td>DEE-1868</td>
<td>Price exception (sec. 212.165). If granted: Craft Petroleum Co., Inc. would be permitted to sell the crude oil produced from the Recehlen No. 1 well located in Wilkinson County, Miss., at upper tier ceiling prices.</td>
</tr>
<tr>
<td>D9</td>
<td>Econ-O-Gas, Inc., Temple, Tex.</td>
<td>DSC-0031</td>
<td>Request for special redress. If granted: The Office of Hearings and Appeals would review the Nov. 20, 1976 assignment order, the three-party agreement submitted for Econ-O-Gas, Inc., Atlantic Richfield Co., and Foremost Petroleum Corp., and the Dec. 22, 1976 termination order to assess their compliance with the requirements of due process.</td>
</tr>
<tr>
<td>D9</td>
<td>Gulf Oil Corp., Tulsa, Okla.</td>
<td>DEE-1894</td>
<td>Price exception (sec. 212.165). If granted: Gulf Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Diamond “M”, Gulf Venice, McLean, Okeene, Selling, Slaughter, Thompson, Wright, and Yowshirt plants.</td>
</tr>
<tr>
<td>D9</td>
<td>McAfee, Taft, Mark, Bond, Ricks &amp; Woodruff, Oklahoma City, Okla.</td>
<td>DFA-0222</td>
<td>Appeal of an information request denial. If granted: The information request denial of Sept. 6, 1978, would be rescinded and McAfee, Taft would be granted access to copies of transcripts of interviews regarding a notice of probable violation issued to Unit Operations, Inc.</td>
</tr>
<tr>
<td>D9</td>
<td>Natrogas, Inc., Minneapolis, Minn.</td>
<td>DEE-1867</td>
<td>Exception to change suppliers. If granted: Natroga, Inc. would be assigned a new lower-priced supplier of propane to replace its base period supplier, Shell Oil Co., Mobil Oil Corp., and Warren Petroleum.</td>
</tr>
<tr>
<td>D9</td>
<td>New England Power Co., Houston, Tex.</td>
<td>DRD-0113</td>
<td>Motion for discovery. If granted: Discovery would be permitted to New England Power Co. with respect to the storage and disposition of natural gas at the South Coast unit, located in St. Mary Parish, La., at upper tier ceiling prices.</td>
</tr>
<tr>
<td>D9</td>
<td>Phillips Petroleum Co., Bartlesville, Okla.</td>
<td>DEE-1868</td>
<td>Price exception (sec. 212.165). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Evelyn “A” lease located in Converse County, Wyo., at upper tier ceiling prices.</td>
</tr>
<tr>
<td>D9</td>
<td>Robert B. Sutton, Tulsa, Okla.</td>
<td>DSC-0032 and DEE-0104</td>
<td>Appeal of an information request denial. If granted: The information request denial of Sept. 6, 1978, would be rescinded and McAfee, Taft would be granted access to copies of transcripts of interviews regarding a notice of probable violation issued to Unit Operations, Inc.</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
**NOTICES**

**APPENDIX—List of Cases Received by the Office of Hearings and Appeals—Continued**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do</td>
<td>Texas City Refining, Inc., Washington</td>
<td>DSO-0033</td>
<td>Request for special redress. If granted: Texas City Refining, Inc. would receive a stay of its entitlement purchase obligations for the period September through November 1978.</td>
</tr>
<tr>
<td>Sept 27, 1978</td>
<td>Dunaway, McCarthy &amp; Dye, Washington</td>
<td>DFA-0223</td>
<td>Appeal of an information request denial. If granted: The information request denials of Aug. 21 and Aug. 30, 1978, would be rescinded and Dunaway, McCarthy &amp; Dye would be granted access to certain DOE material relating to the applicability of the mandatory petroleum allocation and price regulations (10 CFR pts. 221 and 212) to the sale of covered products under future contracts.</td>
</tr>
<tr>
<td>Do</td>
<td>Edgington Oil Co., Inc., Washington, D.C.</td>
<td>DXE-1690</td>
<td>Extension of the relief granted in Edgington Oil Co., Inc. 2 DOE par. — (Aug. 16, 1978). If granted: Edgington Oil Co., Inc. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.</td>
</tr>
<tr>
<td>Do</td>
<td>Northland Oil &amp; Refining Co., Tulsa, Okla.</td>
<td>DEE-1692</td>
<td>Exception to the entitlements program. If granted: Northland Oil &amp; Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to the firm's entitlement purchase obligation for the period July through December 1978.</td>
</tr>
<tr>
<td>Do</td>
<td>Warrior Asphalt Co. of Alabama, Washington, D.C.</td>
<td>DXE-1891</td>
<td>Extension of the relief granted in Warrior Oil Co. of Alabama 2 DOE par. — (July 25, 1978). If granted: Warrior Asphalt Co. of Alabama would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.</td>
</tr>
<tr>
<td>Sept 28, 1978</td>
<td>Advanced Sales Corp., St. Petersburg, Fla.</td>
<td>DFA-0224</td>
<td>Appeal of an information request denial. If granted: The Sept. 1, 1978 information request denial would be rescinded and Advanced Sales Corp. would receive access to certain DOE data regarding orders issued by DOE region IV on Apr. 9 and July 12, 1974.</td>
</tr>
<tr>
<td>Do</td>
<td>Mobil Oil Corp., New York, N.Y.</td>
<td>DRH-0105 and DRH-0105</td>
<td>Request for evidentiary hearing and motion for discovery. If granted: An evidentiary hearing would be covered in connection with Mobil Oil Corp.'s statement of objections regarding a proposed remedial order issued to it on Aug. 22, 1978. In addition, Mobil would be authorized to take deposition of Mr. August F. Roed, Jr. and Mr. Douglas D. Elemen.</td>
</tr>
</tbody>
</table>

**Notices of Objection Received**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept 26, 1978</td>
<td>Damron Oil Corp., Houston, Tex.</td>
<td>DXE-1697</td>
</tr>
<tr>
<td>Do</td>
<td>Dixie Gas Industries, Inc., Goldsboro, N.C.</td>
<td>DSO-0120</td>
</tr>
</tbody>
</table>

**Proposed Remedial Orders**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept 26, 1978</td>
<td>Raymond Oil Co., Huron, S.Dak.</td>
<td>DRO-0118</td>
</tr>
<tr>
<td>Do</td>
<td>Landells, Texas, Alice, Tex.</td>
<td>DRO-0119</td>
</tr>
</tbody>
</table>

[FEDERAL REGISTER, VOL 43, NO. 199—FRIDAY, OCTOBER 13, 1978]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Cases Filed Week of September 15, 1978—through September 22, 1978

Notice is hereby given that during the week of September 15, 1978 through September 22, 1978, 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 10 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.

MELYN GOLSTEIN,
Director,
Office of Hearings and Appeals.

NOTICES

APPENDIX—List of Cases Received by the Office of Hearings and Appeals


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</thead>
<tbody>
<tr>
<td>Sept. 15, 1978</td>
<td>Graham-Michels Drilling Co., Wichita, Kans.</td>
<td>DEE-1837</td>
<td>Price exception (sec. 212.165). If granted: Graham-Michels Drilling Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Meason Operating Co., Natchez, Miss</td>
<td>DXX-1839</td>
<td>Extension of relief granted in Meason Operating Co., 1 DOE par. 81.035 (Dec. 14, 1977). If granted: Meason Operating Co. would be permitted to sell crude oil produced from the Arnold Perry unit No. 1, East Kelly field located in Wilkinson County, Miss., at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Quincy Oil, Inc., Boston, Mass.</td>
<td>DED-0447</td>
<td>Motion for discovery. If granted: Quincy Oil, Inc. would be granted discovery with respect to a DOE audit regarding the firm's sales of No. 6 fuel oil and with respect to various DOE administrative proceedings involving the firm.</td>
</tr>
<tr>
<td></td>
<td>Tenneco Oil Co., Houston, Tex.</td>
<td>DXX-1838 through DXX-1850</td>
<td>Extension of relief granted in Tenneco Oil Co., case Nos. DXX-1838 through DXX-1850 (dec. 10, 1977) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal in producing natural gas liquid products at its Chesterville, La Porte, Leabo, Stephens, Ward, Dover, Hensley, Lake Houl, Mayfield, Mermentau, Normanna, Prentice, and South Fullerton plants.</td>
</tr>
<tr>
<td></td>
<td>Jimmie Austin d/b/a Austin Drilling Co., Seminole, Okla.</td>
<td>DEX-0109</td>
<td>Supplemental order. If granted: The appeal procedure specified in the remedial order issued to Austin Drilling Co. on Sept. 14, 1978, would be abandoned to provide that any party aggrieved by the determination may seek judicial review.</td>
</tr>
<tr>
<td></td>
<td>Charter Oil Co., Jacksonville, Fla.</td>
<td>DEX-0109</td>
<td>Supplemental order. If granted: Charter Oil Co. would receive a stay of its entitlement purchase obligations.</td>
</tr>
<tr>
<td></td>
<td>Energy Consumers &amp; Producers Association, Seminole, Okla.</td>
<td>DEX-1858</td>
<td>Price exception (sec. 212.73). If granted: The Energy Consumers &amp; Producers Association would be permitted to sell the crude oil produced from the Austin Chalk-Buda Trend of South Texas at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Little America Refining Co., Englewood, Colo.</td>
<td>DEX-0110</td>
<td>Supplemental order. If granted: Little America Refining Co. would receive a stay of its entitlement purchase obligations.</td>
</tr>
<tr>
<td></td>
<td>Charles Schwartz, Berkeley, Calif.</td>
<td>DEX-0114</td>
<td>Appeal of an information request denial. If granted: The DOE's June 23, 1978 information request denial would be rescinded and Charles Schwartz would receive access to certain DOE data relating to the selection of the directors of the Los Alamos Scientific Laboratory, as well as correspondence regarding enhanced radiation weapons.</td>
</tr>
<tr>
<td></td>
<td>City of Long Beach, Calif.</td>
<td>DEX-1870</td>
<td>Extension of relief granted in City of Long Beach, California, 1 DOE par. 81.165 (Apr. 11, 1978). If granted: The city of Long Beach would be permitted to sell the crude oil produced from the block 11 unit located in Los Angeles County, Calif., at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Coastal States Gas Co., Houston, Tex.</td>
<td>DEX-1863</td>
<td>Price exception (sec. 212.165). If granted: Coastal States Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Fashing field, Hollywood, Mooreland, Nueces River, and Sea Robin plants.</td>
</tr>
<tr>
<td></td>
<td>Crown Central Petroleum Corp., Bellaire, Tex.</td>
<td>DEX-1872</td>
<td>Price exception (sec. 212.73). If granted: Crown Central Petroleum Corp. would be permitted to sell the crude oil produced from the Santa Ana and Fresno lease located in Fresno County, Calif., at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Geronimo Oil Co., Corpus Christi, Tex.</td>
<td>DEX-1873</td>
<td>Price exception (sec. 212.73). If granted: Geronimo Oil Co. would be permitted to sell the crude oil produced from the Lillian S. Morris, et al., lease in San Patriciio County, Tex., at upper tier ceiling prices.</td>
</tr>
<tr>
<td></td>
<td>Getty Oil Co., Los Angeles, Calif.</td>
<td>DEX-0092 and DRR-0002</td>
<td>Motion for evidentiary hearing; motion for discovery. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Getty Oil Co. to a proposed remedial order issued to the firm by the Office of the Special Counsel on July 20, 1978. In addition, Getty Oil Co. would be granted discovery with respect to the objections it has raised.</td>
</tr>
</tbody>
</table>

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APPENDIX.—List of Cases Received by the Office of Hearings and Appeals—Continued


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<tbody>
<tr>
<td>Do.........</td>
<td>do</td>
<td>DEX-1864</td>
<td>Request for modification in DEX-1864.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Herlocker Fuel Co., Albermarle, N.C.</td>
<td>DEX-1862</td>
<td>Exception to change suppliers.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Sun Joaquin Refining Co., Newport Beach, Calif.</td>
<td>DEX-1049</td>
<td>Exception to the entitlements program.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Sierra Anchor Refining Co., San Marino, Calif.</td>
<td>DEA-0218</td>
<td>Appeal of revised remedial order.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Shelton Oil Co., Hobbs, N. Mex.</td>
<td>DEE-1861</td>
<td>Case No. DEX-1049.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Texas, Inc., White Plains, N.Y.</td>
<td>DEX-1858</td>
<td>Price exception (see 212.83).</td>
</tr>
<tr>
<td>Do.........</td>
<td>Texas, Inc., New Orleans, La.</td>
<td>DEX-1871</td>
<td>Price exception (see 212.83).</td>
</tr>
<tr>
<td>Do.........</td>
<td>Texas Pacific Oil Co., Inc., Dallas, Tex.</td>
<td>DEX-1875 through DEX-1858</td>
<td>Extension of relief granted in Texas Pacific Oil Co., Inc., case Nos. DEX-1858 through DEX-1875.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Allen K. Trebaugh, Midland, Tex.</td>
<td>DEX-1850</td>
<td>Extension of the relief granted in Allen K. Trebaugh, DEX-1850.</td>
</tr>
<tr>
<td>Do.........</td>
<td>Taylor Oil Co., Sioux Falls, S. Dak.</td>
<td>DPA-0219</td>
<td>Appeal of an information request denial.</td>
</tr>
</tbody>
</table>

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[Appendix.—List of Cases Received by the Office of Hearings and Appeals—Continued

(Week of Sept. 15, 1978 through Sept. 22, 1978)]

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</tr>
<tr>
<td>Sept. 15, 1978</td>
<td>Crest Resources &amp; Exploration Co., Houston, Tex</td>
<td>DEX-0044</td>
<td></td>
</tr>
<tr>
<td>Do</td>
<td>Bultman, Inc., Elkhart, Ind.</td>
<td>DEX-1424</td>
<td></td>
</tr>
<tr>
<td>Sept. 19, 1978</td>
<td>Pennzoil Producing Co., Houston, Tex</td>
<td>DEX-1677</td>
<td></td>
</tr>
<tr>
<td>Do</td>
<td>Estate of William Herbert Hunt, Dallas, Tex</td>
<td>DEX-0117</td>
<td></td>
</tr>
<tr>
<td>Sept. 22, 1978</td>
<td>Mull Drilling Co., Inc., Wichita, Kan</td>
<td>DEX-1774</td>
<td></td>
</tr>
<tr>
<td>Date</td>
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<td>Case No.</td>
<td></td>
</tr>
<tr>
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<tr>
<td>Sept. 22, 1978</td>
<td>Estate of William Herbert Hunt, Dallas, Tex</td>
<td>DRO-0113</td>
<td>Remedial Orders</td>
</tr>
<tr>
<td>Sept. 22, 1978</td>
<td>Coastal States Gas Corp., Houston, Tex</td>
<td>DRO-0113</td>
<td></td>
</tr>
<tr>
<td>Sept. 26, 1978</td>
<td>Bultman, Inc., Elkhart, Ind.</td>
<td>DRO-0118</td>
<td></td>
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<tr>
<td>FR Doc. 78-28902 Filed 10-12-78</td>
<td>8:45 am</td>
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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FR Doc 986-21]

1981 AUTOMOBILE CARBON MONOXIDE EMISSION STANDARDS

Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard

1. INTRODUCTION AND GENERAL INSTRUCTIONS

Under section 202(b)(5)(A) of the Clean Air Act, as amended (hereinafter the "Act"), 42 U.S.C. 7521(b)(5)(A) (1977), at any time after August 31, 1978, any manufacturer may apply for a waiver of the 1981 carbon monoxide (CO) standard of 3.4 grams per vehicle mile for any model of light-duty motor vehicles manufactured during the 1981 and 1982 model years. As stated in section 202(b)(5)(B), the maximum CO level for which a waiver may be granted is 7.0 grams per mile. Based on the Administrator's determination of, what level of CO emissions is attainable by the applicant, the waiver may be granted for a more stringent standard than that requested. In order for a waiver to be granted, each of the criteria specified in section 202(b)(5)(C) must be satisfied. Under these criteria, a waiver can only be granted if the Administrator finds that protection of the public health does not require attainment of the standard of 3.4 grams per mile for those model years and those vehicle for which a waiver is sought. In addition, section 202(b)(5)(C) of the Act provides that a
waiver may only be granted if the Administrator determines that:

(i) Such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) EPA has made all efforts to be made to meet the standards established by this subsection;

(iii) The applicant has established that effective cost, processes, operating methods, or other alternatives are not available or have not been available with respect to a model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

The decision of the Administrator is required to be made within 60 days after receipt of the application, and after a public hearing (sections 202(b)(5)(A) and (C)). If the Administrator determines that a waiver should be granted, the CO emission standard for those vehicles and those model years to which the waiver is applicable will be prescribed by regulation issued simultaneously with the waiver decision (section 202(b)(5)(A)).

The purpose of this notice is to establish guidelines concerning the information which should be provided in any application for a waiver of the CO standards. In seeking a waiver under any application for a waiver of the CO standards, a manufacturer may request a waiver of section 202(b)(5)(A), 42 U.S.C. 7550(1) (1977). A waiver of section 202(b)(5)(A) is intended to assist in the deployment of new technology. To assist in the deployment of new technology, the waiver provision is intended to serve the public interest or the public health and welfare of the United States. The waiver provision is intended to assist in the deployment of new technology.

The application should contain separate responses to each item specified in section III of these guidelines. The applicant may add to or expand upon any item to the extent he deems necessary or helpful to support the request for a waiver. The application may include any reports, records, or information pertinent to the request. The Administrator may request additional information on any item from the applicant if such information is deemed necessary or useful to the waiver determination. Furthermore, the Administrator need not base his decision solely on the application, and may consider any additional information as well.

The determinations in these proceedings will be based on a public record, and EPA intends to make all information available for public review. Accordingly, an applicant should make every effort to only provide information which can be included in the public record. Information claimed to be confidential should only be submitted where the failure to submit such information would seriously jeopardize the success of his application, or where the information has been submitted pursuant to a subpoena and where the release of such confidential information would cause the applicant significant harm. Information for which a claim of confidentiality has been made will be treated according to the following procedure:

In order to claim confidentiality, the manufacturer must submit the confidential information in a separate package identified by a label such as “trade secret,” “company confidential,” or other appropriate label. Failure to assert a confidentiality claim in this manner will automatically result in the placing of the information in the public record without further notice. Pursuant to the procedures set forth in 40 CFR 2, Subpart B to determine to what extent the information is confidential, whether or not it is claimed to be confidential. If the information is found to be confidential, EPA will disclose it pursuant to 40 CFR § 2.301(g). This regulation provides for the public disclosure of confidential information upon a determination that it is relevant to the proceeding and that making the information available to the public would serve the public interest. In no instance does section 202(b)(5)(C) bar disclosure of confidential information to the public.

The information will then be treated according to the following procedure:

The disclosure of confidential information in a separate package identified by a label such as “trade secret,” “company confidential,” or other appropriate label. Failure to assert a confidentiality claim in this manner will automatically result in the placing of the information in the public record without further notice. Pursuant to the procedures set forth in 40 CFR 2, Subpart B to determine to what extent the information is confidential, whether or not it is claimed to be confidential. If the information is found to be confidential, EPA will disclose it pursuant to 40 CFR § 2.301(g). This regulation provides for the public disclosure of confidential information upon a determination that it is relevant to the proceeding and that making the information available to the public would serve the public interest. In no instance does section 202(b)(5)(C) bar disclosure of confidential information to the public.

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MODEL" will be considered synonymous with "engine family" as that phrase is defined in 40 CFR §86.077-2 (1977). And a manufacturer is defined in 40 CFR §86.078-24(a)(2) through (a)(4) (1977). Any separation of "model" based upon 40 CFR §86.078-24(a)(4) should be fully justified in the application. A separate application should be submitted for each model for which a waiver is sought. In order to avoid a multiplicity of hearings, however, the manufacturer is requested to submit simultaneously applications for all models for which CO waivers will be sought. The manufacturer may cross-reference his other CO waiver applications where appropriate, provided that the precise nature and extent of the cross-reference is noted.

Under section 202(b)(5)(C), a waiver may only be granted if the Administrator finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 grams per mile for those model years for which a waiver is sought, with respect to the vehicles covered by the application. The manufacturer should provide any available information on the public health effects associated with Portland nitrogen oxides for meeting a CO standard of 3.4 grams per mile and the standard sought in the application, for those vehicles and model years covered by the application. The manufacturer should provide sufficient information in the application to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought.

In order to grant a waiver under section 202(b) of the Act, the Administrator must be able to make each of the determinations enumerated in section 202(b)(5)(C)(i)-(v), which are similar to the criteria that applied to requests for suspension under section 202(b)(5)(C) of the Act prior to the 1977 Amendments. Section 202(b)(5)(C)(ii) of the current Act, the granting of a waiver requires a determination that "such waiver is essential to the public interest or the public health and welfare of the United States." The manufacturer has the burden of providing sufficient information in the application to demonstrate that this criterion is satisfied. The question of whether the waiver is essential to the public health and welfare involves not only the health and welfare consequences of denying the waiver, including and examination of, fuel economy and unregulated pollutant emission levels. As an example, the waiver could be considered essential to public health if, assuming the waiver were not granted, the use of available technology would result in emissions of some unregulated pollutant which would constitute a health risk. See 40 CFR 110, 1102 (1975) (suspension of 1977 standards due to expected increase in sulfuric acid emissions). This criterion also involves a comparison of the consequences of granting the waiver and denying the waiver. That is, even if the denial of the waiver would pose a health risk, the applicant must also demonstrate that granting the waiver would eliminate or substantially reduce this risk. With regard to whether the waiver is essential to the public interest, this issue will include consideration of whether the basic demand for automobiles can be met if the waiver is not granted. As explained by Senator Muskie:

The determination of whether a carbon monoxide waiver is essential to the public interest or the public health welfare of the United States will, of course, be affected by the performance of the industry as a whole. If only a small percentage of cars appear unable to meet the statutory standard of 3.4 grams, the denial of such a waiver would not make it impossible for the industry to meet the basic demand for automobiles. In addition, the inability of only a small number of cars to meet the statutory standard is distinct from the question of the price and availability of automobiles. In the auto industry, the price and availability of automobiles is a question that must be asked in every case. If only a small percentage of cars are truly unable to meet the statutory standard, it is more likely that the auto industry can adjust than if a larger percentage of cars were unable to meet the statutory standard. The conclusion of Senator Muskie may be reduced to the following:

The waiver application should be prepared in five major sections, and should correspond to the following format:

Section 1. This section should not include any confidential information and should:

a. Identify the applicant as a manufacturer, and identify any other person engaged in the manufacturing, distribution, and sale of vehicles manufactured, distributed, or sold by the applicant.

b. Contain a summary of the applicant's position and supporting argument. The criteria set forth in the above Introduction and Discussion.

c. Describe the model of light-duty vehicles for which the waiver is sought.

d. Set forth the interim CO standard for each model year for which the applicant believes the waiver is essential to the public interest or the public health welfare of the United States. The application should be submitted on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers.

Section 2. This section should contain sufficient information to demonstrate that protection of the public health does not require attainment of the 3.4 grams per mile CO standard for those model years for which a waiver is sought, with respect to those vehicles covered by the application. In this section, for the subject vehicles the manufacturer should provide in detail any information which is either currently available or in the process of being generated, concerning the public health effects associated with the difference between meeting a CO standard of 3.4 grams per mile and the standard sought in the application. The manufacturer should provide sufficient information to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers.

Section 3. This section should provide sufficient information to demonstrate that the waiver being sought is essential to the public interest or the public health and welfare of the United States. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers. If the manufacturer claims that the waiver is essential to the public interest, this section of the application should specify the particular aspect of the public interest which would be served by the waiver, and should describe in detail the consequences of denying the waiver request. As an example, one aspect of the public interest would be the ability to meet basic market demand for automobiles. Similarly, if the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should specify the particular aspect of the public health and welfare which would be served by the waiver, and should examine in detail the health and welfare consequences of denying the waiver. For example,
the waiver could be considered essential to the public health if denying the waiver would result in the emission of some unregulated pollutant in such levels as would pose a risk to public health.

Regardless of whether the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should also examine the public health consequences of granting the waiver, in order to insure that the waiver will not endanger public health. This involves inquiry into the emission levels and associated health effects of all unregulated pollutants. As part of the demonstration of the necessity for this waiver to benefit the public interest or health and welfare, the manufacturer should fully explain why other models, not requiring such a waiver, could not be substituted into the manufacturer's product line to satisfy the needs of the marketplace.

Section 4. This section of the application shall contain all the information necessary to demonstrate that the manufacturer has made all good faith efforts to meet the CO standard of 3.4 grams per mile. This section shall include a statement which fully explains the total effort made by the manufacturer, or expected to be made in the future, to achieve compliance with a standard of 3.4 grams per mile, and a detailed account of the manufacturer's financial commitment to this aspect of light-duty vehicle emission control. Section 4 should contain the following subsections:

a. This subsection should present the applicant's statement concerning the level of effort expended in research, development, testing, and engineering programs in the area of light-duty emissions control. This should include all efforts aimed at control of CO, and all other programs dealing with light-duty emission control development which might affect the applicant's CO control program. The statement should include:

1. The overall organizational chart for light-duty emission control activity with an indication of the decision-making process in major areas, for example, selection of the first choice 1981 model year system.

2. The composition of the program(s), presented in sufficient detail to include the number and qualifications of professional personnel assigned to CO or related emission control activity, and the academic or functional disciplines involved, the type(s) and quality of major items of laboratory equipment used (e.g., visible, ultraviolet, and infrared spectrophotometers), and the laboratory and testing facilities used. When equipment, projects, and personnel are partially dedicated to CO or related emission control activities, applicant should indicate the percentage portion of such equipment, projects, and personnel so dedicated.

b. This subsection should contain a detailed expression of the applicant's financial commitment to CO or related emission control research, development, testing, and engineering activities for light-duty vehicles.

1. A project narrative should be completed for each project or particular phase of a project in research, development, testing, and engineering for the years 1969 through 1982 (as applicable). The project narrative should include the following:

A. Project title, number, or designation and date started or planned to start.

B. Project description, including objectives, scope, approach, phase, and status. Phase refers to research, development, engineering, testing, or other areas of the CO or related emission control program. Project status should indicate the percentage completion of the project and which phases of the project have been completed for the project and which phases are pending.

C. Description of the project's relationship to the total effort made to meet the CO or related emission standards for the 1981 model year and relationship to or dependency upon other projects. The descriptions should include whether the project was originated because of the 1977 Amendments to the Clean Air Act, the original objectives of the project if they have changed since inception, the percent of direct cost attributed to the present project objectives, and the basis of the percentage attribution.

2. Direct research, development, testing, and engineering costs should be summarized. These costs should be presented as shown below, by the type of expense and year of expenditure, including projects for each project described in section 4(b)(1) of the application, as discussed above. Financial data presented in this subsection must be consistent with the information in 4(b)(1), and should conform to the applicant's normal accounting year (with designation of the fiscal year end).

The outline below is suggested as the format for reporting the direct costs for each project identified in 4(b)(1).

Project title: ____________________________

Direct project costs

- A. Salaries and wages:
  (1) Professionals.
  (2) Laboratory technicians.
  (3) Other technical and clerical personnel.
- B. Chemical and gases.
- C. Laboratory supplies.
- D. Outside services (identify).
- E. Rental expenses.
- F. Equipment purchases expense.
- G. Depreciation expense.
- H. Other direct costs (identify).
- I. Total direct project costs.

Other information

J. Number of personnel directly assigned to project at end of each year:
   (1) Professionals.
   Full time.
   Part time.
   (2) Laboratory technicians.
   (3) Other technical and clerical personnel.
   If the expense classifications listed above are expanded or contracted, such modifications should be done in a consistent manner. Changes in these classifications should be specifically indicated and explained.

Submit separate schedule indicating costs of buildings and-or equipment purchased and the respective asset life used to calculate depreciation.
3. Applicant should indicate in this subsection all other costs that may be allocated to control projects reported in 4(b)(1). Such costs are to be listed by year of expenditure, including projections through 1982. This subsection should also include a statement of the manufacturer's total annual light-duty vehicle and development costs (actual or projected) for the years 1969 through 1982, and total domestic (U.S.) annual light-duty vehicle sales (actual or projected) for the years 1969 through 1982.

Section 2. In this section the manufacturer should provide all the information regarding the availability of effective control technology, processes, operating methods, or other alternatives taking into consideration costs, driveability, and fuel economy. This information should establish, with respect to the model(s) covered by the application, that the technology necessary to comply with a 3.4-gram-per-mile CO standard (1) is not presently available, (2) cannot be developed and implemented in the time between the submission of the application and the start of 1981 or 1982 model year production, and (3) will not become available during the 1981 or 1982 model year. All the information and data requested in this section should include and emphasize data regarding that configuration of the model, for which a waiver is requested, having the greatest likelihood of meeting the 3.4-gram-per-mile CO standard. The information requested in this section, if provided with sufficient support material and in sufficient detail, will be considered by the Administrator to be the minimum required of the applicant to establish his inability to comply with the standards. An applicant, however, encouraged to submit additional data and information which is necessary to support the request.

The section should be divided into two parts. The first part should present a general discussion of the applicability of the manufacturer's argument as it relates to the topics listed below. The second part should give a detailed presentation, in the format shown below, of the technical information required to make a meaningful assessment of the applicant's argument.

a. General information: 1. What emission control results have been achieved to date for the first choice system and all alternative system considered for compliance in 1981 and 1982 model years.

2. Engineering goals for the emission levels to be achieved by low-mileage engineering prototypes in order to achieve compliance with the emission standards, is including assumptions made to arrive at these goals, factors assumed to allow for production variations, prototype-to-production slip-pages, and deterioration; and change, in production variations assumed to occur by 1981 model year production.

3. Model(s) chosen with the most promising system investigated, including fuel consumption, emissions of currently unregulated pollutants, reduced driveability, other performance penalties, and any safety, structural, durability, development (emission performance, durability, and producibility), production tooling, and vendor problems.

4. Plans for resolving the problems identified in 3, including use of technology developed outside the company or outside the automobile industry, timetable for developing solutions, critical milestones for meeting this timetable, confidence placed in the schedule, areas of greatest uncertainty, probable or possible breakthroughs that would result in a significant reduction in leadtime.

5. Detailed leadtime schedule for model years 1981 and 1982 production, including crucial milestones, commitment and signoff of the requirements of vendors, and specific leadtime schedules for those emission control system components which are most critical. Discussion of how much less leadtime would be required to produce a reduced number of models or nameplates that will comply.

6. The efforts that have been made to identify useful technology developed by other companies.

7. The interim standards which could be met in each of the model years 1981-82 (not to exceed 0.41 HC, 7.0 CO, 1.0 NOx) including the assumptions used to arrive at these attainable levels, emission control system to be used, the extra cost to the car buyer for such a system, and the associated increased annual operating cost. Such interim standards should reflect the greatest degree of emission control achievable by application of available technology.

b. Technical information. Information should be submitted on each and every program, project, or working area that impacts on the overall emission control system development relevant to the waiver application. This should include all programs/projects that are directed toward the development of systems or subsystems to be used in 1981 and 1982 model year emissions control systems as well as the main program, servicing, warranty, and all development associated with the development of systems or subsystems not how actively under consideration for incorporation into 1981 and 1982 model year systems but which at one time were under consideration. Information relevant to the waiver application is necessary even if the program/project was started before the passage of the Clean Air Act Amendments of 1977.

The Administrator will review all data from each of the programs discussed to determine the likelihood that the applicant's systems will be capable of meeting the 3.4 CO standard. A Monte Carlo simulation will be used as part of the analysis methodology applied for each of the demonstration. To assure that this technique may be employed, the applicant should supply all data for both emission data prototypes as well as durability vehicle prototypes. In order that the methodology be properly applied, for each model for which the manufacturer seeks a waiver, variability data must be submitted. The data shall include test-to-test variability data, car-to-car variability data, and DF variability data. All the data, the distributions inherent to the data, and the appropriate standard deviations for the data shall be supplied. The manufacturer's application shall also contain recommendations for the test-to-test, car-to-car, and DF standard deviations to be used in EPA's methodology, along with analyses and rationale that support the recommendations. The treatment of this information in determining the ability of the applicant to meet the 3.4 CO standard will be similar to that described in similar analyses performed in past waiver and suspension considerations (for example, see—In re: Application for Suspension of 1975 Model Year Motor Vehicle Exhaust Emission Standards, Decision of the Administrator on Remand from the United States Court of Appeals for the District of Columbia Circuit, April 1975, Appendix B).

1. Test procedures and emission data format. For maximum usefulness all emission data reported should be taken by the 1975 Federal Test Procedure. If this is not possible, data should be reported in its original form, specifying the appropriate test procedure. The data should then be converted into a test-equivalent (if possible) by the applicant. The intent of such a conversion process should include tests with the same type of emission control systems on similar vehicles using both the non-1975 test procedure and the 1975 test procedure. The explanation of each conversion should include a statistical justification of the conversion factors chosen.

2. Vehicle and test description. The vehicles on which the emission data is presented should be fully identified with respect to the following 20 items:

A. Vehicle Description: Vehicle identification No., marketing name and model, body style, tire type, weight (full fuel tank), and interior weight.
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B. Purpose of Test: Durability, experimental system evaluation, etc.

C. Mileage Accumulation Procedure: A.M.A. driving cycle, company durability cycle (specify cycle and maintenance performed), etc.

D. Emissions Test Procedure: 1975 test procedure. Modular emission data are also considered important, and should also be supplied, if available.

E. Testing Frequency: Planned/actual mileage accumulation between tests.

F. Engine: Displacement, configuration, bore, stroke, combustion chamber type, and compression ratio.

G. Fuel Metering:
   (1) Fuel Injection—Type of injection, manufacturer's model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feedback control characteristics.
   (2) Carburetion—Type, manufacturer's name and model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feedback control characteristics.

H. Aspiration: Naturally aspirated, supercharged, turbocharged, maximum system airflow rate (cfm).

I. Air Cleaner: Air treatment, heat source, modulation procedure, set point temperature, etc.

J. Powertrain: Type—automatic, manual speed, speed, speed, etc.

K. Torque Converter: Size and manufacturer, model No., stall speed, torque multiplication, gear ratios, etc. For automatic transmissions indicate if the shift actuators are controlled conventionally or electronically.

L. Clutch: Type.

M. Transmission: Type, manufacturer, model No., stall speed, torque multiplication, gear ratios, etc. For automatic transmissions indicate if the shift actuators are controlled conventionally or electronically.

N. N/V: Engine speed with transmission in revolutions per minute divided by vehicle speed expressed in miles per hour.


P. Exhaust Gas Aftertreatment Devices: Thermal reactor—type (lean/rich), configuration, materials, internal flow geometry.

   (1) Catalysts—type (reducing, oxidizing, three-way), active material (general) class, loading by noble metals and total weight, per type of metal and of each catalyst material, and the total in troy ounces per vehicle, substrate structure type (monolith/pellet), number of substrate cells per square inch, substrate composition, washcoat composition, total surface area of the washcoat, surface area extrapolated from displacement of the washcoat, catalyst location, shape and size, geometry, manufacturer and manufacturer's identification number, nominal space velocity, and space velocity range.
   (2) Trap Oxidizer—type, configuration, materials, flow geometry.

Q. Electronic controls: Electronic control unit type (analog, digital), parameters sensed (coolant temperature, engine speed, engine position, throttle position, manifold vacuum, humidity, etc.), parameters controlled (air/fuel ratio, ignition timing, EGR rate, choke position, secondary air modulation, etc.), size and amount of program primary storage, relationship between sensed and controlled parameters (equations, graphical representations, etc.), method of programming controller, transducers and actuators used, schematic of electronic control system, effect of power supply voltage variations on control signals, default control logic during failure of any combination of sensors, transducers, and/or actuators.

R. Special System Feature: Any component not shown above which affect the control of emissions.

S. Fuel: Type (gasoline or diesel), all other information required in the application for certification format, as applicable.

T. Engine Lubricant: Brand name, SAE viscosity range, content of sulfur, phosphorous, lead, calcium, etc. Discussion of special additives studied.

U. Date of the test, the driver's full name, the responsible engineer's full name and the project under which this test was performed.

3. Durability testing. Durability testing results are considered important. Durability test data submitted should include at least the following information:
   A. A description of the type of durability schedule. The EPA-A.M.A certification durability schedule is one example. Since this is the schedule from which vehicle deterioration factors are derived for certification purposes, it is considered the most important. It is realized, however, that other durability procedures are considered important to manufacturers. Any available data from so-called "customers service durability" or other schedules, may also be useful. This type of schedule should be clearly identified and described in detail. The reasons for the existence of the test and the way in which the results are used should be identified. If the emissions on these tests (tests other than EPA durability) differ from those on the EPA schedule, the reasons for the differences should be explained.
   B. Data taken on EPA durability tests should be reported at the same mile point, exhaust (approximately 5,000 miles) as on regular certification tests. Any variation from the nominal 5,000 mile increment should be explained.
   C. More than one data point at each mile point is preferred. The deterioration factor should be explained fully as to frequency of testing and number of tests at each mileage interval.

The explanation should include reasons for conducting the emission testing program, so that the rationale for any characteristic of the test program, such as a single test instead of back to back tests, etc., is apparent. If a test is reported to have been terminated, the reasons for the termination should be explained fully for each case in which durability testing was stopped. The precise reason for the termination control, systems durability testing and the number of vehicles usually tested for durability in proving out other systems.

4. Test results. All relevant data resulting from developmental programs and projects should be reported. This includes data from durability, performance, component/subsystem checkout, calibration and optimization testing.

A. Emission Test Results. This information should be presented as indicated in section 5(b)(1) of these guidelines and include in chronological order a record of all system changes, maintenance (including reasons for performing maintenance), and a detailed explanation of reasons for test termination when it occurs. Emission data for the system without its catalysts should also be presented, if available, or if determined by modal test performed both upstream and downstream of the catalyst.

B. Costs:
   (1) The additional cost of meeting the statutory 3.4 grams per mile CO standard versus those costs which would result from testing the applicant's suggested waiver standard will be considered in the Administrator's
determination. Therefore, the applicant should fully describe those cost differences outlined in the following paragraphs.

(2) First Cost:
(a) The cost breakdown should be by major components such as catalysts, EGR valves, air pumps, ECU’s, sensors and/or transducers, and include as separate items such additional hardware as vacuum lines, wiring harnesses, brackets, bolts, pulleys, insulation, shields, and requisite engine and/or vehicle modifications.
(b) The production volume assumed, number of suppliers or vendors, and each supplier’s approximate market share should also be provided.
(c) The method(s) used to estimate the cost to the applicant and the resulting retail price equivalent or “sticker price” such as the expected vendor price times a markup factor should also be described. If such a markup factor is used, the factor should be explicitly stated and a discussion of what influences the level of this factor such as the number of suppliers, component complexity, consumer target market, etc. should also be presented. If the cost to the applicant varies between different suppliers, discuss the extent of such variation relative to the size of the purchasers.
(d) All cost data shall be presented for two cases: Case I: meeting the 3.4 CO standard; Case II: meeting the applicant’s recommended interim standard. The incremental cost difference shall also be determined, both as it affects the applicant and if it affects the initial cost to the consumer or the sticker price.
(e) All costs attributable to meeting Federal fuel economy requirements.

(3) Operating Costs:
This should include expected extra costs to the vehicle owner(s) over the vehicle lifetime (assume 100,000 miles) due to:
(a) Fuel and lubricant cost, specifying the miles per gallon fuel economy assumed for each engine emission control system and a comparison to similar earlier model year vehicles.
(b) Maintenance cost, identifying parts and labor cost separately, providing the estimated partial costs and ratio of estimated parts cost for replacement vs. OEM parts for required maintenance on each major emission control component which results in such costs. Labor costs shall be described using labor hours and hourly rate.

C. Driveability. The Administrator will Consider the effect on driveability which may result by meeting either the statutory 3.4 grams per mile CO standard or the applicant’s suggested waiver standard. In this regard, the applicant should present all available data which indicates that adverse driveability resulting from meeting the statutory 3.4 grams per mile CO standard would lead to increased CO emissions from in-use vehicles due to tampering, maladjustment or similar actions.

To allow a meaningful evaluation of this criterion, the applicant should present all available driveability rating information associated with each engine, control system, transmission, N/V ratio, and vehicle body style combination under consideration for a waiver. The test procedures used by the applicable driveability rating should be fully disclosed, including the applicant’s criteria used to determine if the vehicle provides acceptable driveability.

Since the driveability of vehicles may vary depending upon whether they are prototype developmental vehicles, certification vehicles, running change vehicles, and/or actual production vehicles, the applicant should supply detailed information concerning the driveability of vehicles from previous model year which compares the driveability of prototype developmental certification vehicles, running change vehicles and finally, production vehicles in consumer use. The information required is as follows: The applicant should supply driveability data on all models, beginning with model year 1973, the applicant desires, earlier model years) through data from model year 1978 and data available to date on model year 1979 prototype vehicles. For each model year and for each model, driveability and other data should be provided for the engineering sign off vehicle (assumed to be a prototype), the durability vehicle, the emission data vehicle(s) and all running change vehicles of the same model type. The CO emission data (1975 FTP or emission level for 1987 vehicles) for which each model was designed to meet shall also be provided. In addition for the emission data, durability and running change vehicle, the actual CO data shall be provided.

In addition for each model and model year the applicant should provide all driveability data from production vehicles. This data can be from models introduced and credits for driveability by the manufacturer before sale or subsequent use by the manufacturer, and/or vehicles used in driveability evaluations (e.g., the yearly CRC programs), and/or vehicles that were observed from the field, and tested for driveability by the manufacturers, and/or from warranty and in-use complaint data. With respect to warranty and in-use complaint data, the applicant should provide a summary of all driveability-related warranty and in-use complaint data for each and every model and model year. This summary should specifically identify each and every driveability malperformance area, and the percentage of models affected by each and every driveability problem. Also, the corrective action that was taken and/or recommended by the applicant for each driveability problem should be provided. This comparison will be used as a guide for the Administrator to make projection (as and if necessary) of the driveability performance of vehicles in hands of the public if data from prototype vehicles are all that are available.

Manufacturers may employ a variety of procedures to rate the driveability of their vehicles. It will be of benefit in determining the relative driveability of different programs, tests or differences, therefore, if the manufacturer also supplies parallel sets of driveability ratings performed on the subject vehicles following a commonly accepted procedure such as the CRC rating procedure.

D. Fuel Economy. The Administrator will also consider the effects on fuel economy of requiring that the applicant attain the 3.4 grams per mile CO standard. Therefore, the applicant should present, along with relevant emission data, a comparison of the fuel economy which is estimated to result from the imposition of a 3.4 grams per mile CO standard and the fuel economy which is estimated to result from the imposition of the CO waiver standard for which the applicant is applying. The comparison data should be developed from vehicles whose characteristics that affect fuel economy are as nearly identical as possible and/or from differences, required to meet different CO levels. All vehicle specifications should be fully disclosed as outlined in section 5(b)(2). The data should be developed from the EPA recognized FTP and HWFET procedures.

In addition to actual fuel economy values, the applicant should fully discuss the effect that programs aimed at vehicle weight reduction, vehicle component re-weight reduction, drivetrain improvement, and engine efficiency improvements will have on fuel economy when considered in conjunction with both the 3.4 grams per mile CO standard and the waiver standard recommended by the applicant.

5. Other pollutants—
A. General. All programs, tests or analyses conducted by or for the applicant, or known by the applicant to have been conducted by component suppliers or others, to identify, mitigate, or control the effect of candidate emission control systems on emissions of substances, other than HC, CO, and NOx, should be described. Such descriptions should, at a minimum, identify the organization conducting the study, the types of systems studied, the procedures employed and the types and/or levels or emissions those
procedures were expected to identify, quantify, or control and a general description of the results obtained. Detailed discussions of the results of studies in which effects of systems on such emission were found should be provided in subparagraphs B through D below.

B. Particulates. All relevant data on organic and inorganic particulate emissions should be presented. The test procedure by which the particulate emissions were determined should be described in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

C. Gaseous emissions. All relevant data and information concerning the amount and nature of gaseous emissions (other than HC, CO, NOx, or sulfur oxides) produced by any developmental control system should be presented. The test procedures by which the emissions were determined should be described in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

D. Sulfates. All relevant data and information concerning the amount and nature of sulfate or sulfur oxides emissions should be presented including details on the test conditions, instrumentation, and sampling and analytical methods used. Information regarding the applicant's current activity and results concerning the control of sulfate emissions are especially important and should be provided as follows:

1. A description of each sulfate emission control device or sulfate emission control method explored by the applicant. Describe the device or method in detail, with an explanation of the principle of operation.

2. A list of tests performed by the applicant with sulfate control devices or methods. Describe the vehicle and the control device/method fully, indicate what the test procedure and analysis method were, and give the baseline results and the modified results for sulfate emissions.

3. Assessment of the practicability of controlling sulfate emissions on the vehicle. The practicability of control should be based on the applicant's own test and/or knowledge of vehicle sulfate emissions control.

4. A full description of the level of effort now underway in the area of sulfate emissions control. Note that this includes not only sulfate emissions characterization, i.e., determining how much sulfate emissions are emitted and what factors influence the emission levels, but also the level of effort directly targeted toward developing control of sulfate emissions. Indicate how many engineers and technicians, in man-years of equivalent effort, are now assigned to this area, how much testing and support is being given to this project (for example how many test cells and how much prototype hardware fabrication support is assigned), and what the current plans are for this area (explanation same level of effort, or lower level of effort).

5. A full description of any CO/sulfate relationship that may exist or is claimed to exist for the vehicles for which the applicant desires a waiver. A description of programs undertaken to modify the CO/sulfate relationship to enable acceptable performance for both CO and sulfate to be attained. The Administrator is aware that CO/sulfate "tradeoffs" may be postulated. However, that there is a relationship between CO and sulfate for some systems (e.g., oxidation catalysts with uncontrolled air injection systems) has been known for some time, and it is expected that the existence of, and the effort devoted to improved CO and sulfate control will be evaluated from both the technological feasibility point of view and with respect to the determination under section 202(b)(5)(c)(ii).

Dated: October 4, 1978

MARVIN B. DURNING, Assistant Administrator for Enforcement.

[FRL Doc. 78-28834 Filed 10-12-78; 8:45 am]

[6560-01-M]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Open Meeting

As required by Pub. L. 92-463 notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 a.m., October 30 and 31, 1978, in the Administrator's Conference Room (Room 1101, West Tower), EPA Headquarters, 401 M Street SW., Washington, D.C.

The agenda includes a briefing on the implementation status of the Toxic Substances Control Act; a discussion of alternatives for promoting a greater cooperation of research activities between universities and the Environmental Protection Agency; plans for reviewing the water quality criteria documents for 65 water pollutants; and a discussion of hazardous disposal issues. The meeting is open to the public.

Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Staff Director, Science Advisory Board, 202-755-0263, by close of business October 25, 1978.


RICHARD M. DOWD, Staff Director, Science Advisory Board.

[FRL Doc. 78-28833 Filed 10-12-78; 8:45 am]

[6560-01-M]

NEBRASKA

Implementation of a Federal Plan for Certification of Pesticide Applicators

On December 7, 1977, the U.S. Environmental Protection Agency (EPA) published in the Federal Register proposed regulations (42 FR 61573) specifying the requirements which would apply to applicators of restricted use pesticides under a Federal certification program. A 30-day public comment period ending on January 6, 1978, was provided.

On June 8, 1978, EPA published in the Federal Register (43 FR 24834) final regulations governing "Federal Certification of Pesticide Applicators in States or on Indian Reservations Where There Is No Approved State or Tribal Certification Plan in Effect." These regulations amended 40 CFR Part 171 by adding a new §171.11, and became effective on June 8, 1978. All Federal certification plans implemented by EPA must be consistent with these regulations.

On March 15, 1978, EPA Region VII published a notice of its "Intent to Implement a Federal plan for the Certification of Pesticide Applicators" in Nebraska (Notice of Intent) in the Federal Register (43 FR 10727). This notice summarized the planned certification program and provided a 30-day public comment period ending April 15, 1978. Comments were received from several States and individual changes in the Federal plan have been made in response to these comments and in agreement with 40 CFR 171.11. Significant comments and modifications to the March 15, 1978, proposed plan are discussed below.

Four commenters questioned the need for a Federal certification program, contending that the Nebraska State plan submitted on June 28, 1977, was adequate and should be approved. The Nebraska State plan was disapproved by the Regional Administrator, EPA Region VII, on November 14, 1977, after a long and careful review, which included a public hearing in the State. A Federal Register notice was published on November 25, 1977 (42 FR 60223), discussing the deficiencies in the State plan. Reasons for rejecting the Nebraska State plan were also briefly summarized in the preamble to the March 15, 1977, Notice of Intent. Nothing has since occurred to change
this decision and the Agency's position on this matter remains the same.

Several commenters suggested that the 2-year certification period for commercial applicators under the Federal plan be extended. Some of the commenters argued that the period should be lengthened to 4 years, which would be equal to the certification period for commercial applicators under approved State plans. One commenter requested that a 3-year period be adopted in order to be consistent with the length of certification periods for private applicators under this plan. Two commenters also suggested that the 3-year private applicator certification period established by this plan be extended to 4 years to be consistent with the average period under approved State plans. Similar comments were made to the proposed Federal certification regulations, referenced earlier in this notice, and were rejected. The reasons for these rejections were fully discussed in the preambles to the proposed Federal certification rule (42 FR 61873) and the final rule (43 FR 24834-24835), also referenced earlier. The same reasons justify rejection of this comment to this plan. In addition, the certification periods established in this plan must be, and are, consistent with those established by the Federal certification rule at 40 CFR 171.11(c)(4) and 171.11(d)(2). Several commenters criticized the provision in the proposed plan requiring commercial applicators to renew their certification by passing a written examination. These commenters suggested that completion of an approved training course be allowed as an alternative method of renewal. Similar requests were made in regard to the proposed Federal certification rule and were acted upon by EPA. Accordingly, 40 CFR 171.7(a)(1) was amended to provide for the completion of approved training as a method of renewing commercial applicator certification, and the Federal plan for Nebraska has been amended to reflect this change. However, as stated in the preamble to the Federal certification rule, EPA is not now in a position to provide the training required for renewal of certification. The availability of training will, therefore, be dependent upon the willingness and capability of public or private organizations to develop and offer recertification training programs which can be approved by EPA. Region VII will, on its part, work closely with the Nebraska Cooperative Extension Service (CES), as well as with other training experts, in developing criteria for approving recertification training programs. A memorandum of understanding was signed on August 14, 1978, between EPA, Region VII, and the University of Nebraska Cooperative Extension Service (CES), assigning the responsibility for administering the Nebraska pesticide applicator training program for initial certification and for recertification to the CES.

In addition to the previously described changes in commercial applicator recertification methods, the final Federal plan for Nebraska was modified by adding provisions which require certified commercial and private applicators to complete recertification procedures during the 12-month period preceding the certification expiration date. The purpose of this action is to insure that recertification procedures are not completed so far in advance of certification expiration as to be nonindicative of the applicator's competency at the time his or her certification is renewed. This addition is also required by the final Federal certification rule (40 CFR 171.11(c)(6) and 171.11(d)(3)).

Four commenters criticized the discussion of inspection and investigation procedures in the Notice of Intent. The commenters were apparently confused by the brief summary contained in the Federal Register notice. They seemed to fear that EPA will engage in unauthorized and unreasonable warrantless searches of commercial and private premises, without seeking the consent of the property owner. They also seemed to believe that EPA's inspectors are not sufficiently guided and regulated in the exercise of their duties. Such fears are groundless. The Federal plan itself is described in some detail the procedures inspectors will follow and the limits placed on their authority. This includes a commitment by EPA to seek a warrant or consent before inspecting private premises where pesticides are being applied. Proposed amendments to FIFRA, recently approved by a conference committee, do expressly confirm EPA's interpretation that it has authority to conduct warrantless inspections of the books, records, and business establishments of commercial applicators applying pesticides for hire in States, such as Nebraska, where EPA has primary responsibility for enforcing pesticide use laws. However, such warrantless inspections, and all other inspections in Nebraska, will be conducted consistently with procedures and methods carefully specified in EPA's Pesticides Inspection Manual. These restrictions and guidelines insure that EPA inspectors will continue to act within the bounds of their authority, and will respect the rights of all individuals.

Five commenters suggested that region VII accept as sufficient for Federal certification purposes the Nebraska commercial applicator examinations administered by the Nebraska Department of Agriculture after December 31, 1977, as it has agreed to do for examinations administered during 1977. This was reviewed in the March 15, 1978, Notice of Intent. During 1977, EPA Region VII provided the State department of agriculture with a grant requiring the State to administer a certification program which would meet Federal standards. This grant has expired and has not been renewed. Without such a grant or a formal agreement between EPA Region VII and the Nebraska Department of Agriculture, the State is under no obligation to provide a recertification program that meets the Federal standards. Without such assurances, EPA would need to continually evaluate each State examination to determine whether it meets the minimum Federal standard. Since this agreement was unattainable, State examinations will not be accepted after December 31, 1977. Therefore, region VII rejects this proposal.

Four commenters expressed their opinion that training and examination of commercial applicators should be offered more often and in more locations than are currently planned. Their desire is apparently to make certification more convenient for commercial applicators. EPA has already arranged the most reasonable and convenient examination and training schedules possible within the Agency's budget. Examinations will be arranged this summer, at the Nebraska CES office in Lincoln, Nebr. Examinations will also be offered on a regularly scheduled basis at other locations in the State. Also, the Nebraska CES will offer training semiannually to commercial applicators seeking such training. No revisions are contemplated at this time.

Four commenters asked for clarification as to how a Nebraska reciprocal certification agreement would result in a longer period before expiration. As stated in the Notice of Intent, a Nebraska reciprocal certification will expire 2 years from the date of issuance or upon termination of the reciprocal certification issued by the other State, whichever occurs first. This procedure is designed to facilitate administrative efficiency. Therefore, EPA Region VII believes the Federal plan is adequate as written and does not need further revision.

Five commenters objected to the proposed recordkeeping requirements for commercial applicators on the grounds that the required record contents would exceed those required by regulation as the minimum required under an approved State plan (40 CFR 171.7(b)(1)(iii)(E)). EPA Region VII believes that the recordkeeping requirements are consistent with those established at 40 CFR 171.11(c)(7). Similar comments were made to the proposed Federal certifi-
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47281

The use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. Treated peanut vines or hay may not be used as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of Sclerotinia Blight has occurred; (b) there is no pesticide presently registered and available for use to control this pest in Oklahoma; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 7, 1978, to the extent and in the manner set forth in the applications. This specific exemption is also subject to the following conditions:

1. The Upjohn product, Botran 75W, which contains the active ingredient dichloran (2,6-dichloro-4-nitroaniline), is authorized at a dosage rate of 4 pounds product (3 pounds active ingredient) per acre applied via overhead irrigation systems. Up to 15,000 acres of peanuts located in the counties named above may be treated;

2. A single application per acre per season is authorized;

3. Botran 75W is to be used only after the presence of Sclerotinia Blight is diagnosed in a given area by State Extension personnel;

4. All tall water must be contained when Botran 75W is used in irrigation systems;

5. Growers may apply this pesticide provided pesticide dealers disseminate copies of the proper procedures to be followed in applying Botran 75W under this specific exemption. Agricultural Extension agents, plant pathologists, and peanut specialists shall be available to assist growers;

6. All label precautions, directions, and restrictions must be adhered to;

7. Botran 75W-treated peanut fields must not be grazed nor shall the treated vines be used as a feed item;

8. A pre-harvest interval of 30 days shall be observed;

9. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in
connection with this specific exemption; and

11. A final report, which summarizes the results of this program, must be submitted to the Commission by May 31, 1978. This report shall include, but is not limited to, the following information:

(a) what residues of dichloran occurred in peanuts treated with Botran 75W via irrigation systems; and (b) the degree of control of Sclerotinia Blight achieved by this method of applying Botran 75W.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (68 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)


EDWIN L. JOHNSON,
Deputy Administrator for
Pesticide Programs.

[FR Doc. 78-28832 Filed 10-12-78; 8:45 am]

[FEDERAL REGISTER VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978

1. The Commission has before it for consideration the captioned application and its inquiries into the operation of Station KHOF-TV, San Bernardino, Calif., licensed to Faith Center, Inc.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or remain the licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the Station KHOF-TV license renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. Accordingly, it is ordered, That the captioned application is designated for hearing pursuant to section 309(c) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine all the facts and circumstances surrounding Faith Center, Inc.'s, failure to submit information requested by the Commission in the Commission's letter dated June 15, 1978.

(b) To determine whether Faith Center, Inc., failed to submit information requested by the Commission in the captioned application.

(c) To determine whether in its over-the-air fund-raising broadcasts, Faith Center, Inc., violated, or is in violation of, Title 18, United States Code Section 1343.

4. To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

5. It is further ordered, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a), (b), and (c).

6. It is further ordered, That if it is determined that the hearing record does not warrant an Order denying the captioned application for renewal of license for Station KHOF-TV, it shall also be determined whether the applicant has violated Title 18 U.S.C. 1343. If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $20,000 or some lesser amount, should be issued for any such violations.

7. It is further ordered, That this document constitutes a Notice of Apparent Liability for forfeiture of violation of Title 18 U.S.C. 1343. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that the inclusion of this notice is not to be construed in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

8. It is further ordered, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a), (b), and (c) and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience, and necessity.

9. It is further ordered, That the applicant herein, pursuant to section 1221(c) of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, That the Secretary of the Commission send a copy of this Order by Certified Mail, Return Receipt Requested to Faith Center, Inc., licensee of Station KHOF-TV, San Bernardino, Calif., Federal Communications Commission, William J. Tricario, Secretary.

[FR Doc. 78-28056 Filed 10-12-78; 8:45 am]

[FEDERAL REGISTER VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978

[7612-01-M]

[Federal Communications Commission, William J. Tricario, Secretary.]  


[TRANS REGIONAL AIR AND CITY OF BIG SPRING]  

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Trans Regional Air Big Spring, Tex., and Trans Regional Air Big Spring Municipal Airport, Big Spring, Tex., for an aeronautical advisory station to serve Big Spring Municipal Airport, Big Spring, Tex.

1. The City of Big Spring, Tex. (hereinafter called The City) and Trans Regional Air (hereinafter called Trans Regional) have both filed applications to operate an aeronautical advisory station at Big Spring Municipal Airport, Big Spring, Tex. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. On July 17, 1978, the Commission issued a license to Trans Regional Airlines to operate Aeronautical Advisory Station WQT 4 at the Big Spring Municipal Airport. The City of Big Spring, Tex., in a letter dated July 20, 1978, stated that they never received notice that Trans Regional Air was intent on filing an application for the Aeronautical Advisory Station at Big Spring Municipal Airport. Since § 87.251(b) of our rules requires that each applicant give written notice of their intent to file an application for an aeronautical advisory station to the owner of the landing area and all aviation service organizations on the landing area the authorization to operate Station WQT 4 from July 17, 1978, to July 28, 1978, was set aside on July 28, 1978, pursuant to § 1.113 of our rules.

3. The City filed its application for an aeronautical advisory station on July 28, 1978. This application became mutually exclusive with Trans Regional's application assuming that notice was not, in fact, given to the City by Trans Regional. In this connection Trans Regional maintains that notice was given and the City's position is that it is never received notice. If it is determined in this proceeding that Trans Regional did, in fact, give the City notice then the City would not be entitled to file a competing application under the "cut-off" rules (§ 1.227) and the station authorization (WQT 4) previously granted to Trans Regional and set aside by the Commission should be reinstated nunc pro tunc. On the other hand, if it is determined that notice was not given as alleged by the City then the applications are mutually exclusive and subject to a comparative hearing. Appropriate issues follow to resolve this matter.

4. In view of the foregoing: It is ordered, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

   a. To determine if Trans Regional Air gave the City of Big Spring written notice of their intent to file an application for an Aeronautical Advisory station at Big Spring Municipal Airport as required by § 87.251(b) of our rules, and if not;

   b. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

      (1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

      (2) Hours of operation;

      (3) Personnel available to provide advisory service;

      (4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may or have been authorized to the applicant;

      (5) Ability of applicant to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

      (6) Proposed radio system including control and dispatch points; and

      (7) The availability of the radio facilities to other fixed-base operators.

   c. To determine if Trans Regional's failure to give notice was willful and if so the effect of such conduct on its ability to be a licensee of a Unicom station at Big Spring Municipal Airport;

   d. To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

   4. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issues (a) and (c) where the burdens are on Trans Regional and issue (d) which is conclusive.

   5. It is further ordered, That to avail themselves of an opportunity to be heard, Trans Regional and The City, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CARLOS V. ROBERTS, Chief, Safety and Special Radio Services Bureau.

Federal Home Loan Bank Board

Federal Savings and Loan Advisory Council

Notice of Meeting

October 3, 1978

Pursuant to section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, November 13; Tuesday, November 14; and Wednesday, November 15, 1978. The meeting will commence at 9 a.m. on November 13, 14, and 15 at the Federal Home Loan Bank Board, 1700 G Street NW, Washington, D.C. in the sixth floor Board Room.

Monday, November 13

9 a.m.—General Discussion.

9:20 a.m.—Bank Board Goals.


1 p.m.—Acceptable Collateral for Treasury Tax and Loan Accounts. Appraisal Distribution Regulation and Alternatives Thereof. 30 percent Loans to Owner-Occupied 3-4 Family Units. Mortgage Revenue Bond Issues.


Tuesday, November 14

9 a.m.—Continued discussion of Monday afternoon topics.

1 p.m.—General discussion.

Wednesday, November 15

9 a.m.—General discussion.
NOTICES


Summary: The following agreements constitute the 1978-1981 collective bargaining agreement between the International Longshoremen's & Warehousemen's Union (ILWU) and the Pacific Maritime Association (PMA) concerning ILWU watchmen in San Francisco, Los Angeles and Long Beach, Calif.


By order of the Federal Maritime Commission.


FRANCIS C. HURNEY, Secretary.

[FEDERAL REGISTER, VOL 43, NO. 199—FRIDAY, OCTOBER 13, 1978

SUPPLEMENTARY INFORMATION:

In the Federal Register of March 14, 1978 (43 FR 10552), the Commissioner of Food and Drugs issued a notice of partial confirmation of the proposed effective date and stay of one provision of the final regulation amending the standards of identity (21 CFR 146.185(a)) and quality (21 CFR 146.185(b)) for canned pineapple juice. Based upon an objection and request for a hearing, the effective date of the 13.5° Brix minimum pineapple juice soluble solids requirement for pineapple juice from concentrate in the standard of quality published in the Federal Register of May 26, 1976 (41 FR 21788) was stayed pending a determination of whether a public hearing is necessary to resolve the issue raised by the objection. The Commissioner advised that, pending final resolution of the issue, he would consider pineapple juice from concentrate to be misbranded if the level of pineapple juice soluble solids is not equivalent to that in the single strength pineapple juice from which the concentrate was prepared.

In regard to this advice on the interim requirement, the Pineapple Growers Association of Hawaii (PGAH) submitted a comment stating that the soluble solids of pineapple juice is at a constantly changing Brix as it is being processed into concentrated pineapple juice in a “continuous system.” Consequently, PGAH asserted it is not practical to reconstitute pineapple juice from concentrate to a soluble solids level equivalent to that of the juice from which the concentrate was prepared. PGAH stated that the juice is fed continuously into the evaporator at approximately 100 gallons per minute and, therefore, the Brix of the juice being concentrated is constantly fluctuating. PGAH requested that, in view of the impracticality of the interim requirement, the March 14, 1978 notice be amended by deleting the requirement and establishing in its place a 12.5° Brix minimum soluble solids requirement for “pineapple juice from concentrate” pending the resolution of the issue resulting from the objection. Juice Bowl Products, Inc., the objector to the original 13.5° Brix minimum soluble solids requirement, has advised the Food and Drug Administration that it does not object to the PGAH request.

The Commissioner has considered the request submitted by PGAH regarding the interim soluble solids level for pineapple juice from concentrate. He believes that pineapple juice from concentrate that is not reconstituted to a reasonable approximation of the Brix level of the pineapple juice from which it is made.
He is persuaded that 12.5° Brix minimum pineapple soluble solids level can be considered a reasonable approximation of the Brix level as an interim matter pending a decision on whether a hearing is necessary. Therefore, he modifies the advice provided in the partial confirmation of effective date by advising that pineapple juice from concentrate will not be regarded as misbranded if it has a minimum Brix level of 12.5°. The food should also be labeled in accordance with 21 CFR 146.185(b)(3).


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

[FR Doc. 78-28699 Filed 10-12-78; 8:45 am]

[4110-03-M]

MICROBIOLOGY DEVICES SECTION OF THE IMMUNOLOGY AND MICROBIOLOGY DEVICES PANEL

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Microbiology Devices Section of the Immunology and Microbiology Devices Panel meeting announced by a notice in the Federal Register of September 22, 1978 (43 FR 43068), for October 31, and November 1, 1978, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.


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

[FR Doc. 78-28699 Filed 10-12-78; 8:45 am]

[4110-08-M]

Health Resources Administration

EXPANDED FUNCTION DENTAL AUXILIARY TRAINING GRANTS

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Expanded Function Dental Auxiliary (EFDA) training are now being accepted under authority of section 762 of the Public Health Service Act, Title VII.

Section 762 authorizes the Secretary to make grants to public and non-profit private schools of dentistry, or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants, to meet the cost of projects to: (a) plan, develop and operate or maintain programs for the educational preparation of dental hygienists and dental assistants to be efficient members of the dental health care team, who can perform legally delegated expanded functions under supervision of the dentist. These educational entities shall offer ongoing educational programs which extend for at least one academic year and consist of supervised clinical practice and at least four (4) months (in the aggregate) of classroom instruction and plan to enroll not less than eight (8) students for expanded functions training.

All public and non-profit private schools of dentistry or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants which are accredited by the Commission on Accreditation for Dental and Dental Auxiliary Educational Programs, within the United States, its territories and possessions are eligible to apply.

Based on the proposed appropriation for the FDA program and projected requirements for continuation grants, and estimated $300,000 will be available for competitive grant awards in Fiscal Year 1979.

Requests for application materials and questions about the grants program should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-29, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301-438-6584.

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 30, 1978, and sent to the Grants Management Officer at the above address.

Should additional program information be required, please contact:

Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-30, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301-436-6314.


HENRY A. FOLEY, Administrator, Health Resources Administration.

[FR Doc. 78-29037 Filed 10-12-78; 8:45 am]

[4110-08-M]

National Institutes of Health

ADVISORY COMMITTEES

Filing of Annual Reports

Pursuant to sections 10(d) and 13 of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the annual reports for the com-
NOTICES

Cardiovascular and Pulmonary Study Section.
Cardiovascular and Renal Study Section.
Cell Biology Study Section.
Cellular and Molecular Basis of Disease Review Committee.
Clearinghouse on Environmental Carcinogens.
Clinical Applications and Prevention Advisory Committee.
Clinical Cancer Education Committee.
Clinical Cancer Program Project and Cancer Center Support Review Committee.
Clinical Trials Committee.
Clinical Trials Review Committee.
Combined Modality Committee.
Committee on Cancer Immunobiology.
Committee on Cancer Immunodiagnosis.
Committee on Cancer Immunotherapy.
Communicative Disorders Review Committee.
Communicative Sciences Study Section.
Contraceptive Development Contract Review Committee.
Contraceptive Evaluation Research Contract Review Committee.
Dental Caries Program Advisory Committee.
Dental Research Institutes and Special Programs Advisory Committee.
Developmental Therapeutics Committee.
Diagnostic Research Advisory Group.
Endocrinology Study Section.
Epidemiology and Disease Control Study Section.
Epidemiology Study Section.
Ethical Advisory Board.
Experimental Therapeutics Study Section.
Experimental Virology Study Section.
General Clinical Research Centers Committee.
General Medicine A Study Section.
General Medicine B Study Section.
General Research Support Program Advisory Committee.
Genetics Study Section.
Heart, Lung, and Blood Research Review Committee A.
Heart, Lung, and Blood Research Review Committee B.
Hematology Study Section.
Human Development Study Section.
Human Embryology and Development Study Section.
Immunobiology Study Section.
Immunology Study Section.
Large Bowel and Pancreatic Cancer Review Committee.
Lipid Metabolism Advisory Committee.
Mammalian Cell Lines Committee.
Maternal and Child Health Research Committee.
Medicinal Chemistry A Study Section.
Mental Retardation Research Committee.
Metabolism Study Section.
Microbial Chemistry Study Section.
Microbiology and Infectious Diseases Advisory Committee.
Minority Access to Research Careers Review Committee.
Molecular Biology Study Section.
Molecular Cytology Study Section.
National Advisory Allergy and Infectious Diseases Council.
National Advisory Child Health and Human Development Council.
National Advisory Council on Aging.
National Advisory Dental Research Council.
National Advisory Environmental Health Sciences Council.
National Advisory Eye Council.
National Advisory General Medical Sciences Council.
National Advisory Neurological and Communicative Disorders and Stroke Council.
National Advisory Research Resources Council.
National Arthritis Advisory Board.
National Arthritis, Metabolism, and Digestive Diseases Advisory Council.
National Cancer Advisory Board.
National Commission on Digestive Diseases.
National Diabetes Advisory Board.
National Heart, Lung, and Blood Advisory Council.
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee.
Neurological Disorders Program—Project Review A Committee.
Neurological Disorders Program—Project Review B Committee.
Neurological Sciences Study Section.
Neurology A Study Section.
Neurology B Study Section.
Nutrition Study Section.
Oral Biology and Medicine Study Section.
Pathobiological Chemistry Study Section.
Pathology A Study Section.
Pathology B Study Section.
Pediatric Diseases Advisory Committee.
Pharmacology Study Section.
Pharmacology-Toxicology Research Program Committee.
Physiological Chemistry Study Section.
Physiology Study Section.
Population Research Committee.
President's Cancer Panel.
Primate Research Centers Advisory Committee.
Pulmonary Diseases Advisory Committee.
Radiation Study Section.
Recombinant DNA Molecule Program Advisory Committee.
Reproductive Biology Study Section.
Research Manpower Review Committee.
Sickle Cell Disease Advisory Committee.
Social Sciences and Population Study Section.
Surgery and Bioengineering Study Section.
Surgery, Anesthesiology and Trauma Study Section.
Toxicology Study Section.
Transplantation Biology and Immunology Committee.
Tropical Medicine and Parasitology Study Section.
Virology Study Section.
Virus Cancer Program Scientific Review Committee.
Vision Research Program Committee.
Visual Sciences A Study Section.
Visual Sciences B Study Section.


THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28770 Filed 10-12-78; 8:45 am]

[4110-08-M]

ANIMAL RESOURCES ADVISORY COMMITTEE AND PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the
The National Institutes of Health announces the merger on September 2, 1978, by the Secretary, HEW, with the concurrence of the Committee Management Secretariat, of the Animal Resources Advisory Committee and the Primate Research Centers Advisory Committee, and the renewal of these committees as one under the new title of the Animal Resources Review Committee.

Authority for the above committee will expire on March 2, 1979, unless the Secretary formally determines that continuance is in the public interest.


THOMAS E. MALONE, Acting Director, NIH.

[FED Register Doc. 78-28771 Filed 10-12-78; 8:45 am]

BOARDS OF SCIENTIFIC COUNSELORS, NIH

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, November 13, 1978, in Building 31, room 2A-52. This meeting will open to the public from 9 a.m. to 3 p.m. on November 13 for the review of the NICHD Intramural Research Programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3 p.m. to adjournment on November 13 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, room 2A-04, National Institutes of Health, Bethesda, Md., area code 301, 496-1848, will provide summaries of the meeting and a roster of Board members.


SUZANNE L. FREEMAN, Committee Management Officer, NIH.

[FED Register Doc. 78-28769 Filed 10-12-78; 8:45 am]

CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Cancellation and Rescheduling of Subgroup Meetings

Notice is hereby given of the cancellation and rescheduling of meetings of Subgroups of the Clearinghouse on Environmental Carcinogens which were published in the Federal Register on September 5, 1978 (43 FR 39431). The October 25, 1978 meeting of the Experimental Design Subgroup has been cancelled. The meeting of the Data Evaluation/Risk Assessment Subgroup, scheduled for October 26, 1978, will now meet on October 25, 1978, at the Holiday Inn of Bethesda, 8110 Wisconsin Avenue, Bethesda, Md., 20014. The meeting will be open to the public from 9 a.m. to adjournment. Attendance will be limited to space available. For further information, please contact Dr. James A. Sontag, Executive Secretary, Building 31, room 3A16, National Institutes of Health, Bethesda, Md. 20014, 301-496-5188.


SUZANNE L. FREEMAN, Committee Management Officer, NIH.

[FED Register Doc. 78-28765 Filed 10-12-78; 8:45 am]
GRANT APPLICATIONS
Notice of Meetings for Review

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(c)(6) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014. Phone: 301-496-9708 will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee).

Dates: November 16, 1978; 8:30 a.m.
Place: Linden Hill Hotel, Terrace Room, 5400 Foks Hill Road, Bethesda, Md. 20014.
Times: Open—November 16, 8:30 a.m. to 10 a.m. Closed—November 16, 10 a.m. to adjournment.
Closure Reason: To review research grant applications.

Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, room 803, National Institutes of Health. Phone: 301-496-7721.

(Catalog of Federal Domestic Assistance No. 13.395 National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Prostatic Sub-committee).

Dates: November 17, 1978; 8 a.m.
Place: Holiday Inn (Pennsylvania Conference Room), 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open—November 17, 8 a.m. to 9 a.m. Closed—November 17, 9 a.m. to adjournment.
Closure Reason: To review research grant applications.

Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, room 803, National Institutes of Health. Phone: 301-496-7721.

(Catalog of Federal Domestic Assistance No. 13.395 National Institutes of Health.)

NOTICES


SUZANNE L. FREEMAN, Committee Management Officer, NII.

Name -of Committee: Clinical Cancer Program Project and Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee).

Dated: November 16, 1978; 8:30 a.m.
Place: Westwood Building, room 553, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance No. 13.395 National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.

Dated: November 7, 1978; 8 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open—November 7, 8 a.m. to 10 a.m. Closed—November 7, 10 a.m. to 12:30 p.m.

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board and the President’s Cancer Panel, November 20-21, 1978, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to 12:30 a.m. Agenda items include presentations and discussions of the programs of the Division of Cancer Treatment and the Division of Cancer Biology and Diagnosis, NCI; a report on training (Pathobiology Workshop); immunoprevention; and the NCI Science Content Analysis System. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-7721 will provide summaries of the meeting, substantive program information, and rosters of Board and Panel members.


SUZANNE L. FREEMAN, Committee Management Officer, National Institute of Health.

NATIONAL CANCER ADVISORY BOARD AND PRESIDENT’S CANCER PANEL
Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board and the President’s Cancer Panel, November 20-21, 1978, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to 12:30 p.m.

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Director, National Institutes of Health, announces the renewal by the Director, NCI, of the following committees:

COMMITTEE AND TERMINATION DATE
Cancer Control and Rehabilitation Advisory Committee, September 22, 1980.
Clinical Cancer Education Committee, September 22, 1980.
Cancer Control Community Activities Review Committee (renamed Cancer Control Merit Review Committee), September 22, 1980.

Authority for these committees will expire on the dates indicated, unless renewed by appropriate action as authorized by law.


THOMAS E. MALONE, Acting Director, NIH.

RECOMBINANT DNA ADVISORY COMMITTEE
Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Md. 20014, on October 30-31, 1978, from 9 a.m. to 5 p.m.

The entire meeting will be open to the public for consideration of:

Organisms that exchange genetic information.
Review of protocols for required containment levels.
 Requests for lowering of containment levels on the basis of characterization of clones. Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available. Dr. William J. Garfand, Executive Secretary, Re-combinant DNA Advisory Committee, National Institutes of Health, Building 31, room 4A62, telephone 301-496-6081, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

Suzanne L. Freneau,
Committee Management Officer, NIH.

Notice of Meeting:

Place: Room 10A21, National Institutes of Health, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

Notice of Meeting:

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1978:

Name: Technical consultant Panel on the Health Interview Survey of the U.S. National Committee on Vital and Health Statistics

Date and Time: October 24-25, 1978: 9 am.

Open for entire meeting.

Purpose: The Technical consultant Panel on the Health Interview Survey is to examine the Health Interview Survey in order to assess whether it is meeting its goal in particular areas of data collection and analysis.

Agenda: The Technical Consultant Panel will discuss the following agenda items: (1) Draft outline of the final report on recommendations of the TCP regarding the Health Interview Survey; (2) Items of concern to OMB and other issues not specifically addressed in the draft final report including: (a) timely periodicity of data; and (c) coordination and/or
consolidation of the Health Interview Survey with Health and Nutrition Examination Survey (HANES).

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Date: October 4, 1978.

WAYNE RICHET, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 90-84, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of Older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-580, 42 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on October 26 and 27, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The Agenda will consist of a report from the Executive Committee of the Council on priorities and resources needed for Council work in fiscal year 1979. Up-dated reports will be given by the Committee on Senior Services, the Committee on Special Aging Populations, the Committee on Policy Development and Program Evaluation; and the Committee on Health, Education, and Welfare. The Council will also further review and discuss the requirements of the new AOA legislation that have Council implications. Finally, the Council will consider additional plans for carrying out assigned responsibilities in program review and initiation in the field of aging.

Further information on the Council may be obtained from the FCA Secretary, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0411. FCA meetings are open for public observation.


NELSON H. CRUZSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 78-29031 Filed 10-12-78; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Human Development Services
Federal Council on the Aging

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 90-84, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of Older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-580, 42 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on October 26 and 27, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The Agenda will consist of a report from the Executive Committee of the Council on priorities and resources needed for Council work in fiscal year 1979. Up-dated reports will be given by the Committee on Senior Services, the Committee on Special Aging Populations, the Committee on Policy Development and Program Evaluation; and the Committee on Health, Education, and Welfare. The Council will also further review and discuss the requirements of the new AOA legislation that have Council implications. Finally, the Council will consider additional plans for carrying out assigned responsibilities in program review and initiation in the field of aging.

Further information on the Council may be obtained from the FCA Secretary, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0411. FCA meetings are open for public observation.


NELSON H. CRUZSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 78-29031 Filed 10-12-78; 8:45 am]

Office of the Secretary
OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to reflect several changes in the organization of the Office of Education. The major emphasis is the creation of two Executive Deputy Commissioners, one for Educational programs and the other for Management, Budget, and Evaluation, to whom the Commissioner of Education will delegate the responsibility for day-by-day operation of the Office of Education.

The specific changes are as follows:

1. The Bureau of Postsecondary Education is retitled the Bureau of Higher and Continuing Education and its functional statement published at 39 FR 14739 (April 26, 1974) is deleted and replaced by the following:

   "The Bureau of Higher and Continuing Education formulates policy for, directs and coordinates activities of the elements of the Office of Education which deal with programs for assistance to postsecondary educational institutions, students and international education."

2. The title and statement for the Division of Education Replication, Bureau of Elementary and Secondary Education, published at 41 FR 31931 (July 30, 1976), are deleted in their entirety.


4. The following title and statement are to be added immediately after the title and statement for the Division of International Education, Bureau of Higher and Continuing Education:

   "Division of Educational Systems Development. (EEFR). Administers programs of financial support: To institutions of higher education, States, and local educational agencies for demonstration projects designed to reduce the number of elementary and secondary school dropouts; and to Teacher Centers where elementary and secondary teachers may develop curriculum and receive training to improve their skills. Provides professional advice and developmental assistance to the education community on strategies for dropout prevention and the reform of training programs for the education profession."

5. The title and statement for the Office of Planning, published at 38 FR 32154 (November 21, 1973), are deleted in their entirety.

6. The title of the Office of Planning, Budgeting, and Evaluation is changed to the Office of Evaluation and Dissemination and the functional statement published at 40 FR 52857 (November 11, 1975) is deleted and replaced by the following:

   The Office of Evaluation and Dissemination has responsibility for evaluating the effectiveness of Office of Education programs and coordinating the dissemination of data to state and local education agencies.

   Designs, directs the conduct of, and reports the results from, national evaluations of Office of Education programs, following appropriate procedures, with the dissemination of data to state and local education agencies.

   Conducts historical studies of the Office of Education and administers the OE oral history project.

7. The title and statement for the Division of Planning and Budgeting, published at 40 FR 52857 (November 11, 1975), are deleted in their entirety.

8. The following title and statement are added immediately after the title and statement for the Division of Occupational, Handicapped, and Developmental Education programs, Office of Evaluation and Dissemination:

   Division of Educational Replication. (EEFR). Administers programs of financial support: To institutions of higher education, States, and local educational agencies for demonstration projects designed to reduce the number of elementary and secondary school dropouts; and to Teacher Centers where elementary and secondary teachers may develop curriculum and receive training to improve their skills. Provides professional advice and developmental assistance to the education community on strategies for dropout prevention and the reform of training programs for the education profession.
Provides leadership to long-range planning, budgeting, and evaluation of the Office of Education, the Office of the Assistant Secretary for Education, the Office of the Secretary, the Office of Management and Budget, and in cooperation with appropriate HEW staff, the

Appropriations and Budget Committees of the Congress, implements major planning and budgetary decisions including the assurance that program budgets are congruent with overall agency goals, objectives and priorities. Develops analysis of program issues and integrates policy analyses with budget proposals. Receives all funds appropriated or transferred to the Office of Education and issues allotments and limitations to the subdivisions of the Office. Administers the antideficiency regulations.

DIVISION OF AUDITS AND APPEALS (EEEC)

Responsible for coordination of audit matters between Office of Education operating units and audit organizations. Assists OE units in the timely and appropriate disposition of audit reports. Assists OE and client organizations in identifying ways in which management improvements can be made to avoid future audit problems. Provides administrative support for the Office of Education Hearing Board which provides due process for educational agencies and institutions contesting adverse findings by Federal fiscal and education program officials.

DIVISION OF REGULATIONS MANAGEMENT (EEER)

Insures by establishing policies and standards and by providing guidance and interpretations and monitoring and evaluations, that the Agency is effectively developing regulatory documents necessary for operations within the requirements of law. Develops policies, systems, methods, and procedures for the development and processing of regulatory documents of the Agency. Serves as the Agency monitor and coordination point for compliance activities as required. Administering Administrative Procedures Act of 1946 and Section 431, General Education Provisions Act including the schedule of dates for the publication of regulations. Insures that all regulatory documents conform to Agency policies, Department requirements, and the requirements of the Office of the Federal Register, the Advisory Commission on Intergovernmental Relations and the Office of Management and Budget.

RST RESOLUTION No. 77-111

Whereas the Rosebud Sioux Tribe has presently in effect its tribal law and order code chapters 17, 18, 19, 20, 21, 22, and 23 dealing generally with liquor sales on the Rosebud Indian Reservation, which chapters correspond to and are identical with chapter I, II, III, IV, V, VI, and VII of tribal liquor control ordinance No. RB74-20. Whereas the Rosebud Sioux Tribal Council is of the opinion that liquor licenses should be issued to persons and/or corporations other than the
Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas there are some questions as to whether or not the present tribal law and order code within the aforesaid chapters would allow licenses to issue other than to the Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas liquor sales on the Rosebud Indian Reservation are being made without any regulations by the Rosebud Sioux Tribe;

Whereas those selling liquor on the Rosebud Sioux OPI Indian Reservation should be required to carry insurance to pay those persons harmed by intoxicated persons.

Therefore, it is resolved, that the Rosebud Sioux Tribal Council repeals chapter 17 of the Rosebud Sioux Tribal Law and Order Code entitled "Alcoholic Beverages" and enacts in lieu thereof chapter 17 entitled "Alcoholic Beverages" which is attached hereto and incorporated herein as if specifically set out.

It is further resolved, that chapter 19 of the Rosebud Sioux Tribal Law and Order Code entitled "Local Option and Community Involvement" is repealed.

It is further resolved, that chapter 19 of the Rosebud Sioux Tribal Law and Order Code entitled "Local Option and Community Involvement" is repealed.

It is further resolved, that chapters 20 and 21 of the Rosebud Sioux Tribal Law and Order Code entitled "Low Point Beer" and "Sales Tax" are repealed.

It is further resolved, that chapters 22 and 23 of the Rosebud Sioux Tribal Law and Order Code entitled, respectively, "Age Requirements," and "Profits, Repealing, and Amendment," shall remain in effect as previously enacted.

Certification

This is to certify that the above resolution 77-111 was duly passed by the Rosebud Sioux Tribal Council by a vote of twenty-two (22) in favor, five (5) opposed, and four (4) not voting. The said resolution was adopted pursuant to authority vested in the council. A quorum was present at the meeting conducted on December 16, 1977.

Ed Driving Hawk, President, Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary, Rosebud Sioux Tribe.
11. The commission may adopt and promulgate, with the approval of the tribal council, such rules and regulations that are necessary to carry out the provisions.

12. The Rosebud Sioux Tribal Council shall, when it deems advisable to do so, direct the tribal liquor commission to establish and maintain anywhere on the Rosebud Sioux Indian Reservation a tribal liquor store or stores for the sale of alcoholic beverages in accordance with provisions of this ordinance. The commission may, from time to time, fix the prices of the different classes, varietals, or brands of alcoholic liquor and low-point beer to be sold.

13. In directing the Rosebud Sioux Tribal Liquor Commission to operate a liquor store within a particular geographical area, the Rosebud Sioux Tribal Council shall indicate whether or not any other liquor stores shall be permitted to operate in the same area. If other licenses are not permitted, no old licenses shall be granted for that area.

14. Upon the granting of an application for a license by the Rosebud Sioux Tribe, all similar licenses existing in that area, shall terminate 30 days thereafter. No similar licenses shall be granted thereafter for that area unless the Rosebud Sioux Tribal Council specifically permits.

15. The Rosebud Sioux Tribe shall acquire the stock, equipment, and fixtures from any licensee whose license has been terminated by reason of the tribal monopoly, such acquisition to be by purchase, condemnation, or arbitration.

16. In the conduct and management of tribal liquor stores the Commission is empowered to employ a person who shall be under the direct supervision of the Director, and who shall observe all provisions of this ordinance. The Commission shall be authorized to make, and rules and regulations that may be prescribed by the Commission under this ordinance.

17. There shall be charged a filing fee of $300 for an application for a class A license, $250 for a class B license, and $125 for a class C license.

18. No license for a class A, B, or C license, as the same are defined and classified under the provisions of this ordinance shall be granted to an applicant for any such license, except after public hearing, upon notice, as provided hereinafter in this chapter. The Commission shall make findings of fact in either rejecting or granting the application.

20. The Commission shall fix the time and place for hearing upon any such application as to allow such person a reasonable opportunity to offer such evidence as he may desire.

21. No license granted pursuant to the provisions of this ordinance shall be transferred. If a transfer to a new location is requested by a licensee, the licensees shall make application showing all the relevant facts as to such new location, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location, however, such licensee must pay the actual costs involved in the notification of hearing as published in the official newspaper.

22. Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in liquor at the time of termination to any licensee under the provisions of this ordinance. A complete report of such
purchase and sale must be made by both the purchaser and licensee to the Commission. At the discretion of the Commission, an additional twenty (20) days extension to sell may be granted, to the licensee by the Commission.

23. Any person may file with the Commission a duly notarized complaint as to any violations of the provisions of this ordinance and immediately upon receipt thereof, the Commission shall cause the Director to make a thorough investigation and if there is evidence to support the charge made in such complaint, the Commission must cause a revocation of the license in question and/or take other appropriate action.

24. The Commission shall upon complaint or its own motion, on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked.

25. For the purpose of conducting the hearing as prescribed above, the Commission shall have the power to subpoena witnesses and to administer oaths. Witnesses so subpoenaed shall be paid to the then prevailing witness rate for the Rosebud Sioux Tribal Court. Criminal proceedings must be filed in tribal court and may be instituted by the Commission or Director as complainant against any violator.

26. If the Commission determines the license should not be revoked, it shall dismiss the complaint. If the Commission determines the license should be revoked, and revokes such license, it must, in addition, by the time of the next Tribal Council meeting, make a report to the Tribal Council.

27. The Commission may, if the facts warrant, mitigate the revocation to a suspension. When in any proceeding upon a verified complaint, the Commission is satisfied that the nature of such violation and the circumstances thereof are such that a suspension of the license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective 24 hours after service of notice thereof upon the licensee. During the period of such suspension such licensee shall exercise no rights or privileges whatsoever under the license.

28. All hearings under the provisions of this ordinance shall be public and place of hearing shall be specifically designated in the notice of hearing. It shall be permissible, when due notice has been given, for the Commission to hold hearings in the community hall of the community wherein the license is operative.

29. In any case where the Commission approves the revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee all of such licensee’s rights under such license shall terminate three (3) days after such notice, except in the event of a stay on appeal.

30. Any licensee, except the Rosebud Sioux Tribe, whose license is revoked shall not for a period of (2) years thereafter be granted any license under the provisions of this ordinance.

31. Any licensee whose license is revoked by the Commission regardless of how the proceedings were instituted may appeal from such revocation to the Rosebud Sioux Tribal Court within five (5) days after notice to the licensee of such revocation, and such appeal operates to stay all proceedings for a period of fifteen (15) days, and for such an additional period of time that the Rosebud Sioux Tribal Court may in its discretion extend. Under no circumstances may the tribal court extend the stay for a period of more than twenty (20) days including the original fifteen (15) days stay period. The Commission shall forthwith, upon such appeal being made, certify to the tribal court a complete record in the proceedings and the court shall hear the case at a time and place for hearing and notice of which hearing shall be given to all concerned parties involved in the appeal. For the purpose of appeal under this ordinance, the appeal shall be heard by all duly-qualified and selected judges of the Rosebud Sioux Tribal Court sitting as one body.

32. Upon appeal the tribal court judges shall review the record as certified by the Commission and shall then immediately during that court date enter an order either affirming or reversing the decision revoking such license. In reaching its determination the tribal court judges shall not hear any testimony, but shall examine the record as certified by the commission as to whether it disclosed evidence of any violation of law or rules or regulations charged in the complaint, and if the certified record so disclosed a violation of law, the court is bound to affirm the decision of the Commission. An appeal will be denied unless a clear majority of the tribal judges sitting on the appeal vote for reversal. In the event of a tie, the actions of the Commission shall be affirmed and the license revoked.

33. Any person who, by himself, or through another acting for him shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or low-point beer with the intent to sell of dispense of such liquor or low-points beer or otherwise in violation of law, or who shall, within this reservation in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or low-point beer in violation of law, or aid in the purchase, delivery, or distribution of any alcoholic liquor or low-point beer to any person under legal age for any purpose except as authorized and permitted in this ordinance, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than $300 nor more than $500 and to a jall sentence of not less than three (3) months nor more than six (6) months or both such fine and jall sentence plus costs.

34. Any person violating any provision of this ordinance for which a specific penalty is not provided shall be punished by a fine of not less than $150 nor more than $500 or by imprisonment in the Tribal Jail for not more than six (6) months, or by both such fine and imprisonment plus costs.

35. Terms used in this ordinance, unless the context otherwise plainly requires, shall mean as follows:

   (1) Alcoholic beverages—any intoxicating liquor, low-point beer or any wine.

   (2) Application—a formal written request for the issuance of a license supported by a verified statement of facts.

   (3) Foreign corporation—any corporation not incorporated under the laws of the Rosebud Sioux Tribe.

   (4) Immediate family—shall mean and include as defined under both the Anglo-American and Lakota systems of jurisprudence but is not limited to, the following relationships: grandparents, parents, spouses, sons, daughters, grandchildren, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, aunts, uncles, and cousins, in addition to all lineal and collateral relatives whether in the whole or half blood or adopted.

   (5) Low-point beer—any liquid commonly used or reasonably adapted to use for beverage purposes and which is produced wholly or in part from brewing of any grain or grains or malt substitute, and which contains any alcohol whatsoever but no more than three and two-tenths per centum of alcohol by weight.

   (6) Low-point license—authority to sell only low-point beer.

   (7) On sale—the selling of any alcoholic beverages for consumption on the premises where sold.

   (8) On sale license—authority to sell alcoholic beverage for consumption on the premises where sold.

   (9) Package dealer—any person or corporation that sells or keeps for sale any alcoholic beverage for consumption off the premises where sold.
(10) Package dealer license—authority to sell any alcoholic beverage off the premises.

(11) Public place—shall mean any place, building or conveyance to which the public has or is permitted access.

(12) Sale—the transfer, for consideration, of title to any alcoholic beverage.

(13) Wine—any beverage containing alcohol obtained by the fermentation of natural sugar contents of fruits or other agricultural products.

Chapter 18—Local Option and Community Involvement

Repealed.

Chapter 19—Liquor Licenses and Sales

1. The power to establish categories of licenses and levy taxes with respect to the sale of alcoholic beverages is vested exclusively with the Rosebud Sioux Tribal Council.

2. Classes of licenses under this chapter, with the fee for each class, shall be as follows:
   (a) Class A—Package dealer—$2,500.
   (b) Class B—On sale—$1,500.
   (c) Class C—Low point—$750.

3. In accepting or rejecting a request for a liquor license, the Tribal Liquor Commission shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

4. Any corporation seeking a license for the sale of liquor must be a corporation organized under the laws of the Rosebud Sioux Tribe and the United States concerning doing business within the Rosebud Reservation. Both corporations and individuals, prior to making application for a liquor license, must have secured an Indian traders license.

5. Any license issued must be in the name of one person only.

6. Applications for licenses under this chapter shall be submitted to the Tribal Liquor Commission as specified and established. The commission shall have absolute discretion to approve or disapprove the same in accordance with the provisions governing its administration.

7. Every application for a license, unless adopted by the Tribal Council for good reason, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license. Said bond shall be in the amount of $10,000 and must be on a form approved by the Tribal Liquor Commission. It shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Rosebud Sioux Tribe when due all taxes and license fees payable by it under the provisions of this ordinance and any costs assessed against it in any judgment for violation of the terms of this ordinance. All bonds required by this ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

8. Every application for a license must be accompanied by a policy of insurance indicating that the insurance company will promptly pay all sums, not exceeding $100,000 per person, which the applicant shall become legally obligated to pay as damages because of bodily injury, property damage, or death proximately caused to himself or others by any person who becomes intoxicated by the consumption of alcohol sold by the applicant.

9. Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this ordinance shall have a direct right of action upon the bond in tribal court, for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the person injured. Any person suffering bodily injury, property damage, or death proximately caused by any person intoxicated by the consumption of alcohol sold by the applicant shall have a cause of action against the applicant for such damage sustained.

10. Every application for a license under this ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws of the Rosebud Sioux Tribe, shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Liquor Commission or a duly appointed tribal or Federal police officer, be open to inspection, and that all its books and records dealing with the sale or ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license therefore constitute a contract between the licensee and the Rosebud Sioux Tribe entitling the Tribal Liquor Commission, for the purpose of enforcing the provisions of this ordinance, to inspect the premises and books at any time.

11. The period covered by licenses under this ordinance shall be for the period of one year from the date that the license was first issued.

12. All provisions of this ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Rosebud Sioux Indian Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

13. No licensee under this ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

14. No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this ordinance or refill any such package.

15. No licensee shall sell any alcoholic liquor to:
   (a) Any person under the age of 19 years
   (b) Any person who is intoxicated at the time or who is known to the licensee or his help to be a habitual drunkard
   (c) Any person to whom the licensee has been requested in writing not to make any sale of alcoholic liquor, where such request is by the tribal court or the husband or wife of the person
   (d) Any mentally ill or mentally retarded person.

16. No licensee shall permit any person under the age of 19 years on the premises covered by the license.

17. No licensee shall sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license.

18. No licensee shall allow any gambling devices on its premises or permit any lewd or indecent entertainment on said premises.

19. No fighting shall be allowed on the premises covered by the license.

20. All sales of alcoholic liquor shall be for cash only. No license shall engage in any pawn business of any kind.

21. No license of an on-sale establishment shall allow to be sold any alcoholic beverages in a package, whether scaled or unsealed, or whether full or partially full. Licensee herein includes low-point beer.

22. No license of a package establishment shall be allowed to be consumed on the premises covered by the license any alcoholic beverages.

23. No licensee shall sell liquor within 500 feet of any elementary or secondary educational institution.
CHAPTER 20—LOW-POINT BEER
Repealed.

CHAPTER 21—SALES TAX
Repealed.

CHAPTER 22—AGE REQUIREMENTS
1. Furnishing beverages to child. It shall be unlawful to sell or give any alcoholic beverage, except low-point beer, to any person under the age of 21 years, or sell or give to any person under the age of 19 years any low-point beer. Any person who violates this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 180 days, or by both such fine and imprisonment with costs.

2. Purchase, possession by minor. It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase or possess, consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for a period not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

3. Purchase or possession of low-point beer. It shall be unlawful for any person under the age of 19 years to purchase, attempt to purchase, possess, consume low-point beer, or to misrepresent his age for the purpose of purchasing or attempting to purchase low-point beer. Any person who violates the provisions of this section shall be guilty of an offense and upon conviction shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

4. Evidence of legal age demanded. Upon attempt to purchase any alcoholic beverages in any tribal or community liquor store by any person who appears to the vendor to be under legal age, such vendor shall demand and the prospective purchaser upon such demand shall display satisfactory evidence that he is of legal age. Any person under legal age who represents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in section 3 above.

NOTICES
CHAPTER 23—PROFITS, REPEALING, AND AMENDMENTS
1. Profits from all liquor restricted. The expenditures of the Tribal Council of all profits realized by the Rosebud Sioux Tribe under the provisions of this ordinance shall be limited to the following in order of priority:
   (1) Programs designed to care and provide for the elderly members of the Rosebud Sioux Tribe, provided that such expenditures shall be supplemental to any funds now provided by the Federal Government or by any entity created hereunder or by the Rosebud Sioux Tribal Council.
   (2) Programs designed to upgrade programs to care for the elderly members of the Rosebud Sioux Tribal Council.
   (3) Programs designed for community development.

2. Severability. If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter and ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

3. All prior ordinances and resolutions repealed. All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

4. Amendment or repeal of ordinance. This ordinance may be amended or repealed only by a three-fourths vote of the Tribal Council in regular session.

5. Applicable law. All acts and transactions under authority of any liquor license issued pursuant to this ordinance shall be in conformity with the laws of the State of South Dakota and shall also be in conformity with this ordinance and the tribal license issued.

6. Disclaimer. Nothing set forth in this ordinance shall be construed to authorize criminal jurisdiction by any entity created hereunder or by the Rosebud Sioux Tribal Court over any non-Indian for any violation of any provision of this ordinance.

CERTIFICATION
It is hereby certified that the Rosebud Sioux Tribal Council is the governing body of the Rosebud Indian Reservation of South Dakota composed of 39 members, of which 30 members were present at a regular meeting held on December 16, 1977, when the foregoing ordinance was adopted by the affirmative vote of 22 in favor, 3 opposed, and 3 not voting, and of which 24 members were present at a regular meeting held on June 29, 1978, when the foregoing ordinance as amended was adopted by the affirmative vote of 24 in favor, none opposed, and none not voting.

Edward Driving Hawk,
President
Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary,
Rosebud Sioux Tribe.

Bureau of Land Management
[Group 590]

CALIFORNIA
Notice of Filing of Plat of Survey

October 6, 1978.

1. A plat of survey of the following described land, accepted August 7, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 21, 1978:

Mount Diablo Meridian, California
T. 22 N., R. 4 E., Sec. 2, lots 13, 14, 15, and 16; Sec. 36, lots 1 and 2; Sec. 39, lots 1 and 2.
The area described totals 386.76 acres.
The plat represents a dependent resurvey of a portion of the north and east boundaries, a portion of the subdivisional lines and a survey of a portion of the subdivision of section 2 and of the hiatus sections 38 and 39.

2. This survey was executed at the request of the U.S. Forest Service.

3. The above-described lands are within the Lassen National Forest, and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey.

Herman J. Lyttle,
Chief, Branch of Records
and Data Management.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
December 4, Sacramento, Resources Auditorium, 1416 Ninth Street.

NOTICES

December 5, Needles, City Council Chamber, 1111 Bailey Street.
December 6, Los Angeles, Supervisors Hearing Room, 500 West Temple Street.
December 7, Barstow, City Council Chambers, 250 East Mountain View.
December 8, Riverside, City Council Chambers, 10th and Main.
December 11, Santa Ana, Ramada Inn, 1600 East First Street.
December 12, Trona, Kerr-McGee Recreation Hall.
December 14, Lone Pine, Town Hall, Bush and Jackson.
December 15, El Centro, Imperial Irrigation District Auditorium, 256 Broadway.

Public comment is being sought on the existence or nonexistence of roads and wilderness characteristics in the California Desert Conservation Area. "Wilderness characteristics" include size, naturalness, outstanding opportunities for solitude or a primitive unconfined type of recreation, and ecological, geological, or other features of scientific, educational, scenic, or historical value as defined in section 2(C) of the Wilderness Act of 1964.

The wilderness inventory map and narrative descriptions of the meetings will be available from the Wilderness Inventory Team, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507, on or shortly after November 1, 1978.

ROBERT E. METZGER
Acting State Director.

[FR Doc. 78-28865 Filed 10-12-78; 8:45 am]

NOTICES

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1669, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28866 Filed 10-12-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT WILDERNESS INVENTORY

Meetings

Notice is hereby given of a series of public meetings at various locations in California December 4-15, 1978, to obtain public comment on the draft wilderness inventory for the California Desert Conservation Area.

A draft wilderness inventory map and narrative descriptions of study areas will be available approximately November 1, 1978. A 90-day period for review and comment by the public will follow issuance of the map and descriptions.

The public meetings will be held between 9 a.m. and noon and again between 7 and 10 p.m. in the following locations:

December 4, Sacramento, Resources Auditorium, 1416 Ninth Street.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
NOTICES

**WYOMING**

Notice of Application

**OCTOBER 3, 1978.**

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4¼-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

**SIXTH PRINCIPAL MERIDIAN, WYOMING**

T. 20 N., R. 92 W., sec. 19, lot 1 and SW ¼ N½ W½, and SE ¼ W½ N½ E½.

The proposed pipeline will transport natural gas from the Latham No. 1-14 well located in section 14, T. 20 N., R. 93 W., in a generally southerly and northeasterly direction to a point of connection with an existing line in section 17, T. 20 N., R. 92 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions. Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

**HAROLD G. STINCHCOMB,**

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 78-28868 Filed 10-12-78; 8:45 am]

**WYOMING**

Notice of Application

**OCTOBER 3, 1978.**

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4¼ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

**SIXTH PRINCIPAL MERIDIAN, WYOMING**

T. 23 N., R. 94 W., sec. 4, SW ¼ SE ¼; sec. 9, W½ SE ¼; sec. 20, E½ W½SE ¼; sec. 32, E½ W½.

The proposed pipeline will transport natural gas from the No. 1-4 Lost Creek natural gas well located in section 4, T. 23 N., R. 94 W., in a generally southerly direction to a point of connection with an existing line in section 32, T. 23 N., R. 94 W., Sweetwater County, Wyo.

**AROLD E. PETTY,**

*Acting Associate Director.*

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### EXHIBIT A

Bureau of Land Management

Grasping Environmental Statement Schedule 1980-82

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| Total | 31 Statements | 25,949 | | 17 Statements | 23,693 | 17 Statements | 27,370 |

[FR Doc. 78-28870 Filed 10-12-78; 8:45 am]

FEDERAL REGISTER, VOL 43, NO. 199—FRIDAY, OCTOBER 13, 1978
NOTICES

NEW MEXICO
Notice of Application

October 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 24, NW1/4SE1/4.
T. 32 N., R. 11 W.,
Sec. 12, SW1/4SE1/4;
Sec. 13, NW1/4SW1/4 and NE1/4NW1/4.

These pipelines will convey natural gas across 0.466 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29038 Filed 10-12-78; 8:45 am]

NEW MEXICO
Application


Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 28 E.,
Sec. 12, SW1/4NE1/4 and NW1/4SE1/4.
T. 18 S., R. 29 E.,
Sec. 7, lots 3, 4, SE1/4SW1/4 and SW1/4SE1/4.

These pipelines will convey natural gas across 1.294 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29039 Filed 10-12-78; 8:45 am]
Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 6-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO
T. 19 S., R. 31 E.,
Sec. 28, NE\%SW\%;
Sec. 29, SE\%SE\%;
Sec. 30, SE\%SW\%, N\%SE\% and SW\%SE\%;
Sec. 31, N\%NE\%, NE\%NW\%, SW\%NW\% and
Sec. 32, N\%NE\%, NE\%NW\%, SW\%NW\%

This pipeline will convey natural gas across 2.00 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29002 Filed 10-12-78; 8:45 am]

DEPARTMENT OF THE INTERIOR
National Park Service
CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, November 3, 1978, at 1 p.m., at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Request for approval of proposed extension of seasonal liquor license to year-round license; (2) proposal to locate fish processing plant on State-owned land adjacent to seashore property in Provincetown; (3) proposed new facilities at Coast Guard and Nauset Light Beaches, Eastham; (4) status report on proposed new zoning standards; (5) report of Concession Management Subcommittee; and (6) dunes migration studies, province lands.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least 7 days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663, telephone 617-349-3785. Minutes of the meeting will be available for public information and copying 4 weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

LAWRENCE C. HADLEY,
Superintendent,
Cape Cod National Seashore.


[FR Doc. 78-28913 Filed 10-12-78; 8:45 am]
NOTICES

National Park Service

VOYAGEURS NATIONAL PARK

Notice of Public Meetings on Draft Master Plan and of Advisory Draft Master Plan and Draft Environmental Statement

Notice is hereby given of the availability of a draft master plan for Voyageurs National Park. The plan will be the subject of a series of public meetings as noted below. Notice is further given of the availability of draft environmental statement which has been prepared for this plan. Public comment on both documents is invited.

The master plan will be the basic document in guiding development and management of the park. The draft master plan will be reviewed and explained at each of the public meetings listed below and persons who wish to do so may comment verbally. The meeting schedule:

November 13, 7:30 p.m. (CST)—Rainy River Community College, International Falls, Minn.
November 14, 7:30 p.m. (CST)—Orr High School, Orr, Minn.
November 15, 7:30 p.m. (CST)—Mesabi Community College, 105 West Chestnut Street, Virginia, Minn.
November 16, 7:30 p.m. (CST)—Rochester Community College, Rochester, Minn.
November 17, 7 p.m. (CST)—St. Paul Civic Center, Concourse Meeting Rooms 1 and 2, I. A. O'Shaughnessy Plaza (143 West Fourth St.), St. Paul, Minn.
November 18, 2 p.m. (CST)—Arena Auditorium, 350 South Fifth Avenue West, Duluth, Minn.

Written comments on the draft master plan also may be submitted. They should be sent to Franklin G. Ackerman, Acting Superintendent, Voyageurs National Park, P.O. Drawer 50, International Falls, Minn. 56649, and will be received until December 18, 1978.

Copies of the draft master plan may be obtained from the Acting Superintendent, Voyageurs National Park, Highway 53 South, International Falls, Minn., or at either the following offices:

Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.
Superintendent, Grand Portage National Monument, P.O. Box 666, U.S. Highway 61 South, Grand Marais, Minn. 55604.

The Department of the Interior has prepared the draft environmental statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. The environmental statement considers the ecological, cultural, and socioeconomic effects of preservation, development, and management of the park upon alternatives. Written comments on the draft environmental statement are invited and will be accepted for a period of forty-five (45) days from the date of this notice. Copies of the statement will be available from, or for inspection, during normal business hours, at the offices of the Acting Superintendent of Voyageurs National Park, the Superintendent of Grand Portage National Monument, and the Regional Director, Midwest Region, National Park Service, at the addresses listed above. Written comments should be directed to these same offices.

ROBERT STANTON,
Acting Deputy Director,
National Park Service.

[FR Doc. 78-29142 Filed 10-12-78; 8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL

Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on October 31, November 1 and 2 in room 4494, General Accounting Office Building, 441 G Street NW, Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, OCTOBER 31

9:30 a.m.—Committee on Foreign Labor and Trade.

THURSDAY, NOVEMBER 2

9:30 a.m.—Committee on Employment Structure and Analysis.
4. The application of the Standard Industrial Classification revision to the Employment and Earnings (790 establishment) series.

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THURSDAY, NOVEMBER 2

1:30 p.m.—Committee on Price and Living Conditions.

1. Consumer Price Index—problems, if any, encountered in current CPI calculations.


3. Family Budgets—status report.


5. International Price Program—impact of revisions on price indexes.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph F. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C., this 4th day of October 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

(FR Doc. 78-28622 Filed 10-12-78; 8:45 am)

[4510-30-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 effects of such new facilities 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 facilties, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 10th day of October 1978.

ERNST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 7, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE, AND PRINCIPAL PRODUCT OR ACTIVITY

Fiber Glass Industries, Inc., Amsterdam, N.Y., manufacturer of fiber glass roving.

American Wood Products, Inc., Perry, Lake City, Polk City, and Longwood, Fla., manufacturer of Cypress lumber and horticultural products.


Florida Crushed Stone Co., Lake Hernando, and Sumter County, Fla., mining of crushed and broken limestone.

Chrysler Corp., Kokomo, Ind, manufacturer of automobiles, and J Land Co/C Jack Kennedy, President Clear Lake, Iowa, motel and restaurant.

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Jeff-Co., Glenwood Springs, Colo., motel and restaurant.


Black Hills Milk Producers, Rapid City, S. Dak.; Billings, and Bozeman, Mont.; Ogden, Utah, manufacturer of dairy products.

Southwest Chemicals Corp., Navajo County, Ariz., manufacturer and sales of resin and related products.

[FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978]
NOTICES

[4510–28–M] [TA-W-3776]
KENNECOTT COPPER CORP., UTAH MINES DIVISION, UTAH COPPER DIVISION REFINERY, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in refining blister copper into cathodes at the Utah Copper Division Refinery, Garfield, Utah, of the Utah Mines Division of the Kennecott Copper Corp. Notice of investigation was published in the Federal Register on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARYN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28431 Filed 10-12-78; 8:45 am]

[4510–28–M] [TA-W-3777]
KENNECOTT COPPER CORP., UTAH MINES DIVISION, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in refining blister copper into cathodes at the Utah Copper Division Smelter, Garfield, Utah, of the Utah Mines Division of the Kennecott Copper Corp. Notice of investigation was published in the Federal Register on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARYN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28432 Filed 10-12-78; 8:45 am]

[4510–28–M] [TA-W-3710]
KIRSON HANDBAGS, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3710: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on April 18, 1978 which was filed on behalf of workers and former workers producing ladies' vinyl handbags at Kirson Handbags, Inc., Newburgh, N.Y.
The Notice of Investigation was published in the Federal Register on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kirson Handbags, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

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 Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports continued to increase from 22.1 million units during the first quarter of 1977 to 34.0 million units during the first quarter of 1978.

Customers of Kirson Handbags who were surveyed reduced purchases from Kirson Handbags, Inc., Newburgh, N.Y., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Kirson Handbags, Inc., Newburgh, N.Y., who became totally or partially separated from employment on or after April 7, 1977, and before November 15, 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28433 Filed 10-12-78; 8:45 am]

NOTICES

MANHATTAN SHIRT CO., INC., AMERICUS, GA.
Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4010: Investigation regarding determination of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The Investigation was initiated on July 31, 1978 in response to a worker petition received on July 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress and sport shirts and ladies' blouses at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. During the course of the investigation, it was determined that Americus, Ga. plant did not produce men's sport shirts nor ladies' blouses, but produced only men's dress shirts.

The Notice of Investigation was published in the Federal Register on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Manhattan Shirt Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

In response to a worker petition received on April 21, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress and sport shirts and ladies' coats and raincoats at the Lamay Coat Co., Jersey City, N.J., contributions importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Lamay Coat Co., Jersey City, N.J., who became totally or partially separated from employment on or after May 1, 1977 and before December 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after December 15, 1977 are not eligible for program benefits.

Signed at Washington, D.C., this 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28434 Filed 10-12-78; 8:45 am]
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.

On June 9, 1976, workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. were certified as eligible to apply for trade adjustment assistance (TA-W-587). This certification expired on June 9, 1978.

The Department's investigation revealed that the average number of production workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. increased 1.1 percent in fiscal year 1977 compared to fiscal year 1976 and increased 3.3 percent in the period February through July 1978 compared to the same period in 1977. The average number of hours worked per week increased 2.8 percent in fiscal year 1977 compared to fiscal year 1976 and remained unchanged in the period February through July 1978 compared to the same period in 1977.

No layoffs have occurred at the Americus, Ga. facility during fiscal year 1977 and the first half of fiscal year 1978. Company officials indicate that there is no threat of total or partial separations in the foreseeable future.

CONCLUSION

After careful review, I determine that all workers of the Americus, Ga. plant of the Manhattan Shirt Co., Inc. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 9 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of October 1978.

JAMES P. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28343 Filed 10-12-78; 8:45 am]

MICH Elle R E N A FASHIONS, INC., RED BANK, N. J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats and raincoats at Michelle Rena Fashions, Inc., Red Bank, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Michelle Rena Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated:

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28436 Filed 10-12-78; 8:45 am]

MICHELLE RENA FASHIONS, INC., RED BANK, N. J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats and raincoats at Michelle Rena Fashions, Inc., Red Bank, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Michelle Rena Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated:

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28436 Filed 10-12-78; 8:45 am]

MICHELLE RENA FASHIONS, INC., RED BANK, N. J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats and raincoats at Michelle Rena Fashions, Inc., Red Bank, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Michelle Rena Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated:

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28436 Filed 10-12-78; 8:45 am]
In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2906: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 29, 1977, which was filed on behalf of workers and former workers producing sailor pants and jeans at the Boston, Mass. plant of M. Hoffman Co., Inc. The investigation revealed that the workers produced a denim jean similar to those produced at Hoffman's three other domestic plants, began in 1977 and were 2.8 percent greater than the Boston plant's production in 1977. Company imports increased 218.5 percent in the first quarter of 1978 compared to the first quarter of 1977 and were 17 times greater than the Boston plant's production in the first quarter 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 jeans produced by the Boston, Mass. plant of M. Hoffman Co., Inc., contributed importantly to the decline in sales and production to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Boston, Mass. plant of M. Hoffman Co., Inc., who became totally or partially separated from employment on or after December 2, 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 28th day of September 1978.

JAMES P. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28438 Filed 10-12-78; 8:45 am]

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 cites that separations from work at the hospital are affected by layoffs at the Inspiration Consolidated Copper Co. (TA-W-2412) and Cities Services Co. (TA-W-2579) both of which are currently certified. The basis for the Department's denial is that services are not "articles" within the meaning of section 222 of the Trade Act of 1974 and that independent firms for which the hospital provides services cannot be considered the "workers' firm."

The Department has earlier determined that services, such as transportation services, are not "articles" within the meaning of section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54630). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioner's firm cannot be considered to be the "workers' firm" within the meaning of the Act (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-395, 41 FR 12749).

The Department's investigation has revealed that the hospital is not corporately affiliated with any mining company. Further, all workers performing hospital medical and surgical services at the hospital are employed by Miami-Inspiration, Inc., and are not under the supervision by either of the mining companies. Moreover, all personnel actions and payroll transactions are controlled by the hospital. Thus, Miami-Inspiration Hospital, Inc., must be considered the "Workers' firm."

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.
NOTICES

[4510-28-M]

NEEDLECRAFT DRESS MANUFACTURING CO., CORP. AND CHESTERFIELD DRESS CO., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3779: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978 in response to a worker petition received on May 17, 1978 which was filed on behalf of workers and former workers producing ladles' dresses and suits at the Fall River, Mass. plant of Needlecraft Dress Mfg. Co. and the Chesterfield Dress Co., Corp. The investigation revealed that ladles' dresses were the sole product in 1977 and in 1978. The Notice of Investigation incorrectly stated that ladles' gowns were produced.

The Notice of Investigation was published in the Federal Register on June 9, 1978 (43 FR 25197-8). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Needlecraft, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met. 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 subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses increased 2 percent from 1975 to 1976, and declined 11 percent from 1976 to 1977. The ratios of imports to domestic production and consumption declined from 11.4 percent and 10.2 percent, respectively, in 1976 to 10.5 percent and 9.5 percent, respectively, in 1977.

Both Needlecraft and Chesterfield were engaged in contract work solely for one manufacturer during the period under investigation. A Department survey revealed that this manufacturer, which accounted for 100 percent of the companies' business, did not employ any foreign contractors, nor did the manufacturer import any dresses or suits during the past 3 years.

CONCLUSION

After careful review, I determine that all workers of the Fall River, Mass. plant of the Needlecraft Dress Mfg. Co. Corp. and of the Chesterfield Dress Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28441 Filed 10-12-78; 8:45 am]

NOTICES

[4510-28-M]

MIGHT MAC, INC., GLOUCESTER, MASS.

Revised 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 adjustment assistance on August 31, 1978, applicable to all workers of the Gloucester, Mass. plant of Mighty Mac, Inc. who became totally or partially separated from employment on or after October 22, 1977. The Notice of Certification was published in the Federal Register on September 12, 1978 (43 FR 40567).

The Massachusetts division of Employment Security has informed the Labor Department that the effective separation date of a substantial number of workers intended to be covered by the certification issued is October 21, 1977, and consequently the October 22, 1977 date would not provide the intended coverage.

The intent of the certification is to cover all workers at the Gloucester, Mass. plant of Mighty Mac, Inc. who were adversely affected by the decline in production of men's and boys' outer coats and jackets importantly because of increased imports. The certification therefore, is revised providing a new impact date of October 21, 1977.

The revised certification applicable to TA-W-3394 is hereby issued as follows:

All workers of the Gloucester, Mass. plant of Mighty Mac, Inc., who became totally or partially separated from employment on or after October 21, 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28440 Filed 10-12-78; 8:45 am]
requirements of section 222 of the act must be met. The investigation has revealed that all the requirements have been met.

The Department's investigation revealed that the ratio of imports to domestic production of men's, women's and children's shoes increased in 1977 compared to 1976. Imports of men's, and women's shoes increased absolutely during the first quarter of 1978 compared to the same period of 1977. Prior to August 1977, Plant No. 20 in Calais produced shoe uppers in support of shoe production at five Norrwock Shoe plants. Three of those plants closed in August 1977. Following a Department investigation, workers at those three plants—located in Skowhegan and North Jay, Maine—were certified as eligible to apply for adjustment assistance (TA-W-2339). A survey of customers of Norrwock Shoe revealed that several customers reduced purchases from Norrwock Shoe while increasing purchases of imports. The closure of these three plants reduced the demand for uppers stitched by the Calais plant.

**CONCLUSION**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with shoe uppers produced by Plant No. 20, Norrwock Shoe Co., Calais, Maine contributed importantly to the decline in production and separation of workers from that plant.

In accordance with the provisions of the act, I make the following certification:

All workers of Norrwock Shoe Co., Plant No. 20, Calais, Maine who became totally or partially separated from employment on or after November 25, 1977, and in the course of the investigation, it was determined that the name of the company was Nu Look Manufacturing Co.

The notice of investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short terms of operation of Nu Look Manufacturing Co. and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

**Signed at Washington, D.C. this 3d of October 1978.**

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28443 Filed 10-11-78; 8:45 am]

**NOTICES**

**Paley Associates, Inc., Milton, Mass.**

Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4010: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 5, 1978 in response to a worker petition received on April 27, 1978 which was filed on behalf of workers and former workers producing men's outerwear coats at Paley Associates, Inc., Milton, Mass.

The Notice of Investigation was published in the Federal Register on June 29, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paley Associates, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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.

The Department's investigation revealed that the average number of production and salaried workers engaged in employment related to the production of men's outerwear coats increased from 1976 to 1977 and increased in the first half of 1978 compared to the same period in 1977. Employment has increased in the last six quarters compared to the same quarters of the previous year. Average weekly hours worked by these workers have not changed significantly.

**CONCLUSION**

After careful review, I determine that all workers of Paley Associates, Inc., Milton, Mass. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

**Signed at Washington, D.C., this 26th day of September 1978.**

JAMES P. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28444 Filed 10-12-78; 8:45 am]

**Pam Coat Co., Inc., Passaic, N.J.**

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3641: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's coats at Pam Coat Co., Inc., Passaic, N.J. During the course of the investigation it was determined that workers at Pam Coat Co., Inc. produce girls' and misses' coats.

The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pam Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

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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 Department's investigation revealed that all of the requirements have been met. U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,738,000 dozen in 1977. Imports declined from 550,000 dozen in the first quarter of 1977 to 672,000 dozen in the first quarter of 1978. The ratio of imports of domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Pam Coat Co., Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Pam Coat Co., Inc. and increased purchases of imported girls' and misses' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Pam Coat Co., Inc. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the girls' and misses' coats produced at Pam Coat Co., Inc. and increased purchases of directly competitive with the girls' and misses coats produced at Pam Coat Co., Inc. and increased purchases of imported coats and suits from Paul Terri Sportswear, Inc., Long Branch, N.J., contributed importantly to the decline in sales and to the separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of Pam Coat Co., Inc., Passaic, N.J., who became totally or partially separated from employment on or after November 12, 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 25th day of September 1978.

HARRY J. GILMAN, Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-23445 Filed 10-12-78; 8:45 a.m.]

[4510-28-M]

PAUL TERRI SPORTSWEAR, INC., LONG BRANCH, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3660: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Paul Terri Sportswear, Inc., Long Branch, N.J. During the course of investigation it was established that Paul Terri Sportswear, Inc. does not produce ladies' suits. Paul Terri produces ladies' coats and a small amount of ladies' blazers.

The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paul Terri Sportswear, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

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. 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 subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A survey of Paul Terri's major manufacturers in 1976 and 1977, indicated that none of the manufacturers decreased purchases from the subject firm while increasing purchases of imports. Those manufacturers who decreased purchases from the subject firm reported that they did not purchase imports. These manufacturers experienced increased sales during the period under investigation. Company sales, adjusted to 1975 dollars, increased in 1977 compared to 1976. Although Paul Terri's sales declined in the first 5 months of 1978 compared to the same period in 1977, none of the manufacturers surveyed purchased any imports or used foreign contractors in 1978.

CONCLUSION

After careful review, I determine that all workers of Paul Terri Sportswear, Inc., Long Branch, N.J., 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 26th day of September 1978.

HARRY J. GILMAN, Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-23446 Filed 10-12-78; 8:45 a.m.]

[4510-28-M]

PENNSYLVANIA TIRE & RUBBER CO. OF MISSISSIPPI, INC., TUPELO, MISS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3681: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 30, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passenger car tires and truck tires at the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc.

The Notice of Investigation was published in the Federal Register on April 28, 1978 (43 FR 17850). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased from 9,840,000 units in 1975 to 12,643,000 units in 1976 and to 15,077,000 units in 1977.

U.S. imports of truck tires (including Mobile Homes) increased from 1,686,000 units in 1975 to 3,562,000 units in 1976 and to 4,095,000 units in 1977.

Company imports of bias passenger car tires decreased 100 percent in 1977 compared to 1976 but increased during the January-April period of 1978 compared to the same period of 1977. Company imports of truck tires increased 57.6 percent in 1977 compared to 1976 and increased 20.7 percent during the January-April period of
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1978 compared to the same period of 1977.
A Department survey of customers who purchased passenger car tires and truck tires from the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., indicated that some customers decreased their purchases from Pennsylvania Tire & Rubber Co. and increased their purchases of imported tires in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires and truck tires produced at the Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., contributed importantly to the decline in sales and production and to the total or partial separation of employment at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Tupelo, Miss. plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., who became totally or partially separated from employment on or after July 15, 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 29th day of September 1978.

JAMES P. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28447 Filed 10-12-78; 8:45 am]

[TA-W-3110]
PITTSBURGH & LAKE ERIE RAILROAD, GATEWAY YARD, STRUTHERS, OHIO

Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3110: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 9, 1978 in response to a worker petition received on January 17, 1978 which was filed by the United Transportation Union on behalf of workers and former workers transporting goods at the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad.

The notice of investigation was published in the Federal Register on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Pittsburgh & Lake Erie Railroad and Department files.

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 Department has determined that services are not "articles" within the meaning of section 222 of the act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that the Pittsburgh & Lake Erie Railroad (P. & L.E.) was founded in 1878, and is currently incorporated in Delaware. The railroad is a subsidiary of Penn Central Transportation Co.

The Pittsburgh & Lake Erie Railroad is a common carrier licensed by the ICC with rail lines extending from Brownsville and Connellsville, Pa. to Youngstown, Ohio and with track rights to Ashtabula, Ohio. Facilities including terminal buildings, warehouses, yards and shops are owned by P. & L.E. Equipment including freight cars, diesel locomotives, motor vehicles and machinery used in maintenance of way operations is under trust and/or lease agreements.

The Pittsburgh & Lake Erie Railroad transacts goods according to tariff schedules on file with the Interstate Commerce Commission, and the Pennsylvania & Ohio Public Utilities Commission. The P. & L.E. also provides some passenger transport. The P. & L.E. is not in any way, engaged in any production operations.

The petitioning workers are employed in the Gateway Yard of the Struthers, Ohio facility of the Pittsburgh & Lake Erie Railroad. Workers in the Struthers, Ohio facility are engaged in transporting goods and passengers and do not produce an article within the meaning of section 222 (3) of the act.

The Pittsburgh & Lake Erie Railroad and its customers have no controlling interest in each other. All workers engaged in maintaining and providing transportation services for the Pittsburgh & Lake Erie Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Pittsburgh & Lake Erie Railroad. All employee benefits are provided and maintained by the P. & L.E. Workers are not at any time under employment or supervision by customers of the P. & L.E. Thus, the Pittsburgh & Lake Erie Railroad must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FEDERAL REGISTER VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978]
Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3832: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 5, 1978, which was filed by the International Chemical Workers Union on behalf of workers producing specialty gases at the Rahway, N.J., plant of Precision Gas Products, Inc.

The Notice of Investigation was published in the Federal Register on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Burdorx, Inc., Precision Gas Products, the U.S. International Trade Commission, the U.S. Department of Commerce, industry associations, and Department files.

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 Trade Act of 1974 must be met. 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 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 Precision Gas Products manufactures specialty gases (gases used for a specific purpose, not mass produced) such as hydrogen and nitrogen and compounds of these gases.

Imports of industrial gases enter the United States under TSUS A 415.5000, “Chemical Elements, Not Elsewhere Specified”. Such gases cannot be economically transported for great distances, either as a gas or as a liquid; consequently imports of such gases are negligible. Hydrogen, oxygen, and nitrogen cannot be economically stockpiled as a gas because of the large, heavy containers needed or as a liquid because of the loss due to heat inflow and the high cost of cryogenic containers.

Conclusion

After careful review, I determine that workers of the Rahway, N.J., plant of Precision Gas Products, Inc., 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 22nd day of September 1978.

James F. Taylor, Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28450 Filed 10-12-78; 8:45 am]

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3199: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suit coats and sportcoats at Primo Coat Corp., New York, N.Y.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

On January 29, 1978, the Department issued a certification of eligibility to apply for adjustment assistance for workers at Primo Coat Corp. This certification expired January 29, 1978, 2 years from its date of issuance.

The information upon which the determination was made was obtained principally from officials of Primo Coat Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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 Trade Act must be met.

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.

Average employment of production workers increased in the third and fourth quarters of 1977 compared to the same quarters of 1976. Average employment increased 4 percent and 9 percent respectively for the first time and second quarters of 1978 over the comparable quarters of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers of Primo Coat.

Conclusion

After careful review I determine that all workers of Primo Coat Corp., New York, N.Y., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of September 1978.

Harry J. Gilman, Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28451 Filed 10-12-78; 8:45 am]

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2703: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 5, 1977, in response to a worker petition received on November 23, 1977, which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America on behalf of workers and former workers producing acetic acid at Publicher Industries, Inc., Philadelphia, Pa. The investigation was expanded to include workers and former workers producing ethyl acetate at the Bigler Chemical Building of Publicher, also located in Philadelphia, Pa.

The Notice of Investigation was published in the Federal Register on December 16, 1977 (42 FR 63467). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Publicher Industries, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 revealed that all of the criteria have been met.

U.S. imports of acetic acid increased from 612 thousand pounds in 1975 to 28,441 thousand pounds in 1976 and to 29,729 thousand pounds in 1977. The import-to-domestic production ratio increased from 0.03 percent in 1975 to 1.15 percent in 1976 and remained stable at 1.15 percent in 1977.

U.S. imports of ethyl acetate increased to 1,469 thousand pounds in 1976 compared to 67 thousand pounds in 1975 and increased to 9,296 thousand pounds in 1977. The Import to domestic production ratio increased from 0.06 percent in 1975 to 0.67 percent in 1976 to 5.8 percent in 1977.

Publicker began importing acetic acid in the last quarter of 1977. The company plans to continue importing acetic acid. Ethyl acetate is a byproduct of acetic acid. Since production of acetic acid has been decreased at the Bigler Street Plant, Publicker has begun importing ethyl acetate.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with acetic acid and ethyl acetate produced by Publicker Industries, Inc., Philadelphia, Pa., contributed importantly to declines in sales and production, and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Acetic Acid Department and Bigler Chemical Building of Publicker Industries, Inc., Philadelphia, Pa., who became totally or partially separated from employment on or after September 28, 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

(43 FR 78-28452 Filed 10-12-78; 8:45 am)

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CORFICATION Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3603:

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance as prescribed in section 222 of the Act.

The Investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladie's coats at Q & T Coat Corp., Paterson, N.J.

The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Q & T Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

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 revealed that all of the requirements have been met.

The U.S. imports of women's, misses', and children's coats and jackets increased from 2,225 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports of ethyl acetate declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Q & T worked in 1976 and 1977. Manufacturers that accounted for a significant portion of sales in 1977 reported that they reduced purchases from Q & T and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Q & T Coat Corp., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Q & T Coat Corp., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[F.R Doc. 78-28453 Filed 10-12-78; 8:45 am]

[4510-28-MA]

[TA-W-36031]

Q & T COAT CORP., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-36031:

Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The Investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Q & T Coat Corp., Paterson, N.J.

The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Q & T Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

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 revealed that all of the requirements have been met.

The U.S. imports of women's, misses', and children's coats and jackets increased from 2,225 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports of ethyl acetate declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Q & T worked in 1976 and 1977. Manufacturers that accounted for a significant portion of sales in 1977 reported that they reduced purchases from Q & T and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Q & T Coat Corp., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Q & T Coat Corp., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[F.R Doc. 78-28453 Filed 10-12-78; 8:45 am]

[4510-28-MA]

[TA-W-35841]

RCA CORP., MEADOW LANDS, PA.

Negative Determination Regarding Application for Reconsideration

On May 18, 1978, the petitioners for workers and former workers of RCA, Meadow Lands, Pa., requested administrative reconsideration of the Department of Labor’s negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of RCA Corp., Meadow Lands, Pa. The determination was published in the Federal Register on May 2, 1978 (43 FR 18793).

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 the facts or of the law justifies reconsideration of the decision.

In their application, the petitioners make a basic claim that they should be certified because (1) the Department of Labor’s negative determination was based on only TACTEG units and do not consider other plant production, and (2) no other RCA plant has ever been denied eligibility under the Trade Act of 1974.

In defense of their claim, the petitioners note the following:

(1) That the Department of Labor’s investigation did not include workers laid off in the production of citizen band transceivers, language laboratory units and land mobile radio units.

(2) That 50 percent of RCA Meadow Lands’ engineering and laboratory employees as well as technical writing, manufacturing and other personnel were affected by layoffs in June 1975, and

(3) That Japanese electronic engineers performed inspection functions at the RCA Meadow Lands plant in 1971 and 1972, and

(4) That a new venture will begin in June 1978 when land mobile units from Japan will be affecting production employees, and

(5) That units and/or components are now being received at RCA Meadow Lands which contain labels indicating foreign manufacture.

Citizen band transceivers and language laboratory units were not pro-
The petition submitted on behalf of the workers did not indicate that workers producing land mobile units were intended to be included. Consequently, the original investigation did not consider imports of land mobile units. For the record, it is noted that imports of land mobile radio units decreased from $33.1 million in 1976 to $28.1 million in 1977 and from $37.7 million in the first 6 months of 1977 to $23.1 million in the like period in 1978. The import to production ratio decreased from 10.5 percent in 1976 to 7.1 percent in 1977 and from 9.7 percent in the first 6 months of 1977 to 4.9 percent for the like period in 1978. Given the statutory requirement that there be increased imports of products like or directly competitive with the products produced by the workers, it is apparent that even if the petition covered land mobile units a basis for certification would not exist.

Although it may be true that component parts are imported at the Meadow Lands plant, they are parts which the Meadow Lands plant has never produced. Concerning company imports of land mobile radio units, there are currently agreements for off-shore delivery of two different types of land mobile radio units neither of which has ever been produced at Meadow Lands. Further, these additional types of land mobile radio units are intended to supplement and not compete with the units now being produced at Meadow Lands. Should it develop that the imported land mobile units substitute for units produced at Meadow Lands, a new petition can be filed on behalf of the workers affected by such substitution.

The petitioners' assertion that no other RCA plant has ever been denied eligibility is one devoid of merit. The Department of Labor's basis of certification rests solely upon the criteria designated in section 222 of the Trade Act of 1974.
Imports remained well above the December, 1976 level in the 1977 January-May period. This fact, along with the increased imports of ceramic containers from 1976 to 1977, has contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at Roman Ceramics Corp., Mayfield, Ky., who became totally or partially separated from employment on or after May 26, 1976 and on or before December 31, 1977, are eligible to apply for adjustment assistance as prescribed in section 222 of the Act.

Signed at Washington, D.C., this 26th day of September, 1978.

JAMES F. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28457 Filed 10-12-78; 8:45 am]

NOTICES

CERTIFICATION REGARDING ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2117: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 1, 1977, in response to a worker petition received on May 31, 1977 which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers and former workers producing custom pottery at Roman Ceramics Corp., Mayfield, Ky.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Roman Ceramics Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of ceramic containers increased from 1976 to 1977 and declined from 1976 to 1977. The 1977 level of imports remained well above the 1976 level. The ratios of imports to domestic production and consumption increased from 34.9 percent and 25.9 percent, respectively, in 1975 to 72.3 percent and 42.0 percent, respectively, in 1976 and then declined to 55.0 percent and 35.5 percent, respectively, in 1977.

Imports increased in the first five months of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption increased from 82.0 percent and 45.8 percent, respectively, in the January-May period in 1977 to 109.1 percent and 52.2 percent, respectively, in the January-May period in 1978.

Customers of Roman Ceramics are primarily distillers and cosmetic producers. A survey of customers revealed that customers increased purchases of imports from 1976 to 1977 and decreased purchases from Roman Ceramics during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with ceramic containers produced at Roman Ceramics Corp., Mayfield, Ky., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at Roman Ceramics Corp., Mayfield, Ky., who became totally or partially separated from employment on or after May 26, 1976 and on or before December 31, 1977, are eligible to apply for adjustment assistance as prescribed in section 222 of the Act.

Signed at Washington, D.C., this 26th day of September 1978.

JAMES F. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28457 Filed 10-12-78; 8:45 am]

Pursuant to section 221 of the Trade Act of 1974, and investigation regarding eligibility to apply for worker adjustment assistance, was initiated on May 8, 1978 in response to worker petition received on April 26, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at S & B Coat Co., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Information obtained during the course of the investigation revealed that workers employed at S & B Coat Co. would not meet the qualifying requirements in section 231 of the act.

Production of ladies' coats began in September, 1977 at the S & B Coat Co. Production continued through November, 1977, when the company closed. The company reopened for three weeks in May and one week in June before permanently closing on June 23, 1978.

In view of the above facts, further investigation would serve no purpose. Therefore, the investigation is terminated.

Signed at Washington, D.C., this 26th day of September 1978.

JAMES F. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28457 Filed 10-12-78; 8:45 am]
The investigation was initiated on April 11, 1978 in response to a worker petition received on March 31, 1978 which was filed by the International Ladies Garment Workers Union on behalf of workers formerly producing ladies' raincoats at S & F Coat Co., Inc., Beacon, N.Y. The investigation revealed that ladies' coats were also produced.

The notice of investigation was published in the Federal Register on May 2, 1978 (43 FR 19750). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from S & F Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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, 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 women's raincoats, the major product of S & F Coat Co., decreased from 281 thousand dozen in 1976 to 242 thousand dozen in 1977. The ratio of imports to domestic production fell from 45.0 percent in 1976 to 40.3 percent in 1977.

A survey of the manufacturers for whom S & F Coat Co., Inc., Beacon, N.Y. sponsored the importation of raincoats or coats indicated that some purchased imported raincoats or coats. None of the manufacturers' sales had declined in 1977 compared to 1976, and their utilization of other domestic contractors during that period had either increased or remained the same.

CONCLUSION

After careful review, I determine that all workers of S & F Coat Co., Inc., Beacon, N.Y. are entitled to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28460 Filed 10-12-78; 8:45 am]

NOTICES

SENATE BUTTON CO., NEW YORK, N.Y.
Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3016: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 2, 1978. In response to a worker petition received on January 19, 1978, which was filed on behalf of workers formerly selling buttons at Senate Button Co., New York, N.Y. Senate Button Co. was a sales outlet and a subsidiary of Button Corp. of America.

The Notice of Investigation was published in the Federal Register on February 17, 1978 (43 FR 7061). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Senate Button Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Senate Button Co., a subsidiary of Button Corp. of America, was integrated into the production operation of Button Corp. by being the New York City sales outlet for Button Corp.'s products. Senate Button sold only buttons that had been produced by Button Corp. of America.

U.S. imports of plastic buttons (casein, urea resin, polyester, and acrylic) decreased from 5,510 thousand gross in 1975 to 4,212 thousand gross in 1976 and increased to 7,227 thousand gross in 1977.

A Department survey of customers of Senate Button Co. revealed that major customers increased their purchases of imported buttons during a period from 1975 to 1977 and decreased their purchases from Senate Button Co. during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with buttons sold by Senate Button Co., New York, N.Y. contributed importantly to the decline in sales and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Senate Button Co. of New York, N.Y. who became totally or partially separated from employment on or after January 9, 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 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

(Signed) [FR Doc. 78-28461 Filed 10-12-78; 8:45 am]

NOTICES

SILURIA TEXTILES, INC., SILURIA, ALA.
Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3876: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 19, 1978, which was filed on behalf of workers and former workers producing denim fabric at Siluria Textiles, Inc., Siluria, Ala.

The notice of investigation was published in the Federal Register on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Siluria Textiles, Inc.; its parent firm, Canton Textile Mills, Inc.; its American Textile Manufacturers Institute; the U.S. Department of Commerce; the U.S. International Trade Commission; industry analysts; and Department files.

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 Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The investigation revealed that U.S. imports of bleached and dyed cotton broadwoven fabric increased to 142 million square yards in 1976 compared to 100.5 million square yards in 1975. Imports were 134.7 million square yards in 1977. Imports increased to 34.4 million square yards in 1978.

The imports to domestic produc-
tion ratio for bleached and dyed cotton broadwoven fabric increased from 3.2 percent to 4.1 percent in 1978 and further increased to 4.3 percent in 1977.

Customers surveyed by the Department and accounting for a substantial proportion of Siluria Textiles' sales of denim fabric indicated that they decreased purchases of denim fabric from Siluria in 1977 and the first half of 1978 and increased purchases of imported denim fabric during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with denim fabric produced by Siluria Textiles, Inc., Siluria, Ala., contributed importantly to the decrease in sales and production and to the separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Siluria Textiles, Incorporated, Siluria, Alabama who became totally or partially separated from employment on or after June 16, 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26462 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3561]

ST. LOUIS-SAN FRANCISCO RAILROAD
BIRMINGHAM, ALABAMA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 14, 1978, which was filed by the United Transportation Union on behalf of workers and former workers transporting all types of commodities at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad.

The notice of investigation was published in the Federal Register on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the St. Louis-San Francisco Railroad and Department files.

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 Department had determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm.

CONCLUSION

After careful review, I determine that all workers of the Birmingham Ala. terminal of the St. Louis-San Francisco Railroad 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26494 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3670]

SUPER CRAFT COATS, INC., GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers transporting ladies' coats at Super Craft Coats, Inc., Garfield, N.J. The investigation revealed that ladies' coats, jackets, and raincoats are produced.

The St. Louis-San Francisco Railroad is engaged in transporting all types of commodities over 4,500 miles of company owned track located in 9 States.

The petitioning workers are employed at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad. Workers at the Birmingham, Ala. terminal of the Frisco RR are engaged exclusively in transporting commodities and do not produce an article within the meaning of section 222 (3) of the Act.

The St. Louis-San Francisco Railroad and its customers have no controlling interest in another

All workers engaged in providing transportation services at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Frisco RR. All employee benefits are provided and maintained by the Frisco RR. Workers are not, at any time, under employment or supervision by customers of the St. Louis-San Francisco Railroad. Thus, the St. Louis-San Francisco Railroad must be considered to be the "workers' firm.

[END OF DOCUMENT]
The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Super Craft Coats, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,232 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports of 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.


CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats, jackets, and raincoats produced at Super Craft Coats Inc., Garfield, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Super Craft Coats Inc., Garfield, N.J., who became totally or partially separated from employment on or after March 29, 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28465 Filed 10-12-78; 6:45 am]

[4510-28-M]

TELEDYNE VASCO, INC., MONACA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3803: Investigation regarding eligibility to apply for workers adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing specialty steel flat rolled products at the Monaca, Pa., plant of the Teledyne Vasco Co., Inc.

The notice of investigation was published in the Federal Register on June 29, 1978 (43 FR 25797). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne Vasco, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criteria must not have been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The Monaca, Pa., plant of Teledyne Vasco produces tool steel. Teledyne Vasco also owns a plant in Latrobe, Pa., which produces tool steel.

Evidence developed during the investigation revealed that production equipment from the Monaca plant of Teledyne Vasco has been gradually transferred from the Monaca plant to the Latrobe plant during the last 8 years. Further evidence revealed that as sales, production, and employment have declined at the Monaca plant, sales production and employment have increased at the Latrobe plant. It is therefore concluded that employment losses at the Monaca, Pa., plant of Teledyne are attributable to the transfer of production equipment to the Latrobe, Pa., plant and not to increases of imports of articles like or directly competitive with steel produced at the Monaca, Pa., plant of Teledyne Vasco.

CONCLUSION

After careful review I determine that all workers at the Monaca, Pa., plant of Teledyne Vasco 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 23rd day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28465 Filed 10-12-78; 6:45 am]

[4510-28-M]

LAMSON AND SESSIONS CO., CLEVELAND, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3532: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 23, 1978 in response to a worker petition received on April 12, 1978 which was filed by the United Auto Workers on behalf of workers and former workers producing threaded screws and nuts at the Cleveland, Ohio plant of Lamson and Sessions Co., Inc.

The notice of investigation was published in the Federal Register on May 5, 1978 (43 FR 19478-19479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lamson and Sessions Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the requirements have been met.
U.S. imports of bolts increased both absolutely and relative to domestic production during 1976 compared to 1975 and during 1977 compared to 1976. Imports of bolts increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of large screws increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of nuts increased relative to domestic production during 1977 compared to 1976, and increased absolutely during the first quarter of 1978 compared to the first quarter of 1977.

Lamson and Sessions'. Cleveland plant produced primarily standard bolts and screws during 1976 and 1977. Custotmers of products produced at the Cleveland plant were surveyed by the Department. Several of the customers increased purchases of imported fasteners while reducing purchases from the Cleveland plant of Lamson and Sessions Co.

**CONCLUSION**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with threaded screws and nuts produced at the Cleveland, Ohio plant of Lamson and Sessions Co. contributed importantly to the total or partial separation of workers and to the decline in sales and production at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cleveland, Ohio plant of Lamson and Sessions Co. who became totally or partially separated from employment or after April 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 26th day of September 1978.

JAMES F. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28467 Filed 10-12-78; 8:45 am]

NOTICES

[4510-23-M]

TONY'S OUTLET, INC., LODI, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies spring blazers at Colleen Fashions, Inc., Lodi, N.J. During the course of the investigation it was determined that the name of the company is Tony's Outlet, Inc., and it produces ladies spring blazers and winter coats.

The Notice of Investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Tony's Outlet and to the seasonality of the ladies coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of October 1978.

MARCUS M. Fooks, Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28469 Filed 10-12-78; 8:45 am]

[4510-28-M]

UNION CARBIDE CORP., METALS DIVISION
MINE AND MILL, HOT SPRINGS, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 233 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3468: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining and processing vanadium ore at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide Corp.

The Notice of Investigation was published in the Federal Register on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

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The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., its customers, the U.S. Department of Interior the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 threats thereof, and to the absolute decline in sales or production.

The Hot Springs plant consists of open pit mines and a milling facility. The plant produces vanadium ferroalloys which is an intermediate product used in the production of vanadium ferroalloys at other Union Carbide plants.

Imports of vanadium ferroalloys increased in 1976 from 1975 and increased in 1977 from 1976. The ratio of imports to domestic production increased from 4.2 percent in 1975 to 6.5 percent in 1977.

A survey of customers of Union Carbide revealed minimal impact of imports on Union Carbide's sales of vanadium ferroalloys. Customers who reported purchases of imported, vanadium ferroalloys accounted for less than 1 percent of the net decline in Union Carbide sales in 1977 from 1976.

The closing of the Hot Springs facilities was due, in part, to decreased demand in 1977 for vanadium in the United States and world market. The market for vanadium is closely tied with economic growth, primarily in the transportation and construction industries, U.S. exports of vanadium ferroalloys, which exceeded imports by 134 percent in 1976, decreased 35 percent in 1977 from 1976 due to the slow recovery of the world economy.

Total curtailment of domestic production by Union Carbide was at the Hot Springs facilities rather than at its Colorado vanadium producing facility because at the Colorado facility vanadium is produced as a by-product of uranium production and the current demand for uranium is high.

CONCLUSION

After careful review I determine that all workers at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide Corp. 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 27th day of September 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration and Planning.

[FR Doc. 76-28478 Filed 10-12-78; 8:45 am]
eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing dresses, 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 the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the Act have been met. U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Buchanan, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the production of pant suits at the Buchanan, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the Act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Radford, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the production of pant suits at the Radford, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.
In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of an investigation regarding the certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 2, 1978, in response to a worker petition received on February 2, 1978, which was filed by the Virginia Employment Commission on behalf of workers engaged in the production of dresses, without regard to sales or production, and to the total separation, or threat thereof, and to the absolute decline in sales or production.

The Notice of Investigation was published in the Federal Register on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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. With respect to workers producing dresses, 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 subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratio of imports of dresses to domestic production and consumption were constant from 1974 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 22 of the Act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Roanoke, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the production of pant suits at the Roanoke, Va. plant of Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Roanoke, Va. plant of Valley Manufacturing Co. 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 25th day of September 1978.

HARRY J. GILMAN, Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28472 Filed 10-12-78; 8:45 am]

NOTICES

VALENTINE CORP., VALENTINE CORP., WALNUT RIDGE, ARK.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding the certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on May 2, 1978, which was filed on behalf of workers and former workers producing shoe lasts (from the shoe is made on) at the Walnut Ridge, Ark. plant of the Vulcan Corp.

The notice of investigation was published in the Federal Register on June 27, 1978 (43 FR 27292). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Vulcan Corp. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criteria have not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of shoe lasts were negligible in 1975, 1976, and 1977. Imports were also negligible in the first 6 months of 1978.

Evidence developed during the course of the investigation revealed that customers of Vulcan, who responded to a Departmental survey purchased no imported shoe lasts in 1976, 1977, or the first 6 months of 1978. These results are consistent with industry data, which show negligible imports of shoe lasts during the past 5 years.

CONCLUSION

After careful review I determine that all workers of the Vulcan Corp. Walnut Ridge, Ark. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.
In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3419: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 8, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing iron rolls at the Crescent Street, Youngstown, Ohio plant of Wean United, Inc. The petition was filed on behalf of workers who purchased imports indirectly and directly competitive with articles produced by the firm.

Imports figures for rolls are not available under a separate TSUSA number; therefore, the Department surveyed major importers of rolls. The survey indicated that imports of rolls decreased 30 percent from 1976 to 1977. Sales and production of rolls at the Crescent Street, Youngstown, Ohio plant of Wean United, Inc. increased in terms of both quantity and value in the first quarter of 1978 compared to the same quarter of 1977 and compared to the previous quarter.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Crescent Street, Youngstown, Ohio plant (plant 16) of Wean United, Inc. 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 25th day of September 1978.

HARRY J. GILMAN
Acting Director, Office of Foreign Economic Research.

NOTICES

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. 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.

A survey of manufacturers for whom Webster Sportswear did contract work revealed that the manufacturers reported increased sales. The one manufacturer, who purchases imports indicated that import purchases declined in 1977 compared to 1976.
merce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 alleges that imports of finished garments (men's shirts and pajamas) have contributed to decreased sales and employment at Werthan Industries. Imported wearing apparel cannot be considered to be like or directly competitive with finished fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing finished fabric at Werthan Industries.

Aggregate imports of all finished fabric (bleached, dyed, and printed) declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratio of imports to domestic production and consumption remained less than 2 percent from 1974 through 1976.

Customers who purchased finished fabric from Werthan Industries were surveyed. The survey revealed that customers did not purchase imported fabric during the period from 1976 through the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers of Werthan Industries, Inc. in Printing and Finishing Division, Nashville, Tenn. 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 25th day of September 1978.

JAMES P. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28479 Filed 10-12-78; 8:45 am]

[4510–28–M]

ATA-W-3911 WHEELING-PITTSBURGH STEEL CORP. ADMINISTRATIVE OFFICES, WHEELING, W. VA. Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3911: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

The Notice of Investigation was published in the Federal Register on July 7, 1978 (43 FR 29364–5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp.'s output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp. contributed importantly to the decline in production and to the total or partial separation of workers at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

In accordance with the provisions of the act, I make the following certification:

All workers of the administrative offices of Wheeling-Pittsburgh Steel Corporation, Wheeling, West Virginia who became totally or partially separated from employment on or after June 20, 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 25th day of September 1978.

JAMES P. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28479 Filed 10-12-78; 8:45 am]

[4510–28–M]

ATA-W-3912 WHEELING-PITTSBURGH STEEL CORP. EXECUTIVE OFFICES, PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3912: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. The petition was expanded by the Department to include workers at the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this Notice.

The Notice of Investigation was published in the Federal Register on July 7, 1978 (43 FR 29364–5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp.'s output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

APPENDIX


TA-W-3912—Executive Offices, 4 Gateway Center, Pittsburgh, Pa., and the following District sales offices:

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After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in production and to the total or partial separation of workers at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp., listed in the appendix to this Notice.

In accordance with the provisions of the act, I make the following certification:

All workers of the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp., listed in the appendix to this notice who became totally or partially separated from employment on or after May 27, 1977, are eligible for adjustment assistance under section 222 of the act.

Signed at Washington, D.C. this 29th day of September 1978.

HARRY J. GILMAN, Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28481 Filed 10-12-78; 8:45 am]

[4510–28–M]

W & W ELECTRONICS, BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W–3754: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978 in response to a worker adjustment assistance as prescribed in section 222 of the act.
petition received on April 14, 1978 which was filed on behalf of workers and former workers producing printed circuit boards at W & W Electronics, Boston, Mass.

The Notice of Investigation was published in the Federal Register on June 6, 1978 (43 FR 24553-24534). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of W & W Electronics,南沙, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 revealed that, 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.

Contractors who accounted for over 80 percent of sales by W & W Electronics during the period under investigation indicated that they did not purchase any imported printed circuit boards and did not contract with offshore firms to produce such electronic components.

CONCLUSION

After careful review, I determine that workers of W & W Electronics, Boston, Mass. 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 25th day of September 1978.

JAMES F. TAYLOR, Director, Office of Management, Administration and Planning.

[FR Doc. 78-28482 Filed 10-12-78; 8:45 am]

[4510-28-M]

DELTON CLOTHING, LTD., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3170: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8861). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 Department's investigation revealed that the ratio of Imports of the workers' firm or appropriate subdivision to the separations at Delton was 1.7 to 1 in 1975 and 2.1 to 1 in 1976.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8861). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 Department's investigation revealed that the ratio of Imports of the workers' firm or appropriate subdivision to the separations at Delton was 1.7 to 1 in 1975 and 2.1 to 1 in 1976.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8861). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 Department's investigation revealed that the ratio of Imports of the workers' firm or appropriate subdivision to the separations at Delton was 1.7 to 1 in 1975 and 2.1 to 1 in 1976.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8861). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 Department's investigation revealed that the ratio of Imports of the workers' firm or appropriate subdivision to the separations at Delton was 1.7 to 1 in 1975 and 2.1 to 1 in 1976.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8861). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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. 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 Department's investigation revealed that the ratio of Imports of the workers' firm or appropriate subdivision to the separations at Delton was 1.7 to 1 in 1975 and 2.1 to 1 in 1976.
NOTICES

[TA-W-3176]

GEORGE HELLER, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3176: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's trousers at George Heller, Inc., New York, N.Y.

The notice of investigation was published in the Federal Register on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of George Heller, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act, the requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number of 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.

The workers at George Heller, Inc., were certified as eligible to apply for trade adjustment assistance on January 17, 1976 (TA-W-300). That certification expired on January 17, 1978.

The Department's investigation revealed that there were no layoffs and no reduction in average hours worked at George Heller, Inc., since the expiration of the certification. Employment and hours worked have not changed from February, 1977 through June, 1978, and no change is expected in the foreseeable future.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28886 Filed 10-12-78; 8:45 am]

[TA-W-3176]

FUR MODES, INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3176: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on April 28, 1978 which was filed by the National Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Fur Modes, Inc., Jersey City, N.J.

The notice of investigation was published in the Federal Register on June 6, 1978 (43 FR 24694-35). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fur Modes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act, the requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number of proportionately or directly competitive with ladies' man-made fur coats produced by Fur Modes, Inc., Jersey City, N.J., contributed importantly to the decline in sales 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 Fur Modes, Inc., Jersey City, N.J., who became totally or partially separated from employment on or after September 23, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28886 Filed 10-12-78; 8:45 am]

[TA-W-3176]
There is no immediate threat of separations to workers at George Heller.

**CONCLUSION**

After careful review I determine that all workers at George Heller, Inc., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1978.

JAMES F. TAYLOR,  
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28878 Filed 10-12-78; 8:45 am]

[4510-28-M]  
IRVING SPORTSWEAR, GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3677: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Irving Sportswear, Garfield, N.J.

The notice of investigation was published in the Federal Register on June 30, 1978 (43 FR 28879). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J and R Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's raincoats decreased from 254 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 43.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.


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 women's and children's coats and raincoats produced at J and R Manufacturing Co., Inc., Newark, N.J. The investigation revealed that women's and children's coats and raincoats are produced.

The Notice of investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J and R Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 43.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.


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 women's and children's coats and raincoats produced at J and R Manufacturing Co., Inc., Newark, N.J. The investigation revealed that women's and children's coats and raincoats are produced.

The Notice of investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J and R Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's raincoats decreased from 254 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 43.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.


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 women's and children's coats and raincoats produced at J and R Manufacturing Co., Inc., Newark, N.J. The investigation revealed that women's and children's coats and raincoats are produced.
NOTICES

LEXCRAFT, INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3173: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978, in response to a worker petition received on May 26, 1978, which was filed on behalf of workers and former workers producing ladies' loungewear and sleepwear at the Fall River, Mass., plant of Lexcraft, Inc.

The notice of investigation was published in the Federal Register on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lexcraft, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of ladies' sleepwear and loungewear by Lexcraft increased in quantity from 1976 to 1977, and increased in the first 5 months of 1978 compared to the same period of 1977. Production increased in each of the last three quarters of 1977 and in the first quarter of 1978 compared to the same quarters of the previous year. Sales and production are equivalent, since all clothing is produced to order on a contract base.

CONCLUSION

After careful review I determine that all workers of Lexcraft, Inc., Fall River, Mass., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[TA-W-3173]

PACIFIC MOTOR TRUCKING CO., SOUTH GATE YARD, LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3842: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers transporting new vehicles for General Motors at the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co.

The notice of investigation was published in the Federal Register on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pacific Motor Trucking Co. and Department files.

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 Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

CONCLUSION

After careful review, I determine that all workers in the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co. be denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[TA-W-3842]
NOTICES

47329

[4510-28-M]

TARR FASHIONS, INC., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3739: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers producing wool coats and raincoats for women at Ro Tarr Fashions, Inc., Newburgh, N.Y.

The notice of investigation was published in the Federal Register on June 13, 1978 (43 FR 25498-25499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ro Tarr, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, the National Cotton Council of America, industry analysts, and Department files.

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 revealed that all of the requirements have been met.

U.S. imports of women's misses' and children's coats and jackets increased from 2,325 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses' and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 30.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which RCR Sportswear worked in 1976 and 1977. A manufacturer that accounted for a majority of sales in 1976 reduced purchases from RCR Sportswear and increased purchases of imported women's coats and raincoats in 1977 compared to 1976. This manufacturer ceased purchases from RCR Sportswear in the first 5 months of 1978, while continuing to increase imports during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with the women's coats and raincoats produced at RCR Sportswear, Inc., Passaic, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of RCR Sportswear, Inc., Passaic, N.J., who became totally or partially separated from employment on or after March 28, 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 3d day of October 1978.

JAMES E. TAYLOR,
Director, Office of Management, Administration and Planning.
[FR Doc. 78-23892 Filed 10-12-78; 8:45 am]

[4510-28-M]

REMM FASHIONS, INC., JERSEY CITY, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers producing ladies' coats and children's coats at Remm Fashions, Inc., Jersey City, N.J.

The notice of investigation was published in the Federal Register on May 28, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Remm Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MAYNOR M. Fooks,
Director, Office of Trade Adjustment Assistance.
[FR Doc. 78-23893 Filed 10-12-78; 8:45 am]
CONCLUSION

After careful review, I determine that workers engaged in employment related to the production of ophthalmic lenses of the Tampa, Fla., plant of the Shuron Division of Textron, Inc., 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 3d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28995 Filed 10-12-78; 8:45 am]

NOTICES

A survey of major customers of Stylish Sportswear indicated that those customers who decreased purchases of imported slacks from Stylish from 1976 to 1977, increased purchases of imported slacks.

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 ladies' slacks produced by Stylish Sportswear Co., Inc., New York, N.Y., contributed importantly to the decline in sales and production to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Stylish Sportswear Co., Inc., New York, N.Y., who became totally or partially separated from employment on or after March 17, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29005 Filed 10-12-78; 8:45 am]

NOTICES

In accordance with section 222 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3457: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1976, in response to a worker petition received on March 21, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ophthalmic lenses at the Tampa, Fla., plant of the Shuron Division of Textron, Inc.

The notice of investigation was published in the Federal Register on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Shuron Division of Textron, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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. 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.


Customers of Shuron who were surveyed did not reduce purchases from Shuron in favor of imports. The termination of lens operations at the Tampa plant resulted largely from a decision by Shuron officials to consolidate all glass lens production at the firm's Barnwell, S.C., facility.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28995 Filed 10-12-78; 8:45 am]

NOTICES

Shuron's Barnwell, S.C., facility.

Decision by Shuron officials to consolidate lens operations at the Tampa plant resulted largely from a decrease in sales or production.

Customers of Shuron who were surveyed did not reduce purchases from Shuron in favor of imports.


Customers of Shuron who were surveyed did not reduce purchases from Shuron in favor of imports. The termination of lens operations at the Tampa plant resulted largely from a decision by Shuron officials to consolidate all glass lens production at the firm's Barnwell, S.C., facility.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28995 Filed 10-12-78; 8:45 am]
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 Department’s investigation revealed that all of the requirements have been met.

U.S. Imports of women’s, misses’, and children’s coats and jackets increased from 2,552 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 45.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Tiara Coat Fashions, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Tiara Coat Fashions, Inc., and increased purchases of imported coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Tiara Coat Fashions, Inc. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies’ coats produced at Venus Coat Co., Jersey City, N.J., contributed importantly to the decline in sales and production and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Venus Coat Co., Jersey City, N.J., who became totally or partially separated from employment on or after November 1, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28979 Filed 10-12-78; 8:45 am]

NOTICES

VENUS COAT CO. JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of the investigation into eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies’ Garment Workers’ Union on behalf of workers and former workers producing ladies’ coats at Venus Coat Co., Jersey City, N.J.

The notice of investigation was published in the Federal Register on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Venus Coat Co., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department’s investigation revealed that all of the requirements have been met.

U.S. Imports of women’s, misses’, and children’s coats and jackets increased from 2,532 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 45.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Venus Coat Co., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Venus Coat Co. and increased purchases of imported ladies’ coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Venus Coat Co. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies’ coats produced at Venus Coat Co., Jersey City, N.J., contributed importantly to the decline in sales and production and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Venus Coat Co., Jersey City, N.J., who became totally or partially separated from employment on or after November 1, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28979 Filed 10-12-78; 8:45 am]
NOTICES

**[7527-01-M]**

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE**

**PRIVACY ACT OF 1974**

Notice of New System; Adoption


This new system is identified as the White House Conference Delegate/Alternate Certification File, and will include information provided by persons named as official delegates or alternates from their respective states or territories to the White House Conference on Library and Information Services (WHCLIS). The information is necessary to insure the wide representation required by the WHCLIS legislation, Pub. L. 93-565.

On August 11, 1978 (45 FR 35905) the Commission published notice of the proposed new system. No comments were received. The system is adopted as published in that notice.

October 10, 1978.

Alphonse F. Trezza,
Executive Director.

[FR Doc. 78-28861 Filed 10-12-78; 8:45 am]

**[7555-01-M]**

**NATIONAL SCIENCE FOUNDATION**

**ADVISORY COMMITTEE FOR CHEMISTRY**

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.
Date and time: October 30-31, 1978—8 a.m. to 5 p.m., each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Richard S. Nicholson, Division of Chemistry, Room 940, National Science Foundation, Washington, D.C. 20550, telephone 202-326-4222.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 216, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: To provide program oversight concerning NSF support for research in chemistry.

[FR Doc. 78-28882 Filed 10-12-78; 8:45 am]

The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.


S. Neil Osdenball,
General Counsel.

[FR Doc. 78-28973 Filed 10-12-78; 8:45 am]

[7510-01-M]

**NASA ADVISORY COUNCIL (NAC)**

**AERONAUTICS ADVISORY COMMITTEE**

Meeting

A meeting of the Informal Executive Committee of the NAC Aeronautics Advisory Committee will be held October 18, 1978, from 9 a.m. to 1 p.m., in room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including committee members and participants).

The Aeronautics Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The Executive Committee’s purpose is to meet and discuss the operation of the Aeronautics Advisory Committee and subjects that should be studied through the formation of informal ad hoc subcommittees. It is necessary that this informal Executive Committee meet at this time in order that the informal ad hoc subcommittees established by the Committee will have time to meet and discuss subjects pertinent to NASA’s planning and budget cycle and present their findings to the NAC Aeronautics Advisory Committee in February 1979. The Chairman is Dr. Robert C. Loewy. There are seven members on the Informal Executive Committee.

For further information, contact Mr. C. Robert Nysmith, Executive Secretary, 202-785-9550, NASA Headquarters, Code R, Washington, D.C. 20546.

Arnold W. Frutkin,
Acting Associate Administrator for External Relations.

October 6, 1978.

[FR Doc. 78-28875 Filed 10-12-78; 8:45 am]

[7510-01-M]

**NASA WAGE COMMITTEE**

Reestablishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, NASA has determined that the reestablishment of the NASA Wage Committee is in the public interest in connection with the performance of duties imposed upon NASA by law. The function of this Committee is to provide recommendations to NASA relating to a survey of wages and the establishment of wage schedules for trades and labor employees in the Cleveland, Ohio wage area. NASA has been designated as the “lead agency” for that area under Federal Personnel Manual Supplement 552-1.

Arnold W. Frutkin, Acting Associate Administrator for External Relations.

October 6, 1978.

[FR Doc. 78-28875 Filed 10-12-78; 8:45 am]
topical interest to the Committee. In addition, the Division will seek the Committee's advice, concerning the support of post-doctoral in chemistry. There also will be a discussion of the future plan for the regional instrumentation facilities program.

M. REBECCA WINKLER,
Committee Management Coordinator.


[F.R. Doc. 78-29096 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and time: October 30, 31, and November 1, 1978: 9 a.m. to 6 p.m.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed. Contact person: Dr. Libelotte Meager-Freed, Program Director for Cell Biology, Room 331-B, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5568.

Purpose of subcommittee: To provide advice and recommendations concerning research support in Cell Biology.

Agenda: November 4-10 a.m. to 12 p.m.—Open session. General discussion of computer technology and other equipment advanced relevant to current standards for assessing need for equipment, and of research topics which deserve special emphasis. November 3-9 a.m. to 5 p.m. and November 4-12:30 to 4 p.m.—Closed sessions. November 4-10 a.m. to 12 p.m.—Open. November 4-12:30 to 4 p.m.—Closed. Summary minutes: May be obtained from the Committee Management Coordinator.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463, The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, February 18, 1977.

[7555-01-M]

SUBCOMMITTEE ON ECONOMICS OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.

Date and time: November 3 and 4, 1978—November 3-9 a.m. to 5 p.m., November 4-8 a.m. to 4 p.m.

Place: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part open—November 3-9 a.m. to 5 p.m.—Closed. November 4-8 a.m. to 10 a.m.—Closed. November 4-8 a.m. to 10 a.m. and November 4-12:30 to 4 p.m.—Closed. Summary minutes: May be obtained from the Committee Management Coordinator.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c).

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463, The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.

[7555-01-M]

SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.

Date and time: October 30, 1978—9 a.m. to 5 p.m.

Place: National Science Foundation, Room 628.

Type of meeting: Closed. Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.
NOTICES

[7555-01-M]

SUBCOMMITTEE TO REVIEW THE STRUCTURAL MATERIALS AND GEOTECHNICAL ENGINEERING AND WATER RESOURCES, URBAN AND ENVIRONMENTAL ENGINEERING PROGRAMS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee to Review the Structural Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering Programs of the Advisory Committee for Engineering.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date and time: November 2 and 3, 1978—9 a.m. to 5 p.m. each day.

Type of meeting: Part-Open—November 2, 1978—9 a.m. to noon—Open 130 to 5 p.m. closed. November 3, 1978—9 a.m. to 1 p.m.—Open 2 to 5 p.m. closed.

Contact person: Dr. Ronald L. Huston, Section Head, Engineering Mechanics, Room 419, National Science Foundation, Washington, D.C. 20550, telephone 202-324-7987.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and counsel concerning the status and new directions of Engineering Mechanics research Structural, Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering.

Agenda:

THURSDAY, NOVEMBER 2—OPEN 9 A.M. TO NOON.

9—Introduction by Section Head. Engineering Division Status Report.
9:45—Question and Answer.
11—Briefing by Division of Programs—Focused Research Applications of the Director for Applied Science Research Applications.
11:30—Question and Answer.
12—Recess.

THURSDAY, NOVEMBER 2—CLOSED—1:30 TO 5 P.M.

1:30—Review of declinations containing names of applicant institutions and principal investigators and of the peer review documentation pertaining to awards.

FRIDAY, NOVEMBER 3—OPEN 9 A.M. TO 1 P.M.

9—Oral reports from Subcommittee.
9:30—Subcommittee Discussion of future directions of programs.
10:30—Subcommittee discussion of Section-wide and Division-wide concerns.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
11:30—Drafting of preliminary subcommittee response.

FRIDAY, NOVEMBER 3—CLOSED—2 TO 5 P.M.
2—Further review of peer review process on individual grants and declinations.
5—Adjourn.
Reason for closing: The Subcommittee will be reviewing recommendations which contain the names of applicant institutions and principal investigators and privileged information contained in the review documentation. This section will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (6) and (8) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of Pub. L. 92-463,

M. REBECCA WINKLER, Chairman. Management Coordinator.


[FR Doc. 78-28969 Filed 10-12-78; 8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SURRY POWERPLANT, UNITS 1 AND 2

Meeting

The ACRS Subcommittee on the Surry Powerplant, units 1 and 2, will hold a meeting on October 28, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to discuss the steam generator repair program for units 1 and 2.

In accordance with the procedures outlined in the Federal Register on October 4, 1978 (43 FR 49928), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

8:30 a.m. until the conclusion of business.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Virginia Electric Power Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of discussing matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-834-3287 between 8:15 a.m. and 5 p.m., EDT.

Background Information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Swem Library, College of William and Mary, Williamsburg, Va. 23185.


JOHN C. HOYLE, Advisory Committee Management Officer.

[FR Doc. 78-28969 Filed 10-12-78; 8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS
List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget, pursuant to 5 U.S.C. 3509. The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Farm and Rural Development Administration, Tenant Certification, FMHA 444-3. Annually, FMHA multiple family housing borrowers, 60,000 responses, 15,000 hours, Elleit, C.A., 588-6192.

DEPARTMENT OF COMMERCE


DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Product License Application for the Manufacturers of Antihuman Globulin, FD-3096, on occasion, manufacturers of antihuman globulin sera, 40 responses, 30 hours, Richard Eslinger, 395-3214.

Alcohol, Drug Abuse, and Mental Health Administration:

Food Drug Administration, Product License Application for the Manufacturers of Antihuman Globulin, FD-3096, on occasion, manufacturers of antihuman globulin sera, 40 responses, 30 hours, Richard Eslinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Application for Urban Homesteading Program, on occasion, States or units of general local government, 300 responses, 16,000 hours, Cosway, David F., 385-3443.

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration, Job Corps Placement and Assistant Record, ETA-678, on occasion, State's job corps centers and other placement agencies, 50,000 responses, 50,000 hours, Arnold Strasser, 395-6132.

EXTENSIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Monthly Report of Participants Under Grant, Loan, or Contract Programs, AID 1989-0, monthly, universities and profes-
NOTICES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE


Various.

Food and Nutrition Service, Food Stamp Program Regulations, part 276, participation of retail food stores, wholesale food concerns and banks, NFS-252-2, 252-2, 350, on occasion, Retail food stores and wholesalers, 250,000 responses, 21,000 hours, Caywood, C.A., 395-6132.

Persons, annual, any criminal Justice...
NOTICES

STMT OF TMS OF SUBSTNCE OF PROPOSED RULE CHANGES

The proposed rule changes, if approved, would provide for the implementation and operation of the intermarket trading system (ITS) and the pre-opening application on the floor of the exchange.

STMT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule change is to permit the Midwest Stock Exchange to participate in the Plan previously submitted to the Securities and Exchange Commission by the New York Stock Exchange by letter dated March 6, 1976, proposing the creation and operation of an intermarket communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This plan in general provides for a communications system linking the various participants' trading floors in order to permit a trade to take place between the members of different participants.

Pursuant to the intent of the Congress, expressed in section 11A(a)(3)(B) of the Securities Exchange Act of 1934, as amended (the Act)—that self-regulatory organizations act jointly in planning, developing, operating, and regulating a national market system (or a subsystem or one or more facilities thereof)—the MSE and the American, Boston, Pacific, New York, and Philadelphia Stock Exchanges have entered into a plan agreement (the Plan) providing for an electronic communications system (the System) which will link together the various trading floors maintained by the participating exchanges. This System is intended to support the intermarket trading system application (ITS) and the pre-opening application.

The ITS application of the System will facilitate intraday (post opening) trades between broker-dealers on different participants. The following example describes the operation of ITS:

Assume that a member firm of the NYSE receives from a customer an order to purchase 100 shares of a given NYSE listed stock that is also traded on the Midwest (MSE) and Philadelphia (PHELX) Stock Exchanges and sends that order to the MSE floor for execution. There a NYSE member, acting as agent for the customer, will receive the order and attempt to execute it. He will go to the post at which the stock is traded on the NYSE and inquire as to the market for that stock. He may find that the best bid on the NYSE floor is 40 and that the best offer is 40%. A continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the NYSE floor. Identifying the participant with the best bid and the participant with the best offer, the broker may discover that the best offer from other participants is one of 40% on the MSE. Having learned this information the broker may decide to attempt to buy the 100 shares for his customer from the 40% offer on the MSE. The broker would send, or cause to be sent, a commitment to trade to "the MSE. (As used in the Plan, the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through "ITS, determines that the best offer is on the MSE. The broker would send, or cause to be sent, a commitment to trade to "the MSE. (As used in the Plan, the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through "ITS, determines that the best offer is on the MSE. The broker would send, or cause to be sent, a commitment to trade to "the MSE. 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BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed rule changes relate to section 11A(a) of the Act because they would provide for the implementation and operation of the intermarket trading system and the preopening application on the equity floor of the MSE. Implementation of the intermarket trading system and the preopening application is consistent with the findings and directives of the Congress, as expressed in section 11A(a) of the Act, that:

New data processing and communications techniques create the opportunity for more efficient and effective market operations (section 11A(a)(1XBD)). It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * the practicability of brokers executing investors' orders in the best market * * * (section 11A(a)(XCD)). The Plan contemplates that such commitments to trade will be handled in the normal course of business in the receiving market center and will not be subject to any special restrictions except those which are specifically agreed to by the participating market centers in the Plan. To further emphasize this principle the Plan provides that the rules of each participant shall provide that a commitment to trade received in its market during the trading day shall, except as otherwise provided for in the Plan, be treated in the same manner and entitled to the same privileges as if it received any comments regarding the proposed rule changes.

The proposed rule changes also relate to section 6(b)(1) of the Act in that they would enable the exchange to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange in an environment where exchange members on the floor of the MSE will be able to effect securities transactions with broker-dealers located in different market centers.

Finally, the proposed rule changes relate to, and are consistent with, section 6(b)(5) of the Act in that they are designed to promote just and equitable principles of trade; to remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and, in general, to protect investors and the public interest.

NOTICES

** BURDEN ON COMPETITION

The proposed rule changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. On or before November 20, 1978, or within such longer period as the Commission may designate by order approve such proposed rule change, or (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing, and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons, Secretary

OCTOBER 6, 1978.

[FPR Doc. 78-26849 Filed 10-12-78: 8:45 am]

SMALL BUSINESS ADMINISTRATION
REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Boston, Mass., will hold a public meeting at 1:30 p.m., on Monday, October 30, 1978, in the Conference Room, 150 Causeway Street, 10th Floor, Boston, Mass., to discuss such matters as may be presented members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas A. McGIllicuddy, District Director, U.S. Small Business Administration, 150 Causeway Street, Boston, Mass. 02114, 617-223-3074.
NOTICES


K. Drew,
Deputy Advocate for
Advisory Councils.
[FR Doc. 78-28841 Filed 10-12-78; 8:45 am]

[8025-01-M]

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 12 noon on Tuesday, October 31, 1978, at Guido's, 333A Water Street, Augusta, Maine, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call G. Leroy Perry, Acting District Director, U.S. Small Business Administration, Federal Building, 40 Western Avenue, Augusta, Maine 04330, 207-622-6171, extension 282.

The applicant proposes to begin operations with a capitalization of $500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns. The applicant intends to render management consulting services to small business concern.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any person may, not later than October 30, 1978, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW, Washington, D.C. 20416.

A copy of the notice will be published in a newspaper of general circulation in Arlington Heights, Ill.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)


Peter P. McNees,
Deputy Associate Administrator for Investment.
[FR Doc. 78-28333 Filed 10-12-78; 8:45 am]

[8025-01-M]

(Declaration of Disaster Loan Area No. 1532)

TEXAS

Declaration of Disaster Loan Area

Bexar and Shelby Counties and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by high wind, lightening, excessive rains, rising water and flooding which occurred in San Antonio on September 13, 1978, and in Shelby on September 14, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 4, 1978, and for economic injury until the close of business on July 3, 1979, at:

Small Business Administration, District Office, 727 East Durango—Room A-513.
Federal Building, San Antonio, Tex. 78206.
Small Business Administration, District Office, 1109 Commerce Street, Dallas, Tex. 75242.

or other locally announced locations.

(Catalog of Federal domestic assistance program Nos. 59002 and 59003.)


A. Venho Weaver,
Administrator.
[FR Doc. 78-23540 Filed 10-12-78; 8:45 am]

[4710-01-M]

DEPARTMENT OF STATE

[CL-8/110]

FINE ARTS COMMITTEE

Notice of Meeting

The Fine Arts Committee of the Department of State will hold its fall meeting on Monday, November 13, 1978, at 2:30 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 4 p.m.

The agenda for the committee meetings will include a summary of the work of the Fine Arts Office since its last meeting in December 1977, the announcement of all gifts and loans since January 1, 1978, as well as a report on the status of the architectural improvements in the Entrance Hall and Lounges of the Diplomatic Reception Rooms. Also on the agenda will be a report from the Finance Committee on the fundraising dinner held in the spring.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, November 6, 1978, telephone 202-632-0228 to make arrangements to enter the building.


Clement E. Conger,
Chairman,
Fine Arts Committee.
[FR Doc. 78-23571 Filed 10-12-78; 8:45 am]
DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA, BRAZIL, COLOMBIA, HONG KONG, PHILIPPINES, THE REPUBLIC OF KOREA, URUGUAY, MALAYSIA, MEXICO, PAKISTAN, SINGAPORE, AND THAILAND

Clarity of Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation and of Preliminary Countervailing Duty Determinations

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Clarification of countervailing duty notices.

SUMMARY: This notice is to advise the public of a clarification in the description of the products subject to the countervailing duty investigations published in the Federal Register for Argentina (43 FR 3964), Brazil (43 FR 3968), Colombia (43 FR 3963), Hong Kong (43 FR 3971), India (43 FR 3970), the Philippines (43 FR 3975), the Republic of China (Taiwan) (43 FR 3965), the Republic of Korea (43 FR 3966), and Uruguay (43 FR 3976). The description of product coverage in the preliminary determinations was identical to the description in the initiation notices except that the footnote listed category numbers from the revised textile and apparel categories.

A comparison of the revised category numbers with those listed in the initiation notices has disclosed that certain textile mill products within the scope of these investigations were inadvertently omitted from the revised category numbers listed in the preliminary determinations. This notice is intended to clarify that there has been no change in the scope of product coverage; it remains as set forth in the petition and the initiation notices. It has been determined, though, that it would be clearer if the description of product coverage were described in terms of item numbers from the Tariff Schedules of the United States Annotated rather than category numbers from the textile and apparel categories.

ADDITIONAL INFORMATION: On January 30, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the Federal Register for Argentina, Brazil, Colombia, Hong Kong, India, the Philippines, the Republic of China (Taiwan), the Republic of Korea, Uruguay, Malaysia, Mexico, Pakistan, Singapore, and Thailand.


FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: On January 30, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the Federal Register for men's and boys' apparel and textile mill products of cotton, wool, and man-made fibers from Argentina, Brazil, Colombia, India, the Philippines, the Republic of China (Taiwan), the Republic of Korea, Uruguay, Malaysia, Mexico, Pakistan, Singapore, and Thailand. The description of the product coverage of the investigations, identical in all notices, followed the description contained in the petition. "Men's and boys' apparel" was defined as: "Men's and boys' apparel" means those items described in the Federal Register for men's and boys' apparel and textile mill products of cotton, wool, and man-made fibers from Argentina, Brazil, Colombia, Hong Kong, India, the Philippines, the Republic of China (Taiwan), the Republic of Korea, and Uruguay.

For purposes of this notice "textile mill products" include yarn, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; "footnote set out the relevant category numbers from the Correlation: Textile and Apparel Categories, with Tariff Schedules of the United States Annotated.

On June 1, 1978, notices of preliminary countervailing duty determinations were published in the Federal Register for Argentina (43 FR 23781), Brazil (43 FR 23783), Colombia (43 FR 23780), Hong Kong (43 FR 23781), India (43 FR 23780), the Philippines (43 FR 23783), the Republic of China (Taiwan) (43 FR 23785), the Republic of Korea (43 FR 23791), and Uruguay (43 FR 23795). In the period between publication of the initiation notices and the preliminary determinations, the Treasury Department determined that the Department of Commerce had streamlined and consolidated the textile and apparel categories, thereby affecting the category numbers set forth in the footnotes in the initiation notices. The description of product coverage in the preliminary determinations was identical to the description in the initiation notices except that the footnote listed category numbers from the revised textile and apparel categories.

A comparison of the revised category numbers with those listed in the initiation notices has disclosed that certain textile mill products within the scope of these investigations were inadvertently omitted from the revised category numbers listed in the preliminary determinations. This notice is intended to clarify that there has been no change in the scope of product coverage; it remains as set forth in the petition and the initiation notices. It has been determined, though, that it would be clearer if the description of product coverage were described in terms of item numbers from the Tariff Schedules of the United States Annotated rather than category numbers from the textile and apparel categories.

Accordingly, footnote 1 and the appendix in each of the above-cited notices should also be amended to read as set forth above and that footnote 1 and the appendix in each of those notices should be and is, hereby, replaced by the appendix to this notice.

ROBERT H. MÜNDHEIM, General Counsel, of the Treasury.

OCTOBER 5, 1978.

APPENDIX

1. COTTON TEXTILES AND TEXTILE PRODUCTS

Textile yarns and threads:

*300.00*

*301.---*

*302.---*

*303.10*

*303.20*

Cordage:

*315.05*

*315.10*

*315.15*

Fabric:

*319.21*

*319.23*

*319.25*

*319.27*

*319.29*

*320.---*

*321.---*

*322.---*

*323.---*

*324.---*

*325.---*

*326.---*

*327.---*

*328.---*

*329.---*

*330.---*

*331.---*

*332.10*

*332.40*

Fabric of special construction:

*345.10(a)*

*345.35(a)*

*345.05*

*346.10*

*346.15*

*346.20*

*346.22*

*346.24*

*346.30*

*346.32*

*346.35*

*346.40*

*346.45*

*346.50(a)*

*346.50(a)*

*346.70*

*347.10*

*347.15*

*347.25*

*347.33*

*347.35*

*347.38(a)*

*347.38(a)*

*349.15*

*349.30(a)*
FEDERAL REGISTER, VOL. 43, NO. 159—FRIDAY, OCTOBER 13, 1978

NOTICES

I. COTTON TEXTILES—Continued

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<td>381.25(a)</td>
<td>Furnishings:</td>
</tr>
<tr>
<td>381.40(a)</td>
<td>Miscellaneous textile products:</td>
</tr>
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<td>381.45(a)</td>
<td>Fabrics:</td>
</tr>
<tr>
<td>381.50(a)</td>
<td>of cotton</td>
</tr>
<tr>
<td>381.60(a)</td>
<td>Cordage:</td>
</tr>
<tr>
<td>381.70(a)</td>
<td>Fabrics:</td>
</tr>
<tr>
<td>381.80(a)</td>
<td>of special construction:</td>
</tr>
<tr>
<td>382.00</td>
<td>(a) Cotton articles classified under this</td>
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<tr>
<td>382.10</td>
<td>TSUS Item number are covered by this</td>
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<tr>
<td>382.20</td>
<td>notice. If they are included in the textile</td>
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<tr>
<td>382.30</td>
<td>category system used by the United States to</td>
</tr>
<tr>
<td>382.40</td>
<td>monitor and administer the U.S. textile</td>
</tr>
</tbody>
</table>
| 382.50     | agreements made pursuant to the Ar-
| 382.60     | rangement Regarding International Trade |
| 382.80     | 1061, TIAS 7840. |
| 382.90     | (b) If the item is for men and boys, it is |
| 383.00     | included in this notice. The term “men and |
| 383.10     | boys” should be interpreted in accordance |
| 383.20     | with the applicable headnotes to the sched-
| 383.30     | ule part and subpart in which the TSUS |
| 383.40     | number falls. Where the phrase is not cov-
| 383.50     | ered by such headnotes, items classified |
| 383.60     | under the TSUS number which can be used |
| 383.70     | by either sex are covered by this notice. |
| 383.80     | Items under TSUS numbers identifiable as |
| 383.90     | being intended exclusively for women are |
| 384.00     | not covered by this notice. |
NOTICES

III. MANMADE FIBER TEXTILES—Continued

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Cordage

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Fabric

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Furnishing

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III. MANMADE FIBER TEXTILES—Continued

Miscellaneous textile products

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Footwear, headwear, gloves

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(a) Wool articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice.

III. MANMADE FIBER TEXTILES AND TEXTILE PRODUCTS

Yarns and threads

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Headwear, gloves

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(a) Manmade fiber articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice.

Gloves

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NOTICES

Department and all support personnel assigned to them. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Mone-

7. The Assistant General Counsel (Administration, Legislation and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), and to the Office of the Secretary generally with respect to administrative programs and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Assistant Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement and Operations) provides legal advice to the Assistant Secretary (Enforcement and Operations). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Senior Counsel (Enforcement and Operations), the Chief Counsel, U.S. Customs Service, the Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Assistant General Counsel (Domestic Finance) provides legal advice to the Assistant Secretary (Domestic Finance) and to the subordinates of that official. He supervises the Chief Counsel, Office of Revenue Sharing. He reports to the General Counsel through the Deputy General Counsel.

10. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

11. The Counselor, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

12. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978

[4810–25–M]

Office of the Secretary

[General Counsel Order No. 1 (Rev.)]

LEGAL DIVISION

Organization and Functions

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Order No. 190 (Revised), I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury—

IV. LEATHER

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Rubber and plastics:

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Mone-

7. The Assistant General Counsel (Administration, Legislation and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), and to the Office of the Secretary generally with respect to administrative programs and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Assistant Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement and Operations) provides legal advice to the Assistant Secretary (Enforcement and Operations). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Senior Counsel (Enforcement and Operations), the Chief Counsel, U.S. Customs Service, the Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Assistant General Counsel (Domestic Finance) provides legal advice to the Assistant Secretary (Domestic Finance) and to the subordinates of that official. He supervises the Chief Counsel, Office of Revenue Sharing. He reports to the General Counsel through the Deputy General Counsel.

10. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

11. The Counselor, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

12. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.
NOTICES

13. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

14. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

15. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel.

16. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Domestic Finance) and the Deputy General Counsel.

17. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

18. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

19. The Legal Counsel, Federal Law Enforcement Training Center, provides legal advice to that Center and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

20. The Legal Counsel, Bureau of Engraving and Printing, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

21. The Director of Practice (1) directs the legal functions performed in his office and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel; (2) makes operating decisions in carrying out the responsibilities placed on him under 31 U.S.C. 1028 and by 31 CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel; and (3) serves as Executive Director of the Joint Board of Actuaries pursuant to Part 901, Chapter VIII of Title 30, CFR.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General Counsel may, on an ad hoc basis, realign a temporary basis a function of an Assistant General Counsel or the Counselor.


ROBERT H. MUNDHEIM,
General Counsel.

[F.R. Doc. 78-29003 Filed 10-12-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-64; General Temporary Order No. 11; Section 210(a)(7)]

GRANTING OF SHORT TERM EMERGENCY TEMPORARY AUTHORITY

Supplemental Decision


By order served on January 18, 1978, in Ex Parte No. MC-64, General Temporary Order No. 11, which remains in effect continuously until cancelled, the Commission established procedures which under situations resulting in serious hardship to shippers and possible danger to life and property allow for the granting of short term emergency temporary authority at times when Commission employees are not generally available. Such times would be weekends, holidays and after business hours.

It is ordered: In view of several changes in staff, the following is an amended list of officials of the Commission designated as authorized to grant applications of the type described in the original order for a period not to exceed 10 days.

Name, residence and home phone No.

Jack K. Huff, Atlanta, Ga., 404-351-5301.
Bruce R. Rechelderfer, Atlanta, Ga., 404-992-9418.
David Y. Armitage, Park Forest, Ill., 312-747-5022.
A. Paul Bates, Wheaton, Ill., 312-690-1365.
James H. Berry, Fort Worth, Tex., 817-526-2385.
Haldon G. West, Fort Worth, Tex., 817-294-0965.
Joseph F. Rucera, San Francisco, Calif., 415-735-7790.

Philip Yallowitz, Los Angeles, Calif., 213-347-3937.

The original order inadvertently failed to include the requirement that applicants who do not hold authority from the Commission must also furnish evidence as to the designation of agents for service of process.

This supplemental decision shall become effective October 10, 1978.

The provisions of General Temporary Order No. 11, effective February 1, 1978 and this Supplemental Decision will remain in effect until cancelled by further decision of the Commission.

Notice of this order shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1, Commissioners Stafford, Gresham and Christian.

H. G. Homme, Jr.
Acting Secretary.

[F.R. Doc. 78-29041 Filed 10-12-78; 8:45 am]

[7035-01-M]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 2, 1978.

The following are notices of filing of applications for temporary authority under section 210(a)(7) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the “MC” docket and “Sub” number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service is can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant’s information.

Except as otherwise specifically noted, each applicant states that there...
will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 730 (Sub-419TA), filed August 17, 1978. Applicant: PACIFIC INTER-MOUNTAIN EXPRESS CO. (P/I E), P.O. Box 958, Oakland, CA 94612. Representative: F. N. Cooley, P.O. Box 219, Oakland, CA 94612. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Asphalt (in bulk, in tank vehicles), from the facilities of Rockwool, Inc., Spring Hope, NC, to points in VA, for 180 days. Authority sought to operate as a common carrier, by motor vehicle, for a 90-day period, transporting: Insulating materials and materials and supplies used in the installation of insulating material, from Spring Hope NC, to points in DE, FL, GA, IN, KY, MD, NY, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, for 90 days. Supporting shipper: Spring Hope Rockwool, Inc., Spring Hope, NC 27882. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 219, Roanoke, VA 24011.

MC 102567 (Sub-211TA), filed August 15, 1978. Applicant: McNair TRANSFER, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, 2040 North Loop West, Suite 200, Houston, TX 77042. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank and hopper-type vehicles, between ERCO Industries, Inc., plant (located approximately 5 miles south of Monroe, LA on Hwy 163 at or near the community known as Rilla, LA) and points in AL, AR, FL, GA, KY, MS, MI, NC, OK, SC, TN, TX, and VA, for 180 days. Applicant has also filed an underlying ETA seeking to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulating materials and materials and supplies used in the installation of insulating material, from Spring Hope NC, to points in DE, FL, GA, IN, KY, MD, NY, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, for 90 days. Supporting shipper: Spring Hope Rockwool, Inc., Spring Hope, NC 27882. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 219, Roanoke, VA 24011.

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MC 102567 (Sub-211TA), filed August 15, 1978. Applicant: McNair TRANSFER, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, 2040 North Loop West, Suite 200, Houston, TX 77042. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank and hopper-type vehicles, between ERCO Industries, Inc., plant (located approximately 5 miles south of Monroe, LA on Hwy 163 at or near the community known as Rilla, LA) and points in AL, AR, FL, GA, KY, MS, MI, NC, OK, SC, TN, TX, and VA, for 180 days. Applicant has also filed an underlying ETA seeking to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulating materials and materials and supplies used in the installation of insulating material, from Spring Hope NC, to points in DE, FL, GA, IN, KY, MD, NY, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, for 90 days. Supporting shipper: Spring Hope Rockwool, Inc., Spring Hope, NC 27882. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 219, Roanoke, VA 24011.
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ING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1850, Columbus, OH 43216. Application: to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Gypsum and gypsum products and materials and supplies used in the manufacture and distribution thereof, from the facilities of Georgia Pacific Corp., Gypsum Products Division, located at Buchanan and Croton-on-Hudson, Westchester County, NY, to points in MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting: Georgia Pacific Corp., Gypsum Products Division, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Keith D. Wachenheim, Director, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 109638 (Sub-33TA), filed August 17, 1978. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Hodges Street, Washington, DC 20079. Representative: Cecil W. Bradley, P.O. Box 145, Cherry Road, Washington, DC 20079. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, plywood, and landscape timbers, from Plymouth and Weycos, NC, to points in DE and NJ, from Kellum and Lewis in NC, to points in ME, MA, CT, RI, VT, NY, PA, DE, MD, VA, and NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., P.O. Box 787, Plymouth, NC. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26886, Raleigh, NC 27611.

MC 110420 (Sub-784TA), filed August 17, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 188, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vegetable oils and shortenings, in bulk, in tank vehicles, from Columbus, OH, to points in WI, for 180 days. Supporting: Capital City Products Co., 525 W. First Avenue, Columbus, OH 43216. Send protests to: Gall Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 112891 (Sub-208TA), filed August 17, 1978. Applicant: CARRIERS SERVICE CO., 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Corn syrup and corn sweeteners (in bulk, in tank vehicles), from the facilities of A. E. Staley Mfg. Co., located in the Chicago, IL, Commercial Zone to points in IL, KY, MI, NY, OH, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert L. Lighthall, Assistant to Director, Corporate Transportation, A. E. Staley Mfg. Co., 2300 East Eldorado Street, Decatur, IL 62525. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114457 (Sub-502TA), filed August 18, 1978. Applicant: DART TRANSIT CO., 202 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products in packages, from the facilities of Texaco in Jefferson County, TX, to points in WI, IA, MO, IL, IN, NE, SD, ND, OH, MI, and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting: Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 1100 South Fourth Street, Minneapolis, MN 55401.

MC 115311 (Sub-300TA), filed August 9, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milleville, GA 31061. Representative: Kim G. Meyer, 1200 Gas Station Tower, 233 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building materials, gypsum and adhesives, from the facilities of United States Gypsum Co. at Martin County, IN, to points in OH, KY, TN, WV, IL, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW, Room 300, Atlanta, GA 30309.

MC 116763 (Sub-428TA), filed August 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Highway, Waukegan, IL 60085. Representative: H. M. Richters (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by retail, wholesale and chain grocery, drug and food business houses (except frozen and in bulk), from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA to points in FL, on or south of FL Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gulf Atlantic Distribution Services, Mr. Clair Williams, Manager, Marketing & Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 55 Main Street, Cincinnati, OH 45202.

MC 119789 (Sub-512TA), filed August 17, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75260. Representative: Lewis Coffey (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Drugs and medicine, from New Brunswick, Somerset and South Plainfield, NJ, to Mission, AZ, for 180 days. Supporting: E. R. Squibb & Sons, 1300 Peachtree Street, Atlanta, GA 30309. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120257 (Sub-46TA), filed August 17, 1978. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 207, Ore City, TX 75683. Representative: Nolan Killingsworth (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Iron and steel castings, from Lufkin, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting: Lufkin Distributing, Inc., P.O. Box 849, Lufkin, TX 75901. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120477 (Sub-507TA), filed August 17, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, 2128 East Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, from Milwau
ke, WI, and commercial zone thereof, to Kearney, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Applicant: Stewart Huber, Purchasing Agent, P.O. Box 388, Caldwell Manufacturing Co., Kearney, NE 68847. Send protests to: Max H. Johnston, District Supervisor, 250 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123048 (Sub-410TA), filed August 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Grain drying, storage, handling, conditioning, and aeration equipment and attachments, accessories and parts, from Mattoon, IL, to points in AR, IA, KY, MN, MS, MO, NE, NY, ND, OH, PA, SD, TN, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Equipment Manufacturing Co., 1321 South 19th, Box 18, Lincoln, NE 68501. Representative: Duane W. Ackle (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Aluminum and cardboard articles, from Louisiana and Shelby, MO, and their commercial zones to Lincoln and Fremont, NE, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Kenneth Groenbach, Traffic Manager, Hy-Gain Electronic, Division of Telex Communications, Inc., 8601 Northeast Way 6, Lincoln, NE 68505; (2) Arnett Wise, Inventory Manager, Consolidated Aluminum Corp., 1000 Doug and Chestnut Streets, Shelby, MO 63465. Send protests to: Max H. Johnston, District Supervisor, 250 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123075 (Sub-957TA), filed August 18, 1978. Applicant: CRESTE CARRIERS CORP., P.O. Box 124078 (Sub-49TA), filed August 18, 1978. Applicant: SHERWOOD TRUCKING, INC., P.O. Box 2189, 1517 East Avenue, Lincoln, NE 68502. Representative: Douglas J. Smith, Suite 945, 9000 Kenstone Crossing, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Newspapers and groundwood paper, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IN south of U.S. Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bowater Southern Paper Corp., Calhoun, TN 37330. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 123060 (Sub-50TA), filed August 18, 1978. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis G. Ortmann, 7101 Wisconsin Avenue, Suite 665, Washington, DC 20014. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Stuffed toys and animals, from Keene, NH, to Chico, IL, Salt Lake City, UT, Denver, CO; Reno, NV, and points in CA, under a continuing contract, or contacts, with Douglas Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Douglas Co., Inc., Drawer D, Kri C Road, Keene, NH 03431. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 546, Montpelier, VT 05602.

MC 123024 (Sub-12TA), filed August 18, 1978. Applicant: SHERWOOD TRUCKING, INC., P.O. Box 2189, 1517 East Avenue, Lincoln, NE 68502. Representative: Douglas J. Smith, Suite 945, 9000 Kenstone Crossing, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Conveyors, conveyor systems and accessories, parts, materials, supplies, and equipment necessary for the erection, installation, commission, and maintenance thereof, from Florence, KY, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Litton Unit Handling Systems, 1100 Industrial Rd, Florence, KY 41042. Send protests to: Interstate Commerce Commission, 731 Federal Buildings, 1240 East 12th Street, Cleveland, OH 44114.

MC 123081 (Sub-31TA), filed August 9, 1978. Applicant: SWIFT TRANS-
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PORTATION CO., INC., 335 West Elwood, Phoenix, AZ 85030. Representative: Donald Fernaey, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Gypsum wallboard and gypsum plaster, from Clark County, NV to San Diego, Orange, Los Angeles, and Santa Clara Counties, CA, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flinkkote Supply Co., 2201 East Washington Boulevard, Los Angeles, CA 90021. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 139329 (Sub-4TA), filed August 11, 1978. Applicant: DAYTON INTERNATIONAL AIRCARGO, INC., 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Compressed natural gas, in bulk, in tank cars, from the facilities of O-I-Da Foods, Inc., at or near Plover, WI to locations in Wisconsin, for up to 90 days of operating authority. Supporting shipper: O-I-Da Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, Madison, WI 53703.


MC 145200 (Sub-1TA), filed August 18, 1978. Applicant: M. S. CARHERRS, INC., 7372 Eastern Avenue, German-town, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38117. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers or dealers, and (2) articles of commerce and supplies utilized in the manufacture of the previously-named items, between Memphis, TN, and points in its commercial zone, for 180 days. Supporting shippers: (1) Kimberly-Clark Corp., 1414 West Larson Road, Neenah, WI 54956; (2) Parker-Hannifin Corp., 17-325 Euclid Avenue, Cleveland, OH 44112. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2003, 100 North Main Street, Memphis, TN 38103.


MC 142007 (Sub-21TA), filed August 18, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29287, New Orleans, LA 70189. Representative: Bruce E. Mitchell, SERBY & MITCHELL, P.C., Fifth Floor, Lenox Towers I, 5350 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and wood products (1) between points in NC, SC, GA, AL, MS, LA, AR, OK, and TX; and (2) between points in the territory identified in (1) above, on the one hand, and on the other, points in FL, VA, WV, MD, PA, NY, OH, KY, IN, MI, IL, IA, MO, MN, KS, and NE, for 180 days. Restriction: Restricted to traffic moving on the bills of lading of Steel City Lumber Co. and Stringfellow Lumber Co. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Steel City Lumber

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Co., P.O. Box 20217, Birmingham, AL 35215; and Stringfellow Lumber Co., Inc., P.O. Box 1107, Birmingham, AL 35201. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 143559 (Sub-3TA), filed August 17, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Personal care products, chewing gum, cough drops and candies, from Rockford, IL, and New York, NY, to Atlanta, GA, and its commercial zone, for 180 days. Supporter: Warner-Lambert Co., 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: District Supervisor, Interstate Commerce District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44119.

MC 144530 (Sub-1TA), filed August 18, 1978. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39919. Representative: Robert J. Gill, 29 S. La Salle Street, Chicago, IL 60605. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in, or used by, a manufacturer of lawn and snow removal products, except commodities in bulk, between the facilities of Jacobsen Manufacturing Co., at Brookhaven, MS, on the one hand, and, on the other, all points in the United States, (except AK and HI), under a continuing contract, or contracts, with Jacobsen Manufacturing Co., for 180 days. Supporting shipper: Jacobsen Manufacturing Co., P.O. Box 568, Brookhaven, MS 39601. Send protests to: Alan C. Tarrent, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 34301.

MC 145527 (Sub-1TA), filed August 18, 1978. Applicant: ROBERT TARBOX, Jr., TARBOX TRUCKING, Johnson Heights, Blossburg, PA 16912. Representative: B. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bulk soybean meal and/or hulls, from the facilities of Cargill, Inc., at or near Sidney, OH, to points in DE, MD, NJ, NY, PA, VT, and CT, for 180 days. Supporting shipper: Cargill, Inc., 2400 Industrial Drive, Sidney, OH 43365. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 143209 (Sub-4TA), filed August 15, 1978. Applicant: HOUSTON FREIGHTWAYS, INC., 9431 Sanford, P.O. Box 4730, Galena Park, TX 77547. Representative: J. G. Dial, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Tank materials, and supplies used in the erection of tanks, from the facilities of Chicago Bridge & Iron Co., and its vendors located at Houston, TX, to points in AL, AR, LA, MS, NM, and OK, from points in AL, AR, LA, MS, NM, and OK, to the facilities of Chicago Bridge & Iron Co., located at Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago Bridge & Iron Co., P.O. Box 40055, Houston, TX 77040. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rush Avenue, Houston, TX 77002.

MC 144697 (Sub-1TA), filed August 19, 1978. Applicant: ROGERS TRANSPORTATION EXPRES, INC. 3405 North 33d Street, Terre Haute, IN 47805. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Coal, from Clay and Dubois Counties, IN, to Cook, Crawford, Grundy, St. Clair, and Will Counties, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Tavor Fuel Co., 340 Frontage Road, P.O. Box 422, Northfield, IL 60093; (2) P-V Corp., R.R. 1, Ferdinand, IN 47532. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145220TA, filed August 17, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 953 South Blount Street, Raleigh, NC 27611. Representative: David H. Fumar, P.O. Box 527, 337 Hillsborough Street, Raleigh, NC 27602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, (in bulk, in tank trucks), from pipeline terminals or port facilities at or near Wilmington, Morehead City, and New Bern, NC, to points in Horry, Dillon, Marlboro, and Spartanburg Counties, SC, under a continuing contract, or contracts, with Rogers Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogers Oil Co., 1316 South Blount Street, Raleigh, NC 27611. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 145230 (Sub-1TA), filed August 18, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 1156, Huntington, WV 25714. Representative: F. Beer, 275 E. State Street, Columbus, OH 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel, and iron and steel products, from Huntington, WV, to points in NC, and NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Connor's Steel Division, 17108 Main Street, Huntington, WV, and (2) Martin Steel, Inc., P.O. Box 7984, Huntington, WV. Send protests to: Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 34301.
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MC 145246TA, filed August 17, 1978. Applicant: A. E. SCHULZITZ CORP., 801 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main Street, Madison, WI 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes; transporting: Rough castings, from Waupaca, WI, to Cedar Rapids, IA, for 180 days. Applicant also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Waupaca Foundry, Inc., Waupaca, WI. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, P.O. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145247 (TA), filed August 17, 1978. Applicant: HERSHEYEL T. LAMB, d.b.a. CAROLINA SOUTHERN, 2816 South Stratford Road, Winston-Salem, NC 27103. Representative: Frank M. Coyne, 25 W. Main Street, Madison, WI 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes; transporting: Meat, meat products, and meat byproducts, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), seafood, fruit, vegetables, and foodstuffs, from Washington, DC, to points in GA and FL; and (2) Meat, meat products, and meat byproducts, as described in section A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), from the facilities of Max Bauer Meat Packer, Inc., at or near Miami, FL, to Washington, DC, under a continuing contract, or contracts, with Hotel Supply Co., Inc., for 180 days. Applicant also filed an underlying ETA Seeking up to 90 days of operating authority. Supporting shipper: District Hotel Supply Co., Inc., for 180 days. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room C0516, Mart Office Building, Charlotte, NC 28205.

MC 145249 (TA), filed August 18, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, Winkle & Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Floor coverings and materials and supplies used in the installation of floor coverings, (1) from points in NJ, PA, GA, CA, and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM, and CA, under a continuing contract, or contracts, with L. D. Brinkman & Co., Inc., for 180 days. Send protests to: J. D. Brinkman & Co., Inc., 520 North Wildwood, Irving, TX 75060. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145254 (TA), filed August 18, 1978. Applicant: BOATNER'S TRUCKING CO., INC., Route 1, Benton, MS 38939. Representative: Fred W. Johnson, Jr., 1600 Deposit Guaranty Plaza, P.O. Box 22028, Jackson, MS 39205. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, from Yazoo County, MS, to points in AL, AR, FL, GA, LA, MO, NE, NC, SC, TN, and TX, for 180 days. Applicant also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Burley Smith Lumber Co., Yazoo County, MS 39184; (2) McGraw-Curran Lumber Co., P.O. Box 3392, Hope, AR, MS 39194. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145289 (TA), filed August 15, 1978. Applicant: LARRY SWIFT, d.b.a. LARRY SWIFT TRUCKING, P.O. Box 303, Philip, SD 57567. Representative: Larry Swift (same as above). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Iron and steel articles, (2) Iron and steel, (1) from Philip, SD to Minneapolis and St. Paul, MN, (2) from Minneapolis and St. Paul, MN, to Sioux City, IA to Paris, SD, under a continuing contract or contracts with Little Scotchman Industries, Inc., for 180 days. Supporting shipper: Little Scotchman Industries, Inc., P.O. Box "F", Philip, SD 57567. Send protests to: J. L. Ham- mond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 145294 (TA), filed August 17, 1978. Applicant: AIR NEW MEXICO, INC., d.b.a. LAS CRUCES/EL PASO AIRPORT STAGE LINE, 9531 Dyer Street, El Paso, TX 79924. Representative: Lewis Conner, 10560 Janway Supco, Inc., El Paso, TX 79924. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Passengers and baggage of passengers on a scheduled and charter basis, from El Paso Inter-

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[7035-01-M]

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[Notice No. 188]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS


The following are notices of filing of applications for temporary authority under section 210(a)(1) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application. A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2392 (Sub-115 TA), filed August 3, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha
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MC 5523 (Sub-41 TA), filed August 3, 1978. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box 867, McLean, VA 22101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) Earth-drilling machinery and equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (A) between points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, RI, SC, VA; and (B) between points named in (A) above, on the one hand, and, on the other, points in AR, CO, IN, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, PA, TX, UT, VT, WV, and WY, for 180 days. Supporting shippers: There are approximations. Or, copies thereof which may be examined at the field office named below. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 35890 (Sub-40TA), filed August 11, 1978. Applicant: BOLDGETT FURNITURE SERVICE, INC., 5650 Foremost Drive, P.O. Box 880, Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, Law Department, 8630 Van Dyke Avenue, P.O. Box 4405, Detroit, MI 48207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Expanded plastic and expanded plastic articles from the plant site of E. I. du Pont de Nemours & Co., in or near Wurtland, KY to points in CT, DE, IL, MD, MA, MI, NJ, NY, PA, RI, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Co., 10th and Market Street, Wilmington, DE 19898. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 49833.

MC 37986 (Sub-27TA), filed August 3, 1978. Applicant: YOUNGBLOOD TRUCK LINES, INC., Highway 25, P.O. Box 36, Fletcher, NC 28732. Representative: Charles Ephraim, 1230 Connecticut Avenue NW, Suite 600, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Sows and store parts from the facilities of Fort Manufacturing Co. at Charlotte, NC, to points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Earl Manufacturing Co., 5019 Hovis Road, Charlotte, NC 28208. Send protests to: Terrell Price, District Supervisor, 800 Bralr Creek Road, Room CCS18, Mart Office Building, Charlotte, NC 28205.

MC 41270 (Sub-15TA), filed August 13, 1978. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, Esq., 1430 15th Street NW, Washington, DC 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, from Sussex County, DE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Paul Caras, Vice President, Sales, Jenkins Foods Corp., P.O. Box 263, Charles Street, Milford, DE 19963. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 107906 (Sub-3TTA), filed August 3, 1978. Applicant: TRANSPORT EXPRESS MOTORS, INC., P.O. Box 958, Meyer Road, Fort Wayne, IN 46801. Representative: James Eber, P.O. Box 958, Fort Wayne, IN 46801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Stainless steel ingots and billets, in shipper-owned trailers between Fort Wayne, IN and Corry, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joslyn Stainless Steel, 2400 Taylor Street, Fort Wayne, IN 46804. Send protests to: J. E. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main St., Springfield, MA 01103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Molasses and liquid feed supplements, in bulk, in tank vehicles, from Brooklyn, NY, to, on the one hand, and, on the other, points in NH, ME, VT, CT, and RI; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ingredient Technology Corp., 120 Wall Street, New York, NY 10005; Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, NJ 07632. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 112617 (Sub-403TA), filed July 28, 1978. Applicant: LIQUID TRANSPORTERS, INC. (KY CORP.), 1292 Fern Valley Road, P.O. Box 21385, Louisville, KY 40221. Representative: Charles E. Dunford, Vice President, Traffic (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, from Ashland Oil, Inc., refineries at Caledonia and South, Eugene, OR to Ashland Oil, Inc. refinery at Canton, OH, for 180 days. Supporting shipper: Mr. Emil Sturzenegger, Traffic Manager, Ashland Petroleum Co., P.O. Box 391, Ashland, KY 41101. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 112750 (Sub-346TA), filed August 3, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth H. Henoch (same as above). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Bulk, in tank vehicles, and related documents (except currency and negotiable securities) as are used in the business of banks and banking institutions, (a) between Louisville, KY, on the one hand, and, on the other, points in IN, OH (on and north of Interstate Hwy 70) and TN (on and east of TN Hwy 13), (b) between points in MO, on traffic having an immediately prior or subsequent movement by air, (c) between points in AR, on traffic having an immediately prior or subsequent movement by air, (d) between points in OH (on and north of Interstate Hwvy 70) on traffic having an immediately prior or subsequent movement by air, (e) between St. Louis, MO, and, on the other, points in IL (on and south of U.S. Hwy 36) on traffic having an immediately prior or subsequent movement by air, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Intermediate Credit Bank, 210 West Main Street, Louisville, KY 40202. Send protests to: Maria B. Kejse, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112822 (Sub-461), filed August 11, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill, 1401 North Main Street, Cushing, OK 74023. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Malt beverages, except commodities in bulk, in tank vehicles, and related advertising materials, and (2) empty returns, from (1) Jefferson County, CO to MO and (2) from MO to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Inc., P.O. Box 44, Denver, CO 80201. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

MC 113289 (Sub-575TA), filed August 28, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Acids; adhesives; tanners' bate; acrylates, alcohols (other than alcoholic liquors), chemicals, resin, sodium, salt, cleaning, scouring or washing compounds, soap; compounds, fuel oil treating, tree or weed killing, water clarifying; deodorants or disinfectants; tanners' depilatories; tanning extracts; feed supplements and feeding compounds; insecticides or fungicides or repellants; paints, stains or varnishes, plasticizers, solvents; petroleum products; plastic materials, other than expanded plastic or rubber articles; sizing; acid sludge and textile softeners, from the facilities of Rohm & Haas Co., located at Hayward, CA to Portland, OR and Seattle, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Main Street, Cushing, OK 74023. Send protests to: Distribution Planning Manager, 580 Southeast Yarnell Street, Portland, OR 97204.

MC 114273 (Sub-442TA), filed August 3, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Sausage, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities of Bob Evans Farms at or near Galva, IL to Zenia, OH, for 180 days. Supporting shipper: Bob Evans Farms, Inc., P.O. Box 44, Zenia, OH 43586. Send protests to: Herbert W. Allen, Commerce Attorney, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114632 (Sub-178TA), filed July 28, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 291, Madison, SD 57042. Representative: Michael L. Carter (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat byproducts, and articles distributed by meat packhous (except commodities in bulk), from the facilities of Oscar Mayer & Co. at Ferry, IA and Des Moines, IA to all points in Cook, Will, Dupage, Kane, and Lake Counties, IL; Madison, WI and Jefferson, WI, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, WI 53704 (Joseph R. Dixon, Distribution Planner). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.


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MC 118380 (Sub-77A), filed August 3, 1978. Applicant: GENERAL TRUCKING CO., INC. 110 School Street, Columbus, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Middle Tennessee Bank Building, Columbus, TN 38401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Silica gravel and silica sand from the plant site of Southern Stone Co., Inc., Elmore County, AL, to Hooker Chemicals & Plastics Corp. plant in Maury County, TN, for 180 days. Restriction Restricted to transportation of commodities listed in dump trucks and dump trailers, and further restricted to traffic originating at the above named location and destined to the above named destination point. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Stone Co., Inc., 2118 Eight Avenue South, Birmingham, AL 35233. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 123407 (Sub-84TA), filed July 27, 1978. Applicant: SCHWERMANN TRUCKING CO., 611 South 28 Street, P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement, in bulk, in tank vehicles, from West Des Moines, IA, to Lake, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Penn-Dixie Industries, Inc., Cement Division, P.O. Box 152, Nazareth, PA 18064 (David L. Williams). Send protests to: Gall Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124154 (Sub-59TA), filed August 11, 1978. Applicant: WINGATE TRUCKING CO., INC., 10042 First Avenue, P.O. Box 645, Albany, GA 31702. Representative: Sio H. Proctor, 1101 Blackstone Building, Jacksonvil, FL 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Galecron from Fresno and Los Angeles, CA; Cocksleyville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, WI; and Houston, TX; and (2) Weed killing compounds from St. Gabriel, LA; and Houston, TX; and (3) From Chicago, IL, Wilmington, PA; and South Carolina, SC; to Mobile, McIntosh, and Birmingham, AL, to Fresno and Los Angeles, CA; Cocksleyville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, WI; and Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CIBA-Geigy Corp., Saw Mill River Road, Ardsley, NY 10502. Send protests to: District Supervisor, G. H. Fauss, Jr., ICC Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124230 (Sub-35TA), filed July 27, 1978. Applicant: C. B. JOHNSON, INC. (a CA corporation), P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ore and ore concentrates, in bulk, from points in Lake County, CO, to Pueblo, Denver, and Canon City, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ARSARCO, Inc., 495 Montgomery Street, San Francisco, CA 94104. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.
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ing up to 90 days of operating authority. Supporting shipper: Chevron Chemical Corp., 3001 LBJ Freeway, No. 150, Dallas, TX 75234. Send protest to: M.E. Taylor, District supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 124813 (Sub-18TA), filed July 26, 1978. Applicant: UMTHUN TRUCKING CO., IA corporation, 910 South Jackson Street, P.O. Box 165, Eagle Grove, IA 50533. Representative: James M. Hodge, 1980 financial Center, Des Moines, IA 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Self-propelled vehicles under 5,000 pounds, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments and parts, from Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) materials, equipment, supplies, and parts used in the manufacture of the commodities in (1) above, from points in the United States (except AK, HI, and NE), to Lincoln, NE, for 80 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Restriction: Restricted in Part (1) to the transportation of traffic destined to the facilities of OMC-Lincoln, Division of Outboard Marine Corp., and in Part (2), restricted to the transportation of traffic originating at the facilities of OMC-Lincoln, Division of Outboard Marine Corp., at Lincoln, NE. Supporting shipper: Harold E. Wight, Traffic Manager, OMC-Lincoln, Division of Outboard Marine Corp., 900 North 21st Street, Lincoln, NE 68501. Send protests to: Max H. Johnston, District supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

Note.—Common control may be involved.

MC 126118 (Sub-85TA), filed July 27, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Self-propelled vehicles under 5,000 pounds, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments and parts, from Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) materials, equipment, supplies, and parts used in the manufacture of the commodities in (1) above, from points in the United States (except AK, HI, and NE), to Lincoln, NE, for 80 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Restriction: Restricted in Part (1) to the transportation of traffic destined to the facilities of OMC-Lincoln, Division of Outboard Marine Corp., and in Part (2), restricted to the transportation of traffic originating at the facilities of OMC-Lincoln, Division of Outboard Marine Corp., at Lincoln, NE. Supporting shipper: Harold E. Wight, Traffic Manager, OMC-Lincoln, Division of Outboard Marine Corp., 900 North 21st Street, Lincoln, NE 68501. Send protests to: Max H. Johnston, District supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

Note.—Common control may be involved.

MC 126118 (Sub-85TA), filed July 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Those commodities used by and dealt in by retail and wholesale institutional suppliers including plastic articles (except in mixed shipments, from Wyandotte and Coloma, MI, Iowa City and Muscatine, IA, St. Louis, MO, and their commercial zones to Lincoln, NE, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert P. Wright, Traffic Manager, Waverly Mineral Products Corp., One World Trade Center, Suite 1700 Center Park Road, Lincoln, NE 68501. Glenn Schniebert, President and General Manager, Schniebert Fine Foods, 2400 North 27th Street, Lincoln, NE 68505. Send protests to: Max H. Johnston, District supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

Note.—Common control may be involved.

MC 127825 (Sub-314TA), filed August 11, 1978. Applicant: MID-WESTERN DISTRIBUTION INC., P.O. Box 169, Fort Scott, KS 66701. Representative: Elden Corson, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper boxes other than corrugated, knocked down and folded (Sub-85TA), filed August 11, 1978. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501. Send protests to: M.E. Taylor, District supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 128279 (Sub-38TA), filed August 11, 1978. Applicant: ARROW FREIGHTWAYS, INC, 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Representative: Olif Q. Boyd, President, 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Commodities requiring the use of special equipment, except commodities in bulk, between points in AZ, CO, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District supervisor, Interstate Commerce Commission, 1100 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 133805 (Sub-13TA), filed July 27, 1978. Applicant: LONE STAR CARRIERS, INC. (a Texas corporation), Route 1, P.O. Box 48, Tolar, TX 76476. Representative: Charles W. Belnhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Steel shot (not ammunition NOD) from the facilities of Ervin Industries at or near Adrian, MI, and Sodus, PA to points in the States of AL, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to traffic originating at the above named facilities and destined to points in the named destination States, for 180 days. Supporting shipper: Ervin Industries, 121 South Division Street, Ann Arbor, MI 48106. Send protests to: Robert J. Kirspil, District supervisor, Room 9A27 Federal Office Building, 517 Gold Avenue SW, Fort Worth, TX 76102.

MC 135588 (Sub-14TA), filed August 11, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3166, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities requiring the use of special equipment, except commodities in bulk in tank vehicles, from the facilities owned or utilized by Potlatch Corp. at or near Skileton, MO, to Lemon Grove and San Bernardino, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501. Send protests to: M.E. Taylor, District supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.
routes, transporting: Malt beverages, from St. Louis, MO, and St. Paul, MN, to Burlington, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Krohn Distributing Co., Inc., 105 South Roosevelt Avenue, Burlington, IA 52601.

Send protests to Harold C. Jolliff, Transportation Specialist, Interstate Commerce Commission, P.O. Box 2418, Springfield, IL 62705.

MC 136835, (Sub-STA), filed August 10, 1978. Applicant: UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN 46614. Representative: Donald W. Smith, P.O. Box 40059, Indianapolis, IN 46204. Authority sought to operate as a common carrier, in interstate commerce in the transportation of general commodities (except commodities in bulk, household goods as defined by the Commission, or common or contract freight because of size or weight require the use of special equipment and Class A and B explosives) between points in IN on and north of the Mississippi River, in IN.

Restriction: Restricted to traffic having a prior or subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 4 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 138145 (Sub-3TA), filed August 3, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: Elaine M. Conway, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building and construction materials, from the plants of the Celotex Corp., located at or near Chicago, IL, to points in WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Matry, Tampa, FL 33609. Send protests to: Supervisor, Transportation Section, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 138732 (Sub-15TA), filed July 27, 1978. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 67 Larkstone Court, Danville, CA 94526. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, lumber products, plywood, particleboard and wood products, from points in OR to points in CA from Carson City, Churchill, Douglas, Lyon, Mineral, Storey, and Washington Counties, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 4 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138702 (Sub-25TA), filed August 11, 1978. Applicant: PRINCIPAL TANK LINES LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW, Washington, DC 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid asphalt products, in bulk, in tank vehicles, from points of origin on the International Boundary line between the United States and Canada located at or near Buffalo, NY to points in NY, restricted to traffic in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M.L. Donofrio, Mgr. Special Projects, McAsphalt Industries, Ltd., P.O. Box 247, Fontana, CA 92337.

MC 139349 (Sub-7TA), filed August 11, 1978. Applicant: E Z FREIGHT LINES, 348 Ocean Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Lighting fixtures, and lamps, and equipment, materials and supplies used in the manufacture and sale, except in bulk, between Elgin, IL, and Warren, OH, on the one hand, and, on the other, LA, MN, and TX, and points in the United States east of the Mississippi River, for 180 days. Condition: Authority is limited to service rendered under contract or continuing contracts with Lightolier, Inc., and Duro-Test Corp. Supporting shippers: Lightolier, Inc., 1005 Clairmont Avenue, Jersey City, NJ 07305, and Duro-Test Corp., 2321 Kennedy Boulevard, North Bergen, NJ 07047.

Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07101.

MC 139543 (Sub-3TA), filed August 14, 1978. Applicant: MOLASSES TRANSPORTERS, INC., P.O. Box 144, Fort Allen, LA 70767. Representative: Mr. Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a contract carrier, by motor vehicle over irregular routes, transporting: Asphalt and asphalt products in bulk, from the facilities of Exxon Co., U.S.A., located at or near Baton Rouge, LA to Mobile, AL, under a continuing contract or contracts with Exxon Co., U.S.A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Exxon Co., U.S.A., P.O. Box 2180, Houston, TX 77001, GAP Corp., 1316 Alps Road, Wayne, NJ 07470. Send protests to: Connie A. Guillary, Interstate Commerce Commission, T-9308, U.S. Postal Service Building, 701 14th Street, NW, Washington, DC 20001.

MC 141252 (Sub-3TA), filed August 11, 1978. Applicant: PAN WESTERN CORP., 4105 Los Lomas Avenue, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive Carson City, NV 89701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. Hot and cold steel in coils from the facilities of Kaiser Steel at Montebello, CA and Fontana, CA. 2. Precut steel plates (blanks) from the facilities of Kaiser Steel at Montebello, CA and from the facilities of National Steel at Torrance, CA. 3. Frit (glass lining material) from the facilities of Ferro Corp. at Los Angeles and Fontana, CA. 4. Hot and cold rolled steel in coils from the docks at Long Beach Harbor, CA (No. 4 restricted to shipments having an immediately prior movement in foreign commerce) to Henderson, NV, for 180 days. Supporting shipper: State Industries, Inc., Lake Mead, NV 89015. Send protests to: Interstate Commerce Commission, District Supervisor W. J. Huelsig, 203 Federal Bldg., 705 North Plaza Street, Carson City, NV 89701.

MC 141694 (Sub-123TA), filed August 11, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Donald W. Coffman, P.O. Box 3488, Ontario, CA 91761. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Paper labels, gummed paper, corrugated boxes and materials, parts and ac-
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accessories used in the manufacture of paper labels and gummed paper, from the facilities of Avery Label at or near Azusa and Monrovia, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avery Label, 777 East Foothill Boulevard, Azusa, CA 91702. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Las Angeles Street, Los Angeles, CA 90012.

MC 143775 (Sub-1TA), filed August 11, 1978. Applicant: PAUL YATES INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Bunt, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Hair care toiletries, and hair care accessories, and equipment, materials, supplies, and ingredients used in the packaging, manufacturing and distribution of toiletry equipment (except in bulk) in temperature controlled vehicles. From Cheshire and Milford, CT; Garden City, NY; Saddlebrook and Lakewood, NJ; Walpole, NH; and their respective commercial zones, to Chicago, IL; Atlanta, GA; Stamford, CT; Dallas, TX; Labirada, CA; Portland, OR; and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol Inc., One Blachley Road, Stamford, CT 06902. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 144929 (Sub-1TA), filed August 11, 1978. Applicant: B & J TRUCKING INC., Frontage Road, Route 3, Piedmont, SC. Representative: Brian S. Stern, 2425 Wilson Boulevard, No. 327, Arlington, VA 22201. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Textiles (a) from the facilities of Monsanto Co. at Decatur and Sand Mountain (near Guntersville), AL; Greenwood and Blackburg, SC, and Gonzalez, FL (b) from the facilities of Monsanto, North Carolina, Inc., a wholly owned subsidiary of Monsanto Co., at Fayetteville, NC (c) from the facilities of Fovil Manufacturing Co., Inc., a wholly owned subsidiary of Monsanto Co., at Pueblo, AL, and Abbeville, SC, and (d) from the facilities of Monsanto Co. at Huntsville, AL, to points in CA, NM, OR, TX, and WA; (2) adipic acid (except in bulk), from the facilities of Monsanto Co. at Gonzalez, and Pensacola FL, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA commercial zones; (3) resin plasticizers (except in bulk), shipped by Monsanto Co. from Inman, SC, to Los Angeles, CA; (4) insecticides and resin plasticizers (except in bulk), from the facilities of Monsanto Co. at Aniston, AL, to Los Angeles, CA; (5) Bleach assistant compounds (except in bulk), from the facilities of Monsanto Co. at Luling, LA, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones; and (6) food preserving compounds (except in bulk), from the facilities of Monsanto Co. at Texas City and Chocolate Bayou, TX, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones, restricted in (1) through (6), above, to a transportation service performed under a continuing contract or contracts with Monsanto Co. for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: E. E. Strothold, District Supervisor, ICC, Room 302, 1400 Building, Columbia, SC 29011.

MC 145006 (Sub-1TA), filed August 11, 1978. Applicant: WESTERN BATTERY TRUCKING, 32 East 1300 South, Salt Lake City, UT 84115. Representative: Lorin S. Miller, 32 East 1300 South, Salt Lake City, UT 84115. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New and used automotive and industrial batteries, between points in Fullerton, Visalia and Commerce, CA; Salt Lake City, UT; and Missoula, MT, for 180 days. Supporting shipper: Western Battery & Electric Co., 32 East 1300 South, Salt Lake City, UT 84115 (Lorin S. Miller, president/owner). Send protests to: District Supervisor L. D. Helfer, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 145111 (Sub-1TA), filed August 11, 1978. Applicant: MORRIS D. HAMMOND, d/b/a. MORRIS CAB CO., Route 4, Trenton, MO 64683. Representative: Thomas O. Pickett, 924 Main Street, P.O. Box 71, Trenton, MO 64683. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Personnel for Rock Island and Milwaukee Railroads, from all points between Trenton, MO; Eldon, IA; Otumwa, IA; and Des Moines, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago, Rock Island & Pacific Railroad, Rock Island, Depot, Trenton, MO 64683. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission, 600 Federal Building, 100 Walnut Street, Kansas City, MO 64106.

MC 145135 (Sub-1TA), filed August 11, 1978. Applicant: JOHN E. DILLON, T/A, DILLON TRUCKING CO., P.O. Box 144, Farmville, VA 23901. Representative: John J. Helfer, Bureau of Operations, 1810 Vencennes Road, Richmond, VA 23229. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Buildings, knocked down: Parts: Attachments and materials and supplies when moving with buildings. From the site of Traditional Log Homes, Inc., at or near State Road (Surry Ct.) NC, to points in CD, KY, MD, OH, SC, IN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Traditional Log Homes, Inc., Route 2, Box 198, State Road, NC 28076. Send protests to: District Supervisor Paul Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145173TA, filed August 11, 1978. Applicant: BELDON LAMBIRTH, JR., d/b/a. L. & S. TRANSPORTATION, Route 1, Box 31534, P.O. Box 31534, Salt Lake City, UT 84115. Representative: Jeff Esmann, 500 Midland Bank Building, 303 North Broadway, Billings, MT 59101. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Bentonite (except in bulk) from Crock, Weston, Natrona, Washakie, and Big Horn Counties, WY to Sacramento, Yolo, Kern, Colusa, Ventura, Los Angeles, Humboldt Mendoceo, Lake, Sonoma, Contra Costa, Monterey, Tehama, Fresno, Glenn and Kings Counties, CA, for 180 days. Supporting shippers: Bill New, president, Northern Mud Sales & Service Co., Inc., 3400 Patton's Way, P.O. Box 665, Bakersfield, CA 93308. Pete Smith, Chief, Mud Inc., 6205 Dennen Street, Bakersfield, CA 93307. John R. Farrow, Gen., Mgr., Calada Materials, 3501 Dock Street, Terminal Island, Long Beach, CA 90741. Send protests to: D/S Paul J. Labane, ICC, 2602 First Avenue, North, Billings, MT 59101.

MC 145174TA, filed August 9, 1978. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bruce S. Fisher (same as above). Authority sought to operate as a contract carrier, by motor vehicle over irregular routes, transporting: Precut log and wood buildings, knocked down, and materials and supplies used in the construction, installation and erection thereof, to include windows and doors, from the facilities of Real Log Homes, Inc., located near Missoula, MT, to all
points in CO, ID, UT, and WY, under a continuing contract or contracts with Real Log Homes, Inc., for 180 days. Applicant has also filed an underlying EFTA seeking up to 90 days of operating authority. Supporting shipper: John D. Currens, General Manager, Real Log Homes, Inc., Box 8508, Missouri 63001. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145176TA, filed August 11, 1978. Applicant: BRELLAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: E. Edward Glasscock, 1609 Citizens Plaza, Louisville, KY 40202. Authority sought to operate as a contract carrier, by motor vehicle over irregular routes, transporting: (1) Foodstuffs (except frozen and in bulk); and (2) materials, equipment, and supplies (except commodities in bulk) used or useful in the manufacture, distribution, and sale of foodstuffs from points in the United States (except AK, HI, and MS) to the facilities of Vlasic Foods, Inc., at or near Greenville, MS, under a continuing contract or contracts with Vlasic Foods, Inc., for 120 days. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, W. Bloomfield, MI 48033. Send protests to: Alan C. Tarrant, D/S Interstate Commerce Commission, Room 212 E 14th East Amite Building, Jackson, MS 34201.

Notices

Motor Carrier Temporary Authority Applications

October 10, 1978.

The following are notices of filing of applications for temporary authority under section 210(a)(1) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the “MC” docket and “Sub” number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carrier of Property

W-L-1208 (Sub-1TA), filed August 17, 1978. Applicant: BLAINE P. CLAYPOOL, d.b.a. RED WING EXCURSIONS, 218 North Franklin Street, Lake City, MN 55041. Representative: Stephen A. Lawrence, Lawrence, Costello & Moralska, 3154 North Service Drive, Red Wing, MN 55066. On September 29, 1978, the Motor Carrier Board granted authority to applicant to operate as a common carrier, by water vehicle, transporting passengers and their baggage in regular, daily, scheduled, sightseeing trips and special charter sightseeing trips between points and ports along the Mississippi River between Hastings and Wabasha, MN, and Prescott, WI on the St. Croix River. Supporting shippers: Seven statements of support attached to the application may be examined at the Interstate Commerce Commission in Washington, DC, or copies of same may be examined at the Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. Petitions for reconsideration: Any interested party may file a petition for reconsideration within 20 days from the date this notice is published. Such a petition should be sent to the Acting Secretary, Interstate Commerce Commission, Washington, DC 20423.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

Notice No. 1921


Motor Carrier Temporary Authority Applications

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR 1132:

MC-FC-77776. By application filed September 12, 1978, WILLIAM M. HAZZARD, JR., an individual, d.b.a. ACE DELIVERY SERVICE, 215 Lorewood Avenue, Wilmington, DE 19804, seeks temporary authority to transfer the operating rights of Frances Lenza, an individual, d.b.a. Bern-Mart's Express, 1206 Glenade Avenue, Wilmington, DE 19803, under section 210a(b). The transfer to William M. Hazzard, Jr., an individual, d.b.a. Ace Delivery Service, of the operating rights of Frances Lenza, an individual, d.b.a. Bern-Mart's Express, is presently pending.

MC-FC-77853. By application filed September 23, 1978, SURFACE TRANSPORTATION CO., INC., 125 South, Van Brun Street, Englewood, NJ 07631, seeks temporary authority to transfer a portion of the operating rights of Lapadula & Villani, Inc., P.O. Box 156, Cedarhurst, NY 11516, under section 210a(b). The transfer to Surface Transportation Co., Inc., of a portion of the operating rights of Lapadula & Villani, Inc., is presently pending.

MC-FC-77685, by application filed October 3, 1978, ANTHONY D. FLAMINGO, an individual, d.b.a. FLAMINGO MOVING & STORAGE CO.
NOTICES.

R.D. No. 3, Box 678, Mansfield, PA 16933, seeks temporary authority to transfer the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., 33 Davenport Street, Hornell, NY 14843, under section 210(a)(b). The transfer to Anthony D. Flamingo, an individual, d.b.a. Flamingo Moving & Storage Co., of the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., is presently pending.

MC-FC-77866. By application filed October 5, 1978, MEYER FARMS TRANSPORT, INC., Box 65, Oregon, MO 64473, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, box 224, Faucett, MO 64448, under section 210(a)(b). The transfer to Meyer Farms Transport, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77867. By application filed October 5, 1978, JOHN L. HAWK TRUCKING, INC., 2508 Pear, St. Joseph, MO 64503, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 210(a)(b). The transfer to John L. Hawk Trucking, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77868. By application filed October 3, 1978, DONALD J. HOHMAN, an individual, d.b.a. CROSS TRUCKING & STORAGE, 301 Regina Street, Pittsburgh, PA 15206, seeks temporary authority to transfer the operating rights of Darby Transfer, Inc., 535 Forest Avenue, Pittsburgh, PA 15206, under section 210(a)(b). The transfer to Donald J. Hohman, an individual, d.b.a. Cross Trucking & Storage, of the operating rights of Darby Transfer, Inc., is presently pending.

MC-FC-77869. By application filed September 29, 1978, BARLOW TRUCK LINES, INC., Route 2, Warrensburg, MO 64093, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 210(a)(b). The transfer to Barlow Truck Lines, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77870. By application filed September 28, 1978, GOPHER TRUCK LINES, INC., 1931 East 27th Street, Vernon, CA 90058, seeks temporary authority to transfer the operating rights of Service Truck Co., 2163 East 14th Street, Los Angeles, CA 90021, under section 210(a)(b). The transfer to Gopher Truck Lines, Inc., of the operating rights of Service Truck Co., is presently pending.

By the Commission. H. G. Hornme, Jr., Acting Secretary.

[F.R. Doc. 78-29040 Filed 10-12-78; 8:45 am]
CONTENTS

FEDERAL ELECTION COMMISSION........... 1
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[6715-01-M]

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, October 18, 1978, at 10 a.m.
PLACE: 1325 K Street NW., Washington, D.C.
STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Audit Reports, Compliance, Personnel.

**

DATE AND TIME: Thursday, October 19, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

- Setting of dates for future meetings.
- Correction and approval of minutes.
- Computer contract procurement.
- Earmarked contributions.
- Appropriations and budget.
- Presidential campaign disclosure form.
- Pending legislation.
- Pending litigation.
- Liaison with other Federal agencies.
- Nonfiler procedures.
- Recordkeeping and reporting of particulars for expenditures—Presidential candidates and authorized committees.
- Classification actions.
- Routine administrative matters.
- Portions of the meeting closed to the public:
  - Any matters not concluded on October 18, 1978.

PERSON TO CONTACT FOR INFORMATION:
Mr. David Fiske, Press Officer, telephone, 202-523-4005.

MARJORIE W. EMONS,
Secretary to the Commission.

[S-2067-78 Filed 10-11-78; 3:36 pm]

[6730-01-M]

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 18, 1978.
PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.
STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to authority delegated to the chairman.

CONTACT PERSON FOR MORE INFORMATION:
Mr. David Fiske, Press Officer, telephone, 202-523-4005.

[S-2067-78 Filed 10-11-78; 3:36 pm]

[6730-01-M]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., October 18, 1978.
PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.
STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Interagency Maritime Study.

CONTACT PERSON FOR MORE INFORMATION:
Mr. David Fiske, Press Officer, telephone, 202-523-4005.

[S-2067-78 Filed 10-11-78; 3:36 pm]

[6730-01-M]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Friday, October 20, 1978.
PLACE: Room 532 (open), Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.
STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Open regular conference:
   - Any matters not concluded on October 18, 1978.

2. Executive Session to discuss oral argument in SKF Industries, Docket No. 8946.

CONTACT PERSON FOR MORE INFORMATION:
Mr. David Fiske, Press Officer, telephone, 202-523-4005.

[S-2067-78 Filed 10-11-78; 1:39 pm]

[7035-01-M]

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 17, 1978.
STATUS: Open regular conference.

MATTER TO BE CONSIDERED:
Staff briefing on Milwaukee Road—Levels of service provided, prospects for winter, status of any merger negotiations, and status of employee layoffs.
SUNSHINE ACT MEETINGS

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-725-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.


[4410-01-M]

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Thursday, October 19, 1978 at 8:30 a.m. to 10 a.m.; returning at 12:30 p.m. and closing at 6 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[6155-01-M]

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., October 20, 1978.


STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1), 1 CFR 400.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED:

Matters concerning the broad foreign policy objectives of the U.S. Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION:


[6155-01-M]
DEPARTMENT OF LABOR
Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions
General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor 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, 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 I 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 determinations frequently and in large volume, causes procedures to be impractical and contrary to the public interest.

NOTICES

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. Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

**Connecticut:** C78-3055; C78-3056 ............................................ July 20, 1978.

**Michigan:** M78-1078 ................................................ Sep. 15, 1978.


**West Virginia:** WV77-3083 .............................................. Sept. 30, 1977.

**SUPERSEDEAS DECISIONS 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. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

**Alabama:** AL78-1134(AL78-1031) ..................................... Dec. 3, 1978.

**Georgia:** GA78-1119(GA78-1088); GA78-1119 (GA78-1089) ............. Sept. 30, 1977.

**Louisiana:** LA78-4972(LA78-4113) .................................. July 14, 1978.

**Minnesota:** MN78-2096(MN78-2113); MN78-2098 (MN78-2119) ...... Sept. 29, 1978.

**South Carolina:** SC78-1055(SC78-1087) ................................ May 23, 1978.


**CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS—NONE**


**DOLORE P. COME,**

Assistant Administrator
Wage and Hour Division.

FEDERAL REGISTER VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
## Notices

**Decisions DCT78-3055 - Mod 47**

### Fairfield, Litchfield, and Windham Counties, Connecticut

**Change:**

**Bricklayers:** (Heavy & Highway Construction)
- Greenwich: $10.00
- Darien: $9.33
- Enfield, Goshen, Darien & Stamford: $9.60

**Laborers:** (Heavy & Highway Construction)
- Change pension fund on all Heavy & Highway Construction Laborers to 6.75

**Power Equipment Operators**

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<th>Pensions</th>
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**Survey Crews**

| Chief of Party| 10.06 | .90 | .85 | a | .10 |
| Assoc. Chief of Party| 9.24 | .90 | .85 | a | .10 |
| Instrument Man| 8.63  | .90 | .85 | a | .10 |
| Rodman & Chainman| 6.46  | .90 | .85 | a | .10 |

**Truck Drivers** (Heavy & Highway Construction)

| Class 1| 7.91 | .75 | .725 | a |
| Class 2| 8.11 | .75 | .725 | a |
| Class 3| 8.11 | .75 | .725 | a |
| Class 4| 7.91 | .75 | .725 | a |
| Class 5| 8.07 | .75 | .725 | a |
| Class 6| 8.11 | .75 | .725 | a |

**Decisions DCT78-3056 - Mod 47**

### Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut

**Change:**

**Bricklayers:** (Heavy & Highway Construction)
- $9.60

**Laborers:** (Heavy & Highway Construction)
- Change pension fund on all Heavy & Highway Construction Laborers to 6.75

**Power Equipment Operators** (Heavy & Highway Construction)

| Class 1| 11.80 | .90 | .85 | a | .10 |
| Class 2| 11.64 | .90 | .85 | a | .10 |
| Class 3| 11.19 | .90 | .85 | a | .10 |
| Class 4| 11.09 | .90 | .85 | a | .10 |
| Class 5| 10.93 | .90 | .85 | a | .10 |
| Class 6| 10.73 | .90 | .85 | a | .10 |
| Class 7| 10.61 | .90 | .85 | a | .10 |
| Class 8| 9.58  | .90 | .85 | a | .10 |
| Class 9| 9.46  | .90 | .85 | a | .10 |
| Class 10|                | .90 | .85 | a | .10 |
| Class 11|                | .90 | .85 | a | .10 |
| Class 12|                | .90 | .85 | a | .10 |
| Class 13|                | .90 | .85 | a | .10 |

**Survey Crews**

| Chief of Party| 10.06 | .90 | .85 | a | .10 |
| Assoc. Chief of Party| 9.24 | .90 | .85 | a | .10 |
| Instrument Man| 8.63  | .90 | .85 | a | .10 |
| Rodman & Chainman| 6.46  | .90 | .85 | a | .10 |

**Truck Drivers** (Heavy & Highway Construction)

| Class 1| 7.91 | .75 | .725 | a |
| Class 2| 8.07 | .75 | .725 | a |
| Class 3| 8.11 | .75 | .725 | a |
| Class 4| 7.91 | .75 | .725 | a |
| Class 5| 8.07 | .75 | .725 | a |
| Class 6| 8.11 | .75 | .725 | a |

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FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
### MODIFICATIONS P. 3

<table>
<thead>
<tr>
<th>Decision # MD-78-1079 - Mod. 41</th>
</tr>
</thead>
<tbody>
<tr>
<td>(43 FR 41346 September 15, 1978) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprentice workers (Jackson and Harrison)</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>10.95</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>9.35</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>9.35</td>
</tr>
<tr>
<td>Caulkers &amp; Pointers:</td>
</tr>
<tr>
<td>9.35</td>
</tr>
<tr>
<td>Brick Masons:</td>
</tr>
<tr>
<td>9.25</td>
</tr>
<tr>
<td>Brick Masons:</td>
</tr>
<tr>
<td>9.25</td>
</tr>
<tr>
<td>Brick Masons:</td>
</tr>
<tr>
<td>8.75</td>
</tr>
</tbody>
</table>

### DECISION No.C88-3008 - Mod. 86

<table>
<thead>
<tr>
<th>Decision # MD-78-1079 - Mod. 41</th>
</tr>
</thead>
<tbody>
<tr>
<td>(43 FR 41346 - March 17, 1978) District of Columbia: Maryland Montgomery and Prince Georges; and B. G. Training School; Virginia - Independent City of Alexandria &amp; Arlington</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>heavy construction excluding water and sewer lines:</td>
</tr>
<tr>
<td>All Counties</td>
</tr>
<tr>
<td>Building Construction:</td>
</tr>
<tr>
<td>Excluding Alexandria, Virginia</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>811.55</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>11.10</td>
</tr>
<tr>
<td>Water and Sewer Lines:</td>
</tr>
<tr>
<td>(District of Columbia only)</td>
</tr>
<tr>
<td>Bricklayers:</td>
</tr>
<tr>
<td>11.55</td>
</tr>
<tr>
<td>Powder Equipment Operators:</td>
</tr>
<tr>
<td>Trenching machines (up to 8' 3''), boilers skeleton, well drilling machines</td>
</tr>
<tr>
<td>7.54</td>
</tr>
</tbody>
</table>

### MODIFICATIONS P. 4

<table>
<thead>
<tr>
<th>Decision # MD-78-1079 - Mod. 41</th>
</tr>
</thead>
<tbody>
<tr>
<td>(42 FR 52172 - September 30, 1977) Statewide, West Virginia</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bricklayers and Stone Masons:</td>
</tr>
<tr>
<td>Area 8</td>
</tr>
<tr>
<td>Electricians:</td>
</tr>
<tr>
<td>Area 6</td>
</tr>
<tr>
<td>Contracts under $12,000:</td>
</tr>
<tr>
<td>Masons:</td>
</tr>
<tr>
<td>5.50</td>
</tr>
<tr>
<td>Contracts $12,000 or more:</td>
</tr>
<tr>
<td>Masons:</td>
</tr>
<tr>
<td>10.05</td>
</tr>
<tr>
<td>Cable Splicers:</td>
</tr>
<tr>
<td>10.20</td>
</tr>
<tr>
<td>Area 17</td>
</tr>
<tr>
<td>Contracts under $30,000:</td>
</tr>
<tr>
<td>Masons:</td>
</tr>
<tr>
<td>6.45</td>
</tr>
<tr>
<td>Contracts $30,000 or more:</td>
</tr>
<tr>
<td>Masons:</td>
</tr>
<tr>
<td>10.20</td>
</tr>
<tr>
<td>Line Construction:</td>
</tr>
<tr>
<td>Area 4</td>
</tr>
<tr>
<td>Lineman - Equipment Operators:</td>
</tr>
<tr>
<td>9.65</td>
</tr>
<tr>
<td>Cable Splicers:</td>
</tr>
<tr>
<td>10.615</td>
</tr>
<tr>
<td>Groundmen &amp; Truck Drivers:</td>
</tr>
<tr>
<td>7.72</td>
</tr>
<tr>
<td>Painters:</td>
</tr>
<tr>
<td>Area 1</td>
</tr>
<tr>
<td>Painters:</td>
</tr>
<tr>
<td>An area within 50 miles of Huntington, W.V.:</td>
</tr>
<tr>
<td>9.02</td>
</tr>
<tr>
<td>An area 50 miles and beyond of Huntington, W.V.:</td>
</tr>
<tr>
<td>10.27</td>
</tr>
<tr>
<td>Structural Steel:</td>
</tr>
<tr>
<td>An area within 50 miles of Huntington, W.V.:</td>
</tr>
<tr>
<td>10.12</td>
</tr>
<tr>
<td>An area 50 miles and beyond of Huntington, W.V.:</td>
</tr>
<tr>
<td>11.73</td>
</tr>
<tr>
<td>Bridge &amp; Hazardous Work:</td>
</tr>
<tr>
<td>An area within 30 miles of Huntington, W.V.:</td>
</tr>
<tr>
<td>10.84</td>
</tr>
<tr>
<td>An area 50 miles and beyond of Huntington, W.V.:</td>
</tr>
<tr>
<td>12.09</td>
</tr>
<tr>
<td>Area 4</td>
</tr>
<tr>
<td>New Construction:</td>
</tr>
<tr>
<td>Braces:</td>
</tr>
<tr>
<td>9.96</td>
</tr>
<tr>
<td>Rollers:</td>
</tr>
<tr>
<td>10.02</td>
</tr>
<tr>
<td>Spray &amp; Blast, Pot-Hen</td>
</tr>
<tr>
<td>10.98</td>
</tr>
</tbody>
</table>

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**NOTICES**

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
### Table: Fringe Benefits Payments

<table>
<thead>
<tr>
<th>Area 4 Cont'd</th>
<th>Basic Hourly Rates</th>
<th>H &amp; W</th>
<th>Pension</th>
<th>Vacation</th>
<th>Education and/or Appr. Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Work</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brush</td>
<td>6.54</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Roller</td>
<td>6.52</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Spray-Pot-Man</td>
<td>10.00</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Bridge</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brush</td>
<td>10.66</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Roller</td>
<td>10.51</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Spray, Blast, Glove</td>
<td>11.66</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Open structural steel</td>
<td>10.31</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Stacks, vent pipes, flag poles, electrical, radio &amp; T.V., towers &amp; lamps</td>
<td>10.01</td>
<td>.40</td>
<td>.30</td>
<td>.01</td>
<td></td>
</tr>
</tbody>
</table>

**Air conditioning mechanics**
- Basic Hourly Rates: 9.25
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Bricklayers**
- Basic Hourly Rates: 7.15
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Carpenters**
- Basic Hourly Rates: 5.65
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Form setters**
- Basic Hourly Rates: 3.05
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Concrete masons**
- Basic Hourly Rates: 4.15
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Electricians**
- Basic Hourly Rates: 7.58
- H & W: .55
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Elevator constructors**
- Basic Hourly Rates: 9.74
- H & W: .55
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Glassers**
- Basic Hourly Rates: 7.15
- H & W: .50
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Ironworkers, structural & ornamental**
- Basic Hourly Rates: 4.40
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Ironworkers, reinforcing**
- Basic Hourly Rates: 4.00
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Laborers**
- Basic Hourly Rates: 3.05
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Asphalt workers**
- Basic Hourly Rates: 3.75
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Pipelayers**
- Basic Hourly Rates: 4.00
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Lathers**
- Basic Hourly Rates: 6.75
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Painters**
- Basic Hourly Rates: 5.90
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Concrete finishers**
- Basic Hourly Rates: 7.00
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Pipefitters**
- Basic Hourly Rates: 7.45
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Plumbers & pipefitters**
- Basic Hourly Rates: 6.80
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Roofers**
- Basic Hourly Rates: 4.60
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Welders**
- Basic Hourly Rates: 5.00
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Cable workers**
- Basic Hourly Rates: 5.60
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Cement masons**
- Basic Hourly Rates: 6.40
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Tape layers**
- Basic Hourly Rates: 6.00
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Trench drivers**
- Basic Hourly Rates: 3.75
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**Holders - rate for crafts:**
- Basic Hourly Rates: 3.75
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

**FUEL EQUIPMENT OPERATORS**
- Basic Hourly Rates: 3.75
- H & W: .40
- Pension: .30
- Vacation: .01
- Education and/or Appr. Tr.: .75

- Asphal t rollers
- Asphalt spreaders
- Dozers
- Bulldozers
- Crawler operators
- Finishing machines
- Front end loaders
- Motor graders
- Motor trucks
- Pile drivers
- Graders
- Tractors
- Buses
SPECIAL DIVISION

STATE: GEORGIA COUNTY: CHATTAN

DECISION NUMBER: G478-1088

DATE OF PUBLICATION: September 30, 1977

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4-stories).

<table>
<thead>
<tr>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M &amp; W</td>
</tr>
<tr>
<td>ARBITORS WORKERS</td>
<td>$10.19</td>
</tr>
<tr>
<td>BOILERMakers</td>
<td>9.55</td>
</tr>
<tr>
<td>BRICKLERS, STONE MASON, MARBLE MASON, STILE SETTERS, &amp; TERRAZZO WORKERS</td>
<td>9.30</td>
</tr>
<tr>
<td>CARPENTERS &amp; SOFT FLOOR LAYERS</td>
<td>9.05</td>
</tr>
<tr>
<td>CEMENT MASON</td>
<td>7.75</td>
</tr>
<tr>
<td>ELECTRICIANS:</td>
<td></td>
</tr>
<tr>
<td>Wiresmen</td>
<td>9.30</td>
</tr>
<tr>
<td>Cable splicers</td>
<td>10.15</td>
</tr>
<tr>
<td>ELEVATOR CONSTRUCTORS:</td>
<td></td>
</tr>
<tr>
<td>Mechanics</td>
<td>9.65</td>
</tr>
<tr>
<td>Elevators</td>
<td>10.00</td>
</tr>
<tr>
<td>IRONWORKERS - Structural, Reinforcing, Ornamental</td>
<td>9.50</td>
</tr>
<tr>
<td>LABORERS</td>
<td>7.65</td>
</tr>
<tr>
<td>MILLWORKERS</td>
<td>9.05</td>
</tr>
<tr>
<td>FELTERS</td>
<td>8.10</td>
</tr>
<tr>
<td>Paperhangers, drywall tapers, &amp; paint burners</td>
<td>8.25</td>
</tr>
<tr>
<td>Window sashes, steel brush, &amp; steel roller</td>
<td>8.60</td>
</tr>
<tr>
<td>Roadbuilding, paint spraying, paint nits &amp; gloves, &amp; power tools (no roller larger than 9&quot;)</td>
<td>8.50</td>
</tr>
<tr>
<td>PIPEFITTERS</td>
<td>9.20</td>
</tr>
<tr>
<td>FELTERS &amp; PIPEFITTERS:</td>
<td></td>
</tr>
<tr>
<td>Contracts $15,000.00 or less</td>
<td>10.05</td>
</tr>
<tr>
<td>Contracts over $15,000.00</td>
<td>10.70</td>
</tr>
<tr>
<td>ROOTERS</td>
<td>5.50</td>
</tr>
<tr>
<td>SHEET METAL WORKERS</td>
<td>5.25</td>
</tr>
<tr>
<td>SPRINKLER FITTERS</td>
<td>10.80</td>
</tr>
<tr>
<td>WELDERS: Receive rate prescribed for craft performing operations to which welding is incidental.</td>
<td></td>
</tr>
</tbody>
</table>

LABORERS:

General laborers, traffic directors, flagmen, stock clerks, etc.

Operators of jackhammers, tampers, etc.

Mortar mixers, bricklayers, watchmen, etc.

Burners (torch) on demolition work, etc.

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1976
### Decision 0478-1088

**Power Equipment Operators:**

- Cranes, excavators, draglines, earthmovers, cherry pickers, pile drivers, concrete pumps, clamshell, drill operators, concrete mixers, plant, locomotive, two drum hoist, shovel, generators (250 kW & up), and hydraulic cranes over 10 tons.

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education &amp; Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10.03</td>
<td>.55</td>
<td>.50</td>
<td>.02</td>
<td></td>
</tr>
</tbody>
</table>

- Bulldozers, hydraulic backhoes (10 tons & under), scrapers, and loaders, fork tractors, one drum hoist, air compressors 600 CFM & over, motor graders, shovels, plows, plain tractors, firemen, rubber tired hoist, less than 3/4 cu. ft., such dozer, trenching machines.

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education &amp; Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.60</td>
<td>.55</td>
<td>.50</td>
<td>.02</td>
<td></td>
</tr>
</tbody>
</table>

- Other pump operators (over 6 cu. ft.), small backhoes, air compressors under 600 CFM.

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education &amp; Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.90</td>
<td>.55</td>
<td>.50</td>
<td>.02</td>
<td></td>
</tr>
</tbody>
</table>

- Mechanics’, helpers, servicing welding machines, pump up to 6 cu. ft.

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education &amp; Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.05</td>
<td>.55</td>
<td>.50</td>
<td>.02</td>
<td></td>
</tr>
</tbody>
</table>

### Additional Information

- **Seniority:**
  - Employer contributes 2/3 of the basic hourly rate of employees with 5 years or more of service, or 50% of the basic hourly rate of employees with 6 months to 5 years of service on Vacation Pay Credit.

- **Environmental:**
  - Wences
  - Cable splice or
  - Elevation Construction:
  - Mechanics
  - Helpers, servicing welding machines, pump up to 6 cu. ft.

- **Locally:**
  - Building & Construction
  - Lowheads
  - Power & air tool operators, concrete or clay pipe layers, & miners, miner loaders & power trane operators.

- **Arboretum:**
  --Anchors, as well as tens, trolley loaders, shaft loaders, burners, ashpans (sawmill wood), chip form workers (scot or weed, sawcut or flood types), potter, concrete masons, plasterers, & other form workers (concrete grades).

- **Labor:**
  - Brickset
  - Cable splice or

- **Electrical:**
  - 10.01

### Notices

**Surface Division**

**State:** Georgia

**County:** Screven

**Description Number:** 0478-1089

**Date:** September 30, 1977

**Publication:** FR Vol 52, No 200

**Description of Work:** Building construction (does not include single family homes and garden type apartments up to and including &-stories).
<table>
<thead>
<tr>
<th>PAINTERS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brush &amp; 9&quot; roller, &amp; drywall finisher</td>
</tr>
<tr>
<td>Paper hanging, sign painting, glazing, structural steel (painting &amp; cleaning) excluding metal doors &amp; frames</td>
</tr>
<tr>
<td>Power tools, all types epoxy &amp; chemical materials, such as bituminous, grease, cement, all stage work, window jacks, booth chairs, ladder jacks &amp; built-up scaffold, extension ladder over 36'</td>
</tr>
<tr>
<td>Regular epoxy &amp; gloves</td>
</tr>
<tr>
<td>Blasting</td>
</tr>
<tr>
<td>PUMPS &amp; PIPEFITTING</td>
</tr>
<tr>
<td>ROOFERS</td>
</tr>
<tr>
<td>SIDER METAL WORKERS</td>
</tr>
<tr>
<td>SPRINKLER FITTERS</td>
</tr>
<tr>
<td>WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.</td>
</tr>
</tbody>
</table>

**EXCEPTIONS:**

a. Seven paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 1% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as vacation pay credit.

---

<table>
<thead>
<tr>
<th>POWER EQUIPMENT OPERATORS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cranes, derrick, draglines, sidehoists, cranes, exc椪ors, mechanical, pilings, cranes, backhoes (3/4 cy. &amp; up), concrete pumps, clam shells, drill operators, concrete mixers, plant, locomotive, two drum hoists, shovels, grommets (250 kw &amp; up), and hydraulic cranes over 10 tons.</td>
</tr>
<tr>
<td>Bulldozers, hydraulic boom trucks (10 tons &amp; under), cranes, end loaders, fork trucks, one drum hoist, air compressors (600 cfm &amp; over), motor graders, steamers, rollers, plain tractors, firemen, rubber tired backhoe (less than 3/4 cy.), push dozer, trenching machines.</td>
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<tr>
<td>Oiler, pump operator (over 1&quot; dia.), small backhoe, air compressors under 600 cfm.</td>
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<tr>
<td>Mechanics' helpers, servicing welding machinery, pump up to 1&quot; dia.</td>
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FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
<table>
<thead>
<tr>
<th>Description</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
<th>Education and/or Advantages</th>
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**Decision No. 6504-6112**

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<td>GROUP 6 = Mop joints, laying pipe &amp; tile from pumice</td>
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<tr>
<td>GROUP 7 = Interior or closed tanks &amp; vessels manually</td>
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<td>GROUP 1 = Brush, roller, buffer, spray, sandblasting, painting</td>
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<td>GROUP 2 = Paperhangers, paperwhangers, sawing &amp; sheeting</td>
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**FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978**
### DECISION NUMBER LA-78-6113

#### PAGE 7

| ROOFERS (CONT'D); | Basic Hourly Rates | Fringe Benefits Payments | Education 
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#### FOOTNOTES FOR ELEVATOR CONTRACTORS:

a) - first 6 mos. - none; 6 mos. to 3 yrs. - 1%; over 3 yrs. - 2%; of basic hourly rate

b) - paid holidays - A thru C

c) - Paid Holidays for Elevator Contractors:

- New Years' Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Legal Holidays after Thanksgiving Day
- Christmas Day

| GROUP 1 - Scale Operators; | Basic Hourly Rates | Fringe Benefits Payments | Education 
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<tr>
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<td>Group 4;</td>
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<td>Group 6;</td>
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| GROUP 1 - Scale Operator; | Basic Hourly Rates | Fringe Benefits Payments | Education 
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<td>Palm Springs (all types);</td>
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<td>Building Operators;</td>
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<td>Cherry Pickers (all types);</td>
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<td>Concrete Mixers (over 1 each);</td>
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<td>Decal Truck (2 drums or over);</td>
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<td>Rollers (plant &amp; asphalt);</td>
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<td>Rollers;</td>
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<td>Truck Drivers;</td>
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#### NOTICE

- Federal Register, Vol. 43, No. 199—Friday, October 13, 1978
### SUPREME DECISION

**STATE:** Minnesota  
**COUNTIES:** Blue Earth, Freeborn,  
Fairbault, & Houston  
**DECISION NUMBER:** 0978-2118  
**DATE Of Publicaution:** 29 September 1978

#### DESCRIPTION OF WORK:
Building construction (including residential, construction etc.)

<table>
<thead>
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<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
<th>Education and/or App't.</th>
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<tbody>
<tr>
<td></td>
<td>H &amp; W</td>
<td>Pensions</td>
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#### ASBESTOS WORKERS
- Blue Earth County  
- Brickyards, Stonemasons & Blocklayers
- $11.33  
- .78  
- .65  
- .02

#### BRICKLAYER
- Blue Earth County  
- Brickyards, Stonemasons & Blocklayers  
- $12.00  
- .85  
- .00  
- .02

#### ROOFERS
- Freeborn County & that part of...  
- $9.05  
- .50  
- .65  
- .02

#### CARPENTERS
- Building:  
- Blue Earth County  
- N. W. Portion of County  
- $10.20  
- .50  
- .02

#### GLASSERS
- $10.00  
- .75  
- .60  
- .04

#### IRONWORKERS
- Building construction  
- Stearns & Benton Counties:  
- General Laborers, Demolition & Wrecking; Concrete Joint Saw Ops; Signal Men  
- $8.50  
- .75  
- .60  
- .04

#### MASON & PLASTERERS
- Building:  
- Blue Earth County  
- Cement Masons  
- $10.50  
- .50  
- .25

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**FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978**
### DECISION NO. M078-211B

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### SHELBURNE COUNTY

| CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab, Rein. Steel Setter, Salsamander Heater & Blowout Tender, Carpenter Tender, Winch Handler |
| CLASS 2 Laborer, Erector & Demolition; Bit. Batchmen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch Trucks); Compaction Equip., Shovel, Batchmen Conc, Conc. Vibrator Tamper & Puddler (Paving) Concord, Logs. Flotation; Conduit Laying (W.O. Wiring); Chipping Hammer, Such Setter (Stone or Precast Conc.) Kettleman (Bit. or Lead); Service connection maker; Power Hugger, Joint Saver, Squeeze Man (Bit. Brick or Block); Stabilizing Batchmen (Stationary Plant); Stonemason Tender, Drill Runner (Heavy, Including Church Drill) |
| CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster, Mortar Mixer, Pipe Handler; Pipe Dorrickman (Tripod, manual) |
| CLASS 4 Bottom Man (Water, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Calico Work, One work more than 8' below level of manual work, Open ditch Work |

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FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
LAMINER:  (Cont'd)

CLASS 5 - Bituminous Tarpo; Pipelayors; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (14 & over); Loadman
CLASS 7 - Horsemen (Guards)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Plinthe & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Poudrier

DECISION NO. 1975-2112

<table>
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<tr>
<th>Class</th>
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<th>H &amp; W</th>
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CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Fitter, Laborers-
Wrecking & Demolition, Landscape Gardener, Pipe Fitter (Water, Gas & Coal)
Concrete Mixer & Screen Tender, Cake Layer & Nurseryman, Stone-
Cutter Tender, Engraved Laborer

CLASS 2 - Form Setter (Concrete Vise & Sidewalk), Form Setter (Concrete)
Construct (Mobile Truck); Concrete Handler (Bolt on leg); Chain Saw Hand Confor-
tion equipment (Hand operated); Concrete Hitter (1 Bog); Concrete Chevalier
Trowel & Fiddler (Paving); Concrete Vibrator; Concrete Layer (W/ pg wiring);
Drill Runner (Vagge, Truck, etc.); Soundman, Joint Cover, Hittelman
(Oilburner or Els); Hitter Hitter, Paving Dust, Scoot Dug, Tunnel
Laborer (Atmospheric pressure)

CLASS 3 - Bituminous Raker, Plinthe & Utility Man; Coisson work, Cofferdam

CLASS 4 - Echo-Cut

CLASS 5 - Gunite

CLASS 6 - Pipelayor (Drain, Water & Gas)

CLASS 7 - Poudrier, Tunnel Minor
**DEPARTMENT OF TRANSPORTATION**

**POWER EQUIPMENT OPERATORS**

<table>
<thead>
<tr>
<th>CLASS</th>
<th>Description</th>
<th>Basic Hourly Rate</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education and/or</th>
<th>Appl. Tr.</th>
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<td>12.95</td>
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<td>Truck &amp; Crawler Cranes with 300' of Boom and over, including jib</td>
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<td>4</td>
<td>Truck &amp; Crawler Cranes with 200' of Boom, up to and not including 300' of Boom, including jib</td>
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<td>Traveling Tower Crane</td>
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<td>Master Mechanic; Pile Driving Operator</td>
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<td>Truck &amp; Crawler Cranes with 200' of Boom, up to and not including 300' of Boom, including jib</td>
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<td>.55</td>
<td>.50</td>
<td>.05</td>
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</table>
POWER EQUIPMENT OPERATIONS (Cont'd)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over hopper capacity, Pipeline wrapping, cleaning or banding machine Op., Power Plant Engineer, Power actuated horizontal boring mach., over 60 hp., pugmill op., roller, 8 tons & over, rubber tired farm tractor, backhoe etc., sheep foot op., tio tamp & ballast mach. Op., Tractor Op., over D2, T20 or similar HP with power take-off, tractor Op., over 50 HP with power take-off, trenching machine Op., (power, water, gas) turnbuckle Op., (or similar type) wall point installation, disassembling or repair mechanic


GROUP 7 - Brakeman, switchman, conveyer op., deckhand, Fireman, Tank Car Heater Op., Gravel screening plant op., grader leverman, mach. helper, mech. space heater, oiler, self-prop. vlb. picker op., sheep foot roller, tractor Op. 50 HP or less w/o power take-off, truck crane oiler
(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd),
machines op, (power-driven - Mighty might or similar type, Pick-up
sweeper, 1 cu. yd. over Hopper capacity, Pipeline wrapping, cleaning
or bending machine Op. Power Plant Engineer, Power actuated horizontal
boring mach., over 6" op., pugmill op., roller, 6 tons & over, Rubber
tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast
mach Op., Tractor op., over D2, TD6 or similar HP with power take-off,
tractor Op., over 50 HP without power take-off, trenching machine Op.,
(sewer, water, gas) turnpfnl op., (or similar type) well point installation,
dismantling or repair mechanics.

GROUP 6 - Air compressor Op. 375 C.F.M. or over, bituminous spreader
and bituminous finishing machine op., Concrete dist. & Spreader op.,
finishing machine longitudinal float op., joint mach. op., spray,
concrete mixer op. 140 and under, concrete op. (Oilt. Blade), carb.
mach. op., Fine grade Op., form trench digger, front end loader op.
(up to 4 inpl. 1 cu. yd.), grader op. (motor patrol), guinite op.
guinite, lead grader on truck or rack, loader op., power actuated
Augers and boring mach. op. power actuated jacks op., pump op.,
roller op, self-propelled chip Spreader, Shouldering mach. Op.,
stump chipper op., tractor op. (D2, TD6 or similar HP with power
take-off)

GROUP 7 - Brakerman, switchman, conveyor op., deckhand, Fireman, Tank Car
Heater op., Gravel screening plant op., greaser leverpnd, mech. helper,
mach. space heater, oilor, self-prop. 3lb. packer op., sheep foot roller,
tractor op. 50 HP or less w/o power take-off, truck crane oiler
GROUP 5 (Cont'd)

Tiled farm tractor, backhoe att., sheep foot op., tie tamper & ballast
mach. Op., Tractor op., over D1, T65 or similar HP with power take-off,
tractor Op., over 50 HP w/o power take-off, trenching machine Op.,
(never, water, gas) turnball op., (or similar type) well point installation,
dissimilar or repair mechanic

GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and
bituminous finishing machine op., Concrete dist. & Spreader op.,
finishing machine longitudinal float op., joint mach. op., spray,
concrete mixer op. 145 and under, concrete op. (Natl. Blind), curb
mach. op., Fine grade Op., form trench digger, front end loader op.
(up to incl. 1 cu. yd.), grader op. (motor patrol), gunite op.
gumall, lead grader on truck or track, loader op., power actuated
pump and boring mach. op. power actuated jacks op., pump op.
roller op., self-propelled chip spreader, shoveling mach. Op.,
(atmop chipper op., tractor op. (D1, T65 or similar HP with power
take-off)

GROUP 7 - Brakeman, switchmen, conveyor op., deckhand, Fireman, Tank Car
Heater op., Gravel screening plant op., greaser leverman, mech. helper,
mech. spade heater, oiler, self-prop. vib. paver op., sheep foot roller,
tractor op. 50 HP or less w/o power take-off, truck crane oiler

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
### Truck Drivers:

**SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING**

<table>
<thead>
<tr>
<th>Group</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
<th>Education and/or Appl. Tr.</th>
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<tr>
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<td>H &amp; W</td>
<td>Pensions</td>
<td>Vacation</td>
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<tr>
<td>Benton &amp; Stearns Counties</td>
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<tr>
<td>GROUP 1</td>
<td>$8.02</td>
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<td>GROUP 2</td>
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<td>GROUP 3</td>
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<tr>
<td>GROUP 4</td>
<td>7.42</td>
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</table>

**GROUP 1** - Driver (Hauling machinery for employer’s own use, including operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-Trailer; Off-Road Truck

**GROUP 2** - Tri-axle (including 4-axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boos & "A" Fram; Ready Mix Concrete; Slurry Driver.

**GROUP 3** - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

**GROUP 4** - Bituminous Distributor Spray (rear-end oiler); Dumpman Greaser & Truck Serviceman; Tank Truck Driver (Gas, Oil, Road Oil & Water); Teamster and Stableman, Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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**SUPERSEDES DECISION**

**STATE:** Minnesota  
**COUNTIES:** Benton, Sherburne & Stearns  
**DECISION NUMBER:** MN78-2119  
**DATE:** Date of Publication  
**SUPREME DECISION No. MN78-2098, dated September 29, 1978, in 43 F.R. 45143**  
**DESCRIPTION OF WORK:** Building (Including Residential), Construction

<table>
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<th>Education and/or Appl. Tr.</th>
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<td>Soft Floor Layers</td>
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<td>Carpenters &amp; Piledrivermen</td>
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<td>Soft Floor Layers</td>
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<td>Site Preparation, Excavation &amp; INCIDENTAL PAVING</td>
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<td>Sherburne Co., Northern Boundary of T-34-N &amp; East of the Western Boundary of R-27-W Benton Co., Stearns Co. (East of A North-South Line Drawn from the Intersection of Stearns, Todd &amp; Morrison Co's.) &amp; the remainder of Sherburne Co.</td>
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**NOTICES**

FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
## DECISION NO. 1878-2119

### NOTICE

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### DETAIL NO. 1878-2119

### CEMENT MASONs (CONT'D)

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### DECISION NO. 1878-2119

### PAINTERS:

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<th>Fringe Benefits Payments</th>
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### FOOTNOTES:


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FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978
### DECISION NO. WO76-2119

**MINN-12-LAB**

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<td>H &amp; W</td>
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**NOTICES**

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Yeokings & Demolition; Landscape Gardener; Pipe Handler (Water, Gas, Cast Iron); Salmon for Rabbit & Elephant Tender; Soile; Bad Layer & Nurseryman, Stone Mason Tender.

CLASS 2 - Bituminous Shovelers; Bottom Man (Sewer, Water or Gas Trench); Concrete Brushman (Batch Trucks); Cement Handler (Burl or bag) Chain Saw Shovelers; Tamper & Paddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumpers (wagon, Truck Jackhammermen; Joint Sawyer, Ketlemen (Bituminous or Lead); Mortar Mixers; Pavement Busters; Power Riggers; Tunnel Laborer (Atmospheric Pressure).

CLASS 3 - Bituminous Tamper

CLASS 4 - Bituminous Raker; Float or Utility Man; Caisson Work; Cofferdam

CLASS 5 - Landsmen

CLASS 6 - Nozzle (Gunite)

CLASS 7 - Pipelayor (Sewer, Water & Gas)

CLASS 8 - Poreman

### DECISION NO. WO78-2119

**MINN-1-FEO-1**

<table>
<thead>
<tr>
<th>Class</th>
<th>Basic Hourly Rates</th>
<th>fringe Benefits Payments</th>
<th>Education and/or Apprenticeship</th>
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</thead>
<tbody>
<tr>
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<td>H &amp; W</td>
<td>Pensions</td>
<td>Vacation</td>
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<tr>
<td>Class 12</td>
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</table>

**NOTICES**

CLASS 1 - Helicopter Operator

CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including 41b

CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including 41b

CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including 41b

CLASS 5 - Traveling Tower Crane

CLASS 6 - Master Mechanic; Pile Driving Operator

CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including 41b; Derrick (Guy & Stiffleg); Hoist Engine (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Standary Tractor Operator with Boom; All Terrain Vehicle Crane; Fireman, Chief License

CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Op., (2 or more machines); Hoist Engine (two drum); Mechanic or Welder; Pumperate or Compaco-type Machine Operator; Forklift

CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Hoist Operator over 150; Well Point Pump Operator

CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.

CLASS 11 - Air Compressor Ops, 375 CFM or over; Pump and/or Conveyor Ops.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Operator; Welding Machine Op. (see Schedule 16 on Air Comps., Pump, Conveyors, Welding Mach.)

CLASS 12 - Mechanical Space Handler (Temporary Heat) Oiler or Greaser; Elevator Operator

**FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978**
### DECISION NO. MMTB-2119

**POWER EQUIPMENT OPERATORS:**

<table>
<thead>
<tr>
<th>SITE PREPARATION, EXCAVATION &amp; INCIDENTAL PAVING</th>
<th>Daily Hourly Rates</th>
<th>Fringe Benefits Payments</th>
<th>Education and/or Apprenticeship</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GROUP 1</strong> - Helicopter Pilot</td>
<td></td>
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</tr>
<tr>
<td><strong>GROUP 2</strong> - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. &amp; over Mfg. rated capacity</td>
<td></td>
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<tr>
<td><strong>GROUP 3</strong> - Cableway Op., concrete Mixer, Stationary Plant over 340', Dewater, Dragline and/or similar equipment w/shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge oper. (power) &amp; engineer, Front End Loader Op., 5 cu. yds. &amp; over, Grader or Caterpillar, Finishing earthwork &amp; bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Hole, Op., incl. power supply, Nucking Mach., incl. nucking operations Conway or similar type, Refrigeration Plant Engineer, Tender Scraper, Tractor Op. (Boom Type), Truck Crane Op., Pughead Op. 100 HP &amp; over</td>
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<td></td>
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<tr>
<td><strong>GROUP 5</strong> - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rig, Heavy Rotary or Chord or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcher, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oils, Paving Breaker or Tamping machines op., (power-driven - Mighty mite or similar type, Pick-up sweeper, 1 cu. yd. &amp; over Hopper capacity, Pipeline wrapping, cleaning or patching machine actuated horizontal boring mach., over 5th op., pupmill op., roller, 8 tons &amp; over, Rubber tired farm tractor, backhoe etc., sheep foot op., tie tamper &amp; ballast mach. Op., Tractor op., over 52, TD6 or similar HP with power take-off, tractor Op., over 52 HP without power take-off, trenching machine Op., (sewer, water, gas) turnaround op., (or similar type) well point installation, dismantling or repair mechanic</td>
<td></td>
<td></td>
<td></td>
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</table>

**GROUP 6** - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete distr. & spreader op., finishing machine longitudinal float op., joint mach op., spray, concrete mixer op. 145 and under, concrete op. (Haul, Blade), curb mach. op., Pne sold grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor.pad), gusite op. gunnall, lead grader on truck or rack, loaderop., power actuated Auger and boring mach. op, power actuated jaws op., pump op., roller op., self-propelled chip spreader, shoveling mach. op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

**GROUP 7** - Brake man, switchman, convey or Op., dockhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser lazerman, mech. hoist, meech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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**NOTICES**

**FEDERAL REGISTER, VOL. 43, NO. 199—FRIDAY, OCTOBER 13, 1978**
### DECISION NO. 14707-2110

<table>
<thead>
<tr>
<th>TRUCK DRIVERS: SITE PREPARATION, EXCAVATION &amp; INCIDENTAL PAVING</th>
<th>MHD-5-TD</th>
</tr>
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<tbody>
<tr>
<td>Fairbanks County</td>
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<tr>
<td>GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand &amp; power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck</td>
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<tr>
<td>GROUP 2 - Tri-axle (including 4+axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil &amp; Water); Boom &amp; &quot;A&quot; Frame; Ready Mix Concrete; Slurry Driver.</td>
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<tr>
<td>GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.</td>
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<tr>
<td>GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser &amp; truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil &amp; Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.</td>
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<table>
<thead>
<tr>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
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<tbody>
<tr>
<td></td>
<td>H &amp; W</td>
</tr>
<tr>
<td>GROUP 1 -</td>
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<tr>
<td>GROUP 2 -</td>
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<td>GROUP 3 -</td>
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<tr>
<td>GROUP 4 -</td>
<td>7.42</td>
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### DECISION NO. 14707-2110

<table>
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<th>TRUCK DRIVERS: SITE PREPARATION, EXCAVATION &amp; INCIDENTAL PAVING</th>
<th>MHD-7-TD</th>
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<td>Blue Earth County</td>
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<td>GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand &amp; power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck</td>
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<tr>
<td>GROUP 2 - Tri-axle (including 4+axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil &amp; Water); Boom &amp; &quot;A&quot; Frame; Ready Mix Concrete/ Slurry Driver.</td>
<td></td>
</tr>
<tr>
<td>GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.</td>
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</tr>
<tr>
<td>GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser &amp; truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil &amp; Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
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<tr>
<td></td>
<td>H &amp; W</td>
</tr>
<tr>
<td>GROUP 1 -</td>
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<tr>
<td>GROUP 2 -</td>
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<td>GROUP 3 -</td>
<td>8.22</td>
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<tr>
<td>GROUP 4 -</td>
<td>8.02</td>
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</tbody>
</table>
NOTICES

STATE: South Carolina
COUNTIES: Berkeley, Charleston, & Dorchester

DEVIATION NUMBER: SC78-1087
DATE: Date of Publication
Supersedes Decision No. SC75-1055 dated May 23, 1975
DEVIATION OF WORK: Building construction (excluding single family homes and
garden type apartments up to and including 4 stories).

<table>
<thead>
<tr>
<th>GROUP</th>
<th>Basic Hourly Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education and/or Apprv. Tr.</th>
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</table>

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck.

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Gravel Driver.

GROUP 3 - Bituminous Distributors; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear end oiler); Dump: Greaser & Truck Service; Tank Truck Helper (Gas, Oil, Road Oil & Water); Teamer and Stablesman; Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Gravel Operator; Single Axle Trucks.

<table>
<thead>
<tr>
<th>Fringe Benefits Payments</th>
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<tbody>
<tr>
<td>H &amp; W</td>
</tr>
</tbody>
</table>

- AIR CONDITIONING MECHANICS
  - MaKEMES
  - BRICKLAYERS
  - CARPENTERS
  - CEMENT MASONs
  - ELECTRICIANS
  - GLAZIERS
  - IRONWORKERS
  - INSULATORS
  - LABORERS, unskilled
  - LATHIERS
  - MALLEABLE SETTERS
  - MILLMACHINERS
  - PAINTERS:
    - Brush
    - Spray
  - PLASTERERS
  - PLOUMBERS & PIPEFITTERS
  - ROOFERS
  - SHEET METAL WORKERS
  - SOFT FLOOR LAYERS
  - SHEERDRILLER FITTERS
  - TILE SETTERS
  - TRUCK DRIVERS
  - HELDERS - Receive rate prescribed for craft performing operation to
  which work is incidental.

<table>
<thead>
<tr>
<th>FRUW EQUIPMENT OPERATORS:</th>
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<tbody>
<tr>
<td>Backhoes</td>
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<tr>
<td>Blade graders</td>
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<tr>
<td>Boom trucks</td>
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<tr>
<td>Bulldozers</td>
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<tr>
<td>Cranes, derricks, &amp; draglines</td>
</tr>
<tr>
<td>Finishing machines</td>
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<td>Fork lifts</td>
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<td>Front end loader</td>
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<td>Graders</td>
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### Power Equipment Operators (cont'd)

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<th>Position</th>
<th>Basic Daily Rate</th>
<th>Pensions</th>
<th>Vocational</th>
<th>Education and/or Apprenticeship</th>
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<td>Trenching machines</td>
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### Notices

**Superceded Decision**

**STATE:** Virginia  **COUNTIES:** Amelia, Brunswick, Charles City  Chesterfield, Dinwiddie, Gloucester
Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Botetourt, Pocahontas,  Prince George and the city of Richmond

**Decision No:** 28-VA-2072  **Description of Work:** Highway Construction

<table>
<thead>
<tr>
<th>Position</th>
<th>Basic Daily Rate</th>
<th>Pensions</th>
<th>Vocational</th>
<th>Education and/or Apprenticeship</th>
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<td>Carpenter, Structure</td>
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<td>Carpenter Helper, Structure</td>
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<td>Concrete Finisher</td>
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<td>Concrete Finisher Helper</td>
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<td>Electrician</td>
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<td>Asphalt Distributor Operator</td>
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<td>Asphalt Paver Operator</td>
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<tr>
<td>Backhoe Operator</td>
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<tr>
<td>Bulldozer Operator</td>
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<tr>
<td>Crane, Derrick, Dragline Operator (1 YD &amp; UNDER)</td>
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<tr>
<td>Crane, Derrick, Dragline Operator (OVER 1 YD)</td>
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<tr>
<td>Drill Operator</td>
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<td>Forn Grader Operator</td>
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<td>Loader Operator (1 YD &amp; UNDER)</td>
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<td>Loader Operator (OVER 2 YD)</td>
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<td>Motor Grader Operator (FINE GRADE)</td>
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<tr>
<td>Motor Grader Operator (ROUGH GRADE)</td>
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<td>Pile Driver Operator</td>
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<td>Roller Operator (FINISH)</td>
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<td>Scaper Pan Operator</td>
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<td>Stabilizer Operator</td>
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## DECISION NO. 78-VW-2072

### Scale Daily Rates
<table>
<thead>
<tr>
<th>Position</th>
<th>Base Rate</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education and/or Apprenticeship</th>
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<tbody>
<tr>
<td>Rock Spreader Operator</td>
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<tr>
<td>Tractor Operator (Chamber)</td>
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<tr>
<td>Tractor Operator (Utility)</td>
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<tr>
<td>Truck Driver, Heavy Duty (7 C.V. &amp; Under)</td>
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<td>Truck Driver, Heavy Duty (Over 7 C.V.)</td>
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<tr>
<td>Truck Driver (Multiple-Axle)</td>
<td>3.61</td>
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<td>Truck Driver (Single-Axle)</td>
<td>3.61</td>
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</table>

### NOTICES

### SUPERSEDES DECISION

**STATE:** Virginia  
**LOCATION:** Radford Army Ammunition Plant  
**DECISION NO.:** VA78-3073  
**DATE:** Date of Publication  
**Supersedes Decision No.:** VA78-3040 dated May 5, 1978 in 43 FR 10579  
**DESCRIPTION OF WORK:** Building Construction, does not include single family homes and garden type apartments up to and including 4 stories.

<table>
<thead>
<tr>
<th>Position</th>
<th>Daily Rates</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacation</th>
<th>Education and/or Apprenticeship</th>
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<tr>
<td>Asbestos Workers</td>
<td>9.50</td>
<td>70</td>
<td>65</td>
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<tr>
<td>Gutterers</td>
<td>10.70</td>
<td>1.00</td>
<td>1.00</td>
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<tr>
<td>-Builders</td>
<td>8.00</td>
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</tr>
<tr>
<td>Carpenters</td>
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<tr>
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<td></td>
<td></td>
<td>0.02</td>
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<tr>
<td>Electricians</td>
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<td>Ironworkers</td>
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<tr>
<td>Structural and Reinforcing Laborers</td>
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<tr>
<td>Concrete Laiders</td>
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<tr>
<td>Mason Tenders</td>
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<td>Air Tool Operators</td>
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<td>Lathers</td>
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<td>Millwrights</td>
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<tr>
<td>Painters</td>
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<td>Powder Equipment Operators</td>
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<td>Boiler Operators</td>
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<td>Crane Operators</td>
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<td>CFAE Operators</td>
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<td>Others</td>
<td>9.80</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Clearers</td>
<td>7.75</td>
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<td>45</td>
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<tr>
<td>Pile Drivers</td>
<td>6.32</td>
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</tbody>
</table>

### FOOTNOTES:

- **Paid Holidays:** New Year's Day, Memorial Day, Labor Day, Independence Day, Thanksgiving, Day and Christmas Day provide the employee with the regularly scheduled work day before and after the holiday.

(FR Doc. 78-23704 Filed 10-12-78; 8:45 am)
FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION
Implementation of Executive Orders 11988 and 11990
### PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Date of Issue</th>
<th>1978</th>
<th>Vol. 43 FR, Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior Department, Bureau of Land Management</td>
<td>Sept. 28</td>
<td></td>
<td>44798</td>
</tr>
<tr>
<td>Commerce Department, Office of the Secretary</td>
<td>Sept. 29</td>
<td></td>
<td>45284</td>
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<tr>
<td>Transportation Department, Office of the Secretary</td>
<td>Sept. 29</td>
<td></td>
<td>48285</td>
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<tr>
<td>Nuclear Regulatory Commission</td>
<td>Oct. 9</td>
<td></td>
<td>45449</td>
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</table>
Executive Order 11988, Floodplain Management, affirmed that it is an administration policy to protect and enhance the natural and beneficial values of floodplains and actively to discourage noncompatible development. Executive Order 11990, Protection of Wetlands, recognized that the Nation’s remaining wetlands are a valuable national resource. All Federal agencies must take all appropriate actions to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council’s Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030, Feb. 10, 1978) provide a basic implementation guidelines. The Heritage Conservation and Recreation Service’s draft procedures, based on the Department of the Interior’s draft procedures, apply the Water Resources Council’s guidelines to various Heritage Conservation and Recreation Service programs. A proposed Directive described in this notice will guide the agency’s employees in assuring that their actions further the intent and purpose of both Presidential Executive Orders.

The notice also contains draft changes to be made in existing Heritage Conservation and Recreation Service manuals and other operational guidelines.

Heritage Conservation and Recreation Service, Department of the Interior.

FOR FURTHER INFORMATION CONTACT:
Mr. Louis E. Reid, Jr., Chief, Office of Environmental Affairs, Heritage Conservation and Recreation Service, Washington, D.C. 20240.

The Heritage Conservation and Recreation Service (HCRRS) has examined its procedures, regulations, and policies as required by Executive Orders 11988 and 11990. The following actions are being taken to assure that all of the agency’s actions are in compliance with these orders:


b. Environmental Assessments or Environmental Impact Statements for activities or elements of activities which will result in construction in a floodplain or wetland or will otherwise affect their natural or beneficial values will be prepared and will state the degree of risk to the public interest, safety, and whether or not an alternate location or course of action could accomplish the proposed objectives. Where applicable, the notice or statement of findings must not exceed three pages in length; it also will serve as the notice for A-95 environmental preservation projects and some Land and Water Conservation Fund projects. This requirement is not applicable to normal maintenance.

c. The Heritage Conservation and Recreation Service will prepare and circulate notices of intent to conduct, support, or allow actions in floodplains or wetlands, or cause such notices to be prepared and circulated. The notice will (1) explain concisely why the proposed action is to be taken in a floodplain or wetland, (2) provide a list of expected environmental impacts of the action as a part of a brief summary of the environmental effects, (3) state that the action conforms to applicable State and local floodplain and wetland protection standards and to the requirements of Executive Orders 11988 and 11990, and (4) provide a simple location map. The notice also must state where the environmental assessment and additional information on the project are available for inspection or can be obtained. The notice must not exceed three pages in length; it also will serve as the notice for A-55 clearinghouses.

When circulation of the notices results in receipt of adverse comments, HCRS will send copies of the notices, statements of findings, and NEPA documents on the proposed action to the office of the following agencies:


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When circulation of the notices results in receipt of adverse comments, HCRS will send copies of the notices, statements of findings, and NEPA documents on the proposed action to the office of the following agencies:
nearest the site of the proposed action: Environmental Protection Agency; Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western States only); Corps of Engineers; Soil Conservation Service; and the Fish and Wildlife Service.

f. Both Executive Orders require that public comments be solicited for all projects. They state that opportunity must be provided for public review of any plans or proposals for actions * * * whose impact is not significant enough to require the preparation of an environmental impact statement * * * Similar public involvement is necessary, of course, when an environmental impact statement is required. Forthright solicitation of suggestions and comments from the public is necessary. In cases where proposed development is in accordance with plans which have already undergone documented public review, the requirement may be considered to have been fulfilled. A sound public information effort might still be worthwhile, especially when consideration has been given to the fact that a reasonable time has elapsed since approval of plans. Public information programs in these circumstances will be conducted at the option of offices originating the proposed actions. In all cases, press releases will be prepared for local dissemination. These will describe the proposed action and urge the public to provide its views to the Heritage Conservation and Recreation Service or the project sponsor. The press release also may be sent to the nearest the site of the proposed action and urging mem-

Publication permits will determine whether the public completes the proposed action and urging mem-

press release also may be sent to the nearest the site of the proposed action and urging mem-

The Service's Step 7 Review process or early public review, the HCRRS Regional Office will return copies of all notices and NEPA documents to the Regional or Field Offices of the Federal agencies noted above.

The Service's Step 7 Statement of Findings will be incorporated into the EIS or negative declaration by the Regional Office when alternative actions have been considered during project review.

k. State Comprehensive Outdoor Recreation Plans must address the requirements and goals of the Floodplains and Wetlands Executive Orders (Section 630 of the G-J-A Manual).

3. Subject to regulations to be issued by the General Services Administration respecting the disposal of Federal real property and implementation of P.L. 11988 and 11990, Program Direc-

tive 120-1-1 is proposed to be added to the Surplus Property Handbook and application instructions related to P.L. 91-485 and amending the Federal Property Act.

It will state that:

NOTICES

a. All surplus property applications must comply with the intent of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands, and with the U.S. Water Resources Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030, February 10, 1978).

b. The environmental assessment for all development proposals must state whether or not there will be an impact on floodplains or wetlands.

c. Proposed developments and/or construction in wetlands should be avoided when there is an adverse impact on the natural environment and beneficial values and practicable alternatives exist. This also includes the rehabilitation of idle structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

d. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values.

e. Applications to acquire Surplus Property for passive recreational facilities normally are consistent with the intent of the Executive Orders and are excluded from these procedures.

f. The environmental documentation shall include:

1. The extent of the direct and indirect impacts.
2. Measures to be taken to minimize the adverse impacts.
3. Alternative actions and locations considered in the event of an adverse impact.
4. Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

g. The project sponsor shall insure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide its views to the project sponsor.

h. The applicant shall include a copy of the proposed environmental assessment with the application submitted to the appropriate Regional Office for review and approval prior to the Service's request for assignment of the property from the General Services Administration. In addition to (e) above, the assessment shall explain why the proposed development is to be located in the floodplain or wetland and shall include a simple location map.

i. When the General Services Administration provides the Service with adverse comments received as a result of the A-95 review process or early public reviews, the HCRS Regional Office will forward copies of all notices and NEPA documents to the Regional or Field Offices of the following Federal agencies: Environmental Protection Agency, Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western states only); Corps of Engineers; Soil Conservation Service; and the Fish and Wildlife Service.

j. The Service's findings will be forwarded to the appropriate GSA Regional Office for incorporation into Environmental Impact Statements, assessments, or statements of no significant findings by the GSA Regional Office when alternative actions have been considered during the project review.

4. Except where extreme conditions dictate otherwise, the HCRS Division of Resource Area Studies will recommend measures which protect, restore and/or enhance the recreation, natural, and cultural values which floodplains and wetlands offer. The Division of Resource Area Studies will not recommend support or approve of actions which will impact floodplains and wetlands adversely except where there is no practical alternative.

Relevant programs and interests under the purview of the Resource Area Studies Division include natural area studies and involve plans, reports, and recommendations stemming from such studies and the review of reports, projects, and recommendations of other studies which the Division comments upon or which it assists in preparing.

Louis E. Renz, Jr.,
Chief, Office of Environmental Affairs.
DEPARTMENT OF LABOR
Mine Safety and Health Administration

HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS
Final Rules
March and April 1978 in which the public participated, and submitted recommenda-
tions to the Secretary. The proposed rules, which adopted with a few changes the advisor committee's recommendations, appeared in 43 FR 30990-30999 (July 18, 1978) and a cor-

Interested persons were given an oppor-
tunity to submit comments until August 23, 1978, and were notified that hearings would be held on the proposed rules. The hearings were
held in Charleston, W. Va., St. Louis, and Phoenix, Ariz., on August 14, 16, and 18, 1978, respectively. A total of 86 witnesses presented testimony.

In addition, the Mine Safety and Health Administration (MSHA) has received and reviewed over 240 written comments and statements from inter-
rested persons.

DISCUSSION OF COMMENTS AND CHANGES

1. General discussion. The predomi-
nant concern expressed by the mining industry, coal, metal, and nonmetal industries, in testimony and written comments, was that the pro-
posed rules, if adopted and applied, would be extremely burdensome and costly to implement, forcing many small operations to curtail production during training periods or go out of business altogether, and resulting in substantial increases in the prices of mined materials. A related concern was that the rules, as proposed, were neither tailored to fit the needs of the various types of mining operations nor flexible enough to be adaptable to those needs.

The first year costs of the training require-
ments contained in the Mine Act and these final rules will total approxi-
mately $125 million for all mining industries. A discussion of eco-

nomic issues is contained under the heading "Economic Analysis" in this preamble. Congress recognized that "miner training may strain the finan-
cial resources of many small oper-
a tors." Conference Report No. 95-461, 95th Cong., 1st sess. 63 (1977). To help alleviate this burden, Congress direct-
ed the Secretary "to maintain a flexi-
bile approach in approving training programs * * *." Conference Report No. 95-461, supra at 63.

In keeping with this mandate, the mining industries can be assured that MSHA will make every effort to be flexible in carrying out its responsibil-
ties with respect to training in order to be as responsive as possible to the needs and circumstances of the vari-

ous segments of the mining communi-
ty and of individual operators. Several of the changes made in these final rules reflect that intention.

There was also concern expressed that, in attempting to comply with the
RULES AND REGULATIONS

forth in the rules. Such workers would
include, for example, dragline oilers
and haulage workers, who transport
minerals from the pit areas through
preparation stages to storage facilities.

The proposed rule excluded “non-
production and nonmaintenance per-
sonnel” from the definition of “miner”
in § 48.2. MSHA has determined that
certain changes are appropriate with
respect to the proposed exclusion.
While only those persons most direct-
ly and primarily affected by the
hazards need to undergo comprehen-
sive training, other workers at the
mine, such as scientific, office, or de-

delivery personnel, either employed
or contracted by the operator, or short
term maintenance or service personnel
contracted by the operator are ex-
posed to certain mine hazards on a less
regular basis in performing duties anc-
illary to or supportive of extraction or
production operations. It is likely that
given any training, could expose not,
only themselves but, other miners to
unnecessary risks. These workers
should, therefore, have periodic in-
struction concerning the hazards they
may encounter and must, in addition,
be accompanied at all times while un-
derground by an experienced miner.
MSHA expects that the general prin-
ciples of training discussed above ap-
ply equally to nonproduction min-
erial, who are not regularly exposed
to mining hazards and who may go un-
derground during the course of their
duties are required to have periodic in-
struction concerning the hazards they
may encounter and must, in addition,
be accompanied at all times while un-
derground by an experienced miner.

Confusion was also expressed con-
cerning the status of visitors to the
mine, such as corporate or government
officials, or students on a field trip.
These types of persons are not covered
by § 48.2. MSHA has noted that it is
likely that such persons will be accom-
panied by experienced miners and will
be provided appropriate safety equip-
ment. The proposed rule excluded “non-
metal mining industry representatives con-
cerning the hazards they
may encounter and must, in addition,
be accompanied at all times while un-
derground by an experienced miner.
MSHA generally believes that the
same distinctions discussed above with
respect to the training of surface min-
ers are also applicable to under-
grounder mines. For example, persons
employed in the extraction or produc-
tion process are required to undergo
the comprehensive training prescribed
in §§ 48.5 through 48.8, as applicable.

(i) Subpart A--underground mines.

(ii) Subpart B--surface mines.

(iii) Training of nonemployees. Mining industry representatives con-
tended that an operator should not be
responsible for training workers who
are not employed by the operator.

Workers under this category are not
covered under these rules, it is likewise expected that such persons will be provided with and
given instruction in the use of appro-
priate safety equipment and will be ac-
companied at all times while un-
derground by an experienced miner.

Nothing in the Mine Act removes from
the definition of "miner" from the definition of "miner"
employees but, either directly or indi-
rectly, over those with whom he con-
tracts and allows to perform work on
mine property. The operator remains
ultimately responsible for, and is the
beneficiary of all work done at the
mine. Moreover, in the specific area of
training, an operator can best assure
that all miners working at his mine re-
ceive systematic training consistent
with the health and safety needs and
conditions existing at the mine. Ac-
cordingly, except with respect to those
independent contractors that may be
identified as operators under rules cur-
rently being developed, operators will be
primarily responsible for training
workers on mine property.

A somewhat unique problem exists
with certain specialized contract pro-
duction and extraction workers, par-
ticularly drillers and blasters, who
come onto mine property for short du-
ration to perform their tasks and then
move to other sites. Since these work-
ers are unquestionably engaged in the
extraction process, they would ordi-
narily be subject to the full training
requirements of §§ 48.5 through 48.8 or
§§ 48.23 through 48.28. MSHA believed
such workers should be subject to
"new miner" training if they are inex-
perienced or to "new task" training if
they are new to the specialty. How-
ever, it would not serve any useful
purpose to require such individuals to un-
dergo newly engaged experienced
miner training each time they go to a
new job for a few days. They are skilled
at their particular tasks and need only be acquainted with the spe-
cific hazards they may encounter at
the mine site. Accordingly, they will be
required to take only hazard train-
ing, discussed previously. However, it
will be necessary for this category of
worker to take annual refresher train-
ing, at least with respect to those sub-
jects which are not mine-specific, such
as first aid:

b. Full training of new miners prior
to commencement of work duties.

There was strong opposition from the
nonmetal mining industry concerning the
requirement in the proposed rule that
the 24 hours of new miner train-
ing under subpart B must all be given
prior to the commencement of job
duties. There was very little resistance
to an identical provision with respect
to the 40-hour inexperience miner
training requirement for underground
mines. The comments came primarily
from and on behalf of smaller surface
operations for whom this requirement
would work particular hardship due to
the inability to hire or spare employ-
ees for training purposes and the
often high employee turnover rates.
MSHA is sensitive to the economic
hardships that many provisions of the
Mine Act may impose on small opera-
tors and seeks to be responsive to the
congressional directive to minimize
The adverse impact of the training requirements.

The testimony and comments received on this issue focus almost exclusively on the adverse economic impact of this requirement rather than the effect a change in the proposed requirement might have upon health and safety of new miners. MSHA retains control over the health and safety of miners is best served by requiring the inexperienced miner to be fully trained in the subjects delineated in the rules prior to commencing job duties. However, in response to the genuine concern expressed in the record by small surface mine operators, the final rules have been changed so that MSHA may permit, in appropriate cases, as determined by the Training Center Chief, new surface miners to receive up to 15 hours of training within 60 days after assignment to work duties: Provided, That at least 8 hours of training is furnished prior to the commencement of work duties, to insure that the miner is familiarized with the job environment and associated hazards the initial 8 hours of training shall include the following courses: Hazard recognition, introduction to work environment, and health and safety aspects of the tasks the new miner will be assigned. In addition, until the new miners affected by this provision have received the full 24 hours of training, they must always work under the close supervision of an experienced miner. An operator must submit a request to the training center as part of the proposed training plan in order to be permitted to take advantage of this exception to the usual rule. The training center will consider such factors as the size and the safety record of the mine and the rate of employee turnover at the mine.

b. MSHA-approved instructors. Many commenters expressed the necessity for having instructors approved by MSHA. Instead, it was suggested that a “competent person” be required to give the instruction for purposes of training new miners, training newly employed experienced miners, and providing annual refresher training for all miners.

MSHA believes that is essential for a person who is going to be responsible for instructing miners concerning the health and safety aspects of their jobs to be highly qualified, not only in the particular subject matter he or she proposes to teach, but in the skills an instructor must have in order to teach that subject effectively. The testimony and comments have not persuaded MSHA that there is an acceptable alternative method to insure that those goals are met, and these rules retain the requirement for MSHA approval of instructors.

The comments reflect a great deal of concern and confusion about how instructors will be approved and whether MSHA will be able to insure timely training of instructors. MSHA is making every effort to provide a flexible system of instructor approval in order to meet the expected demand.

There are two basic types of instructor approval: MSHA will approve individuals to train miners. The other will enable an individual to train miners. The other will enable an individual to be approved by MSHA to train other instructors, who will then be able to train miners but not additional instructors. For example, an industry association in a State could make arrangements for a certain number of individuals to receive instructor training and approval from MSHA. These persons would then be able to train other individuals to receive instructor training and provide proof of having received instructor training. Based upon this submission, these persons would be approved by MSHA to provide training of miners in accordance with these rules.

It may also be possible for an instructor to receive approval by requesting MSHA to have a representative attend classes of a prospective instructor and provide approval based upon performance at the classes. Such a request should be made as part of the operator’s proposed training plan.

MSHA’s resources do not permit the frequent use of this method of approval. Therefore, the operator should be permitted to have a representative attend classes. The size of the mine, the size of the mine, remoteness from a training center, and other relevant considerations, that utilizing other methods of instructor approval would be more expedient on the operator. Utilization of this method of instructor approval will be at the discretion of the training center.

In addition, if a person already has taught courses or given health and safety workshops or seminars or has other comparable experience, it may not be necessary to take the MSHA instructor training course. Such a person may receive approval based solely on qualifications and teaching experience.

c. Submission of proposed plan to miners’ representatives. Many comments were received objecting to the inclusion of the miners’ representatives in the implementation of the operator’s proposed training plan 2 weeks prior to submission to the Training Center Chief for approval, and the participation of the miners’ representatives in comments over required revisions of the training plan. Congress recognized that an active participation by MSHA, the operator, and the miner were necessary to maximize the health and safety benefits of the mandated training program. Numerous references to the “representative of miners” throughout the Mine Act evidence the importance of involving the miner in all aspects of mine health and safety. MSHA believes the Mine Act either explicitly or implicitly limit the participation of the representative of miners only to the enumerated situations in the Act. A miner’s intimate knowledge of health and safety conditions at his particular mine, and his instinctive concern for his fellow miners, make the representative of miners an ideal resource in the formulation of an effective training plan. Indeed, MSHA would be remiss in attempting to fulfill its statutory obligation to insure that the training plan submitted by the operator would afford adequate training to miners if it failed to include the representative of miners in the approval process.

3. DISCUSSION OF OTHER SIGNIFICANT ISSUES

a. Course requirements. Commenters expressed concern that the language of the proposed rules appeared to require all operations, including milling or other production facilities covered by the Mine Act, to give instruction in all of the delineated facilities even if some of the courses are not applicable to conditions at the mine. This was not intended and clarifying changes have been made. Most of the courses enumerated will generally be applicable to most mining operations. However, MSHA does not expect workers engaged solely in milling or other production operations to be trained in highwall and ground control plans. The operator needs only to include in the proposed training plan those courses which are relevant to conditions at the mine and which add to the conditions in the rules, which would be important for the workers at the facility involved. MSHA intends to adopt a practical approach to course requirements.

b. Coverage of the rules. These rules are applicable to all facilities which are covered under the Mine Act. MSHA does not have the authority to exempt or exclude operations otherwise covered by the Act from the training requirements. Thus, mining, dredging, and clay winning operations are subject to these requirements. MSHA is aware that the scope of the Mine Act and these rules is broad and that each operation may have unique safety and health problems. MSHA encourages operators to contact MSHA’s training centers in order to discuss the type of operations involved and the type of training program which may be appropriate to
meet the needs of the workers at that operation.

c. New task training. Questions were raised in the record about whether the training required for miners assigned new tasks (§§ 48.7, 48.27) could be incorporated into the 24 hours of new miner training or whether new miners are required to take new task training in addition to new miner training before commencing work assignments. The proposed rules discussed miners "assigned" to new tasks. In reviewing the Mine Act and the legislative history, MSHA has determined that, in the words of section 115 of the Mine Act, Congress was seeking to cover miners who are "reassigned" new tasks. The intent is to provide task training for experienced miners and not to provide new task training. Therefore, new task training is not a part of new miner training and does not have to be provided to new miners who are receiving a new task assignment. Under §§ 48.5(b)(13) and 48.25(b)(12), new miners will receive training in the health and safety aspects of their initial assigned tasks as part of the new miner training. Only if those miners are subsequently assigned a new task do they have to take new task training.

d. Certificate of training. Commenters stated that MSHA should provide the certificates to be given to the miner upon completion of training, and that miners who receive the training, as well as operators, should acknowledge the completion of the training course on the certificate. Although MSHA intends to supply the certificate and training materials and will distribute them to MSHA field offices and operators as soon as the Government clearance process has been completed, it is the operator's statutory obligation to certify that the training was conducted in the forms. MSHA also believes that it is advisable, both for the protection of the miner as well as the operator, for the miner to sign the certificate.

e. Approval of phases of the training plan. Several complaints were voiced concerning the provisions of the proposed rule which would permit MSHA to approve "separate phases of the training program and without approval of other phases" (§§ 48.5(h)(2), 48.23(h) (2)). Commenters argued that the piecemeal approach to plan approval suggested by this language would result in chaotic and cumbersome implementation by an operator. The purpose of the proposal to provide MSHA with the flexibility to approve a major "phase" of the plan, referred to in the final rules as a "program," such as new task training or new miner training, even if there is a problem with another major phase or "program" such as annual refresher training. Each of these major programs of an operator's plan is discrete enough in application to be approved independently, without disrupting the operator's overall training effort. MSHA does not believe that, under the circumstances, training under approved major programs of the plan should be delayed pending approval of the entire plan. MSHA does not intend to approve plans in phases except under the limited conditions just described. The proposed rule is therefore adopted with the nomenclature changes just discussed.

f. Annual submission of refresher training schedule. Sections 48.3(c)(7) and 48.23(c)(7) of the proposed rule would have required the annual submission of a "schedule" of refresher training classes. It was argued by commenters that to require such annual reporting was administratively burdensome and that it would be extremely difficult to pinpoint from year to year precisely when refresher training will be given. MSHA agrees that it is important to maintain a flexible approach to refresher training in order that it might be offered at particularly appropriate times to be most effective. However, it is unnecessary to submit the plan annually if no changes are being proposed. Under §§ 48.3(1) and 48.23(1), operators must notify MSHA and the representative of miners of proposed modifications to the refresher training schedule. In order to permit training center personnel to monitor all training classes, under §§ 48.3(e) and 48.23(e) operators must provide MSHA, upon request, with the times and places of training classes that are scheduled to be given.

g. Reimbursement for costs of attending training. Several commenters objected to provisions of proposed §§ 48.10 and 48.30 concerning compensation of miners for costs incurred if training is given somewhere other than the normal work site. MSHA agrees that the proposed language neither took into account certain possible alternative methods of transporting workers nor adequately reflected the provisions of section 115(b) of the Mine Act. Therefore, the final rule uses the language of the statutory provision and requires miners to be compensated for all actual "additional costs they may incur" in attending training sessions away from their work site.

h. Explosives. Commenters argued that the requirement in the proposed rules to have all miners receive instruction in the "handling of explosives" would actually have an adverse effect on the safety of the miners and would also be contrary to the practices of many operators. MSHA also will not approve plans in phases except under the limited conditions just described. The proposed rule is therefore adopted with the nomenclature changes just discussed.

MSHA agrees that "instruction in the procedures for the safe handling of explosives" should only be given to miners who specifically handle explosives. Therefore, this phrase has been deleted from the final rule.

Miners assigned to handle or use explosives will receive safety and health training for such assignments in new miner training and new task training, as applicable. Moreover this conforms with the operator's responsibility of assuring that persons handling explosives are experienced or under the supervision of experienced persons. MSHA emphasizes that the handling of explosives means the physical contact with explosives in any way, and includes the loading and unloading of explosives from vehicles, and the handling of explosives from location to location at the mine site.

1. Content of miners' rights course. Several commenters were uncertain over the content of the course covering miners' rights. MSHA is providing and will continue to provide assistance in the development of a course that will deal with the statutory rights of miners. This course will be available to the operator and instructors and provide them with the content necessary to teach the course and provide sufficient information to the miners. In addition, MSHA's Office of Information is also in the process of developing a pamphlet dealing with the same subject.

Through both of these sources and through others who may develop materials on the same subject, MSHA believes that adequate information will be provided for clarification of course content. This does not, however, preclude the operator from developing his own materials should he feel the need to do so.

2. Hazard recognition training. Several commenters have suggested that the word "known" be inserted before course titles such as "hazard recognition" and "electrical hazards" because of possible legal repercussions that may result from such an omission. MSHA agrees that the courses should include known hazards at the mine. However, such courses should also include training in the recognition and avoidance of possible hazards beyond the hazards related to explosives. Therefore, instruction should also be given with respect to

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potential hazards which are reasonably foreseeable under the circumstances at the mine, the type of instruction can be discussed with MSHA training center personnel in order to arrive at what is reason-

able to teach.

k. Construction occurring under-
ground. It was suggested that the con-
struction of facilities in the slope or shaft prior to operations involving the "sinking of slopes and shafts" should cover not only the actual construction of the slope or shaft itself, but the in-

stallation in the completed slope or shaft of such things as belts, track, hoists, loading equipment or other ma-

chinery prior to the time the mine is operational. This would mean that coverage under subpart A would be limited to the construction or repair of underground facilities while the mine is operational and the normal hazards associated with an operating mine are encountered. MSHA agrees that con-

struction of facilities in the slope or shaft prior to operations involving the "sinking of slopes and shafts" should be covered under the same rules which govern construction workers generally. The training of most construction workers will be the subject of future rulemaking and this rule has been changed accordingly to cover only underground construction occurring while the mine is in opera-

tion.

1. Revocation of instructors' approval.

A few commenters urged that due process protection be afforded an in-

structor when MSHA intends to revoke the instructor's approval. The proposed regulations provided that ap-

proval could only be revoked "for cause" and thereby contemplated pro-

tection, including administrative appeal, from arbitrary agency action. However, recognizing that personal livelihood and significant property in-

terests may be at issue, the final rule has been changed to expressly provide that instructors are entitled to a state-

ment of agency reasons for intended revocation and an opportunity to demon-

strate or achieve compliance before any revocation of approval is effective.

Moreover, initial decisions to revoke approvals may be appealed to the Di-

rector of Education and Training. Such appeal will be expedited to avoid negative impact upon the instructors and training programs affected by the revocations.

In addition, operators who are using a particular instructor will be notified if that instructor's approval is re-

voked. This notice will serve to pre-

vent operators from relying in good faith, upon the services of an in-

structor who has lost approval and to alert the operators that a new instruc-
tor may be needed to maintain compli-

ance.

m. Other appropriate courses. Com-

menters have objected to those por-
tions of the proposed rule which would permit MSHA to prescribe courses not enumerated, based on "cir-
cumstances and conditions at the mine." The MSHA believes that a person is not engaged in the "mining of the Mine Act that

"sinking of slopes and shafts" should cover only underground construction or repair of underground facilities as well as for underground mines. The guidelines will include a section on training of miners assigned to a task in which they have had no previous experience and will state that in order to have a complete and efficient program for new task training, it is necessary to

know:

1. All jobs that are being performed.

2. What tasks each of these jobs en-

volves.

3. The skills, knowledge, and abilities necessary to perform the tasks.

4. Any hazards that may be associ-

ated with the tasks.

5. Training that may be required to perform the tasks in a safe and effi-
cient manner.

Many of the tasks can be listed from recall or from looking at job descrip-
tions. Developing a complete list of tasks will entail talking with indi-

viduals new working in the mine as well as watching them actually do the job. Talking to the supervisor, consulting established operating procedures and reviewing or developing job safely analyses (JSA's) will assist in comple-
inng the list of tasks. For instance, the job of general laborer includes several tasks such as manual handling of material, manual handling of equipment and operating a forklift. Depending upon the actual analysis of the tasks involved, these tasks may be further broken down into, among other things; loading and unloading supplies from a truck, receiving and distributing parts from a storeroom, use of handtools for various jobs, and operating air compressor and spray guns. Some of the hazards that may be included are slips and falls, inadequate lighting, adverse weather conditions and improper lift-
ing. The training required for these tasks would include mandatory health and safety standards, hazard recogni-
tion, proper lifting techniques and proper use of handtools.

q. Economic analyses. Witnesses and

commenters were in agreement that the training requirements encompassed by the proposed rule would constitute an economic impact for major segments of the mining indus-
try. There was concern expressed that, given this impact, no regulatory analy-

sis was prepared under Executive Order 12044. In the reamle to the
proposed rule, this action was justified by explaining that the major portion of the economic impact of the proposal was represented by the hours of training required under the Mine Act itself.

Section 115 of the Mine Act does not permit a reduction of the required hours of training. Since the purpose of a regulatory analysis is to provide a basis for assessing alternative approaches to an issue which is the subject of rulemaking, such an analysis would not be fruitful with respect to the impact of the statutory requirements. In addition, the requirements of the proposed rule which are not statutory in origin do not impose a "major" increase in costs upon the mining industries sufficient to necessitate the preparation of a regulatory analysis. Finally, it must be pointed out that the rulemaking process has been expedited in certain respects in order to come as close as possible to meeting the date set forth in the statute for regulation of the mining industry.

The assumptions used to compute the cost of the newly-employed experienced miner training are similar to those used above with respect to the statutory requirements and, in addition, that an average of 8 hours will be required for such training.

MSHA could have eliminated this requirement altogether. However, MSHA's experience leads to the conclusion that even experienced miners should be thoroughly familiarized with their particular mining environment and the attendant hazards before they begin their new job duties.

In addition, there was virtually no disagreement expressed during the rule-making process that it was appropriate to include this category of miner in the training rules. Another alternative would have been possible to require only hazard training for newly-employed experienced miners. However, MSHA believes that hazard training, as described in §§48.11 and 48.31, is adequate only for persons only occasionally exposed to a limited range of mining hazards.

With respect to MSHA approval of instructors, it is assumed that approximately 17,500 new approved instructors will be required and that 80 percent will be operator-employed persons for whom replacement personnel will have to be acquired for the 3-day period of instructor training. It should first be pointed out that the rules themselves provide several alternative methods for obtaining MSHA approval. These are discussed on pages 14-16 of the preamble. MSHA does not believe, however, for reasons also discussed on those pages, that the elimination of the approval mechanism is in favor of a system of instruction by "competent persons" will insure an adequate level of training.

These rules will take effect upon publication in accordance with section 101 of the Mine Act.

Robert B. Lagather
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PART 48—TRAINING AND RETRAINING OF MINERS

Subpart A—Training and Retraining of Underground Miners

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§ 48.2 Definitions.

For the purposes of this subpart A, "miner" means any person working in an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works underground on a continuing, even if intermittent, basis. Short term, specialized contact workers, such as drillers and blasters, who are engaged in the extraction and production process and who have received training under § 48.6 (Training of newly-employed experienced miners) of this subpart A may, in lieu of subsequent training under that section for each new employment, receive training under § 48.11 (Hazard training) of this subpart A. This definition does not include:

(i) Workers under subpart C of this part 48, including shaft and slope workers, workers engaged in construction activities ancillary to shaft and slope sinking, and workers engaged in the construction of major additions to an existing mine which requires the mine to cease operation;

(ii) Supervisory personnel subject to MSHA approved State certification requirements; and,

(iii) Any person covered under paragraph (a)(1) of this section.

(2) Miner, for purposes of § 48.11 (Hazard training) of this subpart A, any person working in an underground mine and excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved State certification requirements. This definition includes any delivery, office, or scientific worker or occasional, short term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as an underground miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training eligible to MSHA from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months experience working in an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.5 (Training of new miners) of this subpart A.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground mine; or any independent contractor identified as an operator performing services or construction at such mine.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.

§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(1) Each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.7 (New task training of miners) of this subpart A, the operator shall submit:

(a) A complete list of task assignments to correspond with the definition of "task" in § 48.2 (f) of this subpart A.

(b) The titles of personnel conducting the training for this section.

The outline of training procedures used in training miners in those
work assignments listed according to paragraph (c)(8)(1) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training programs conducted by or approved by the Chief of the Training Center, or the miners' representative, shall be described in the training plan. The plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the chief of the training center.

(e) All training required by the training plan submitted to and approved by the Chief of the Training Center as required by this subpart A shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training programs. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs. Upon request from the Office of Education and Training, MSHA, the operator shall make available for evaluation by the Office of Education and Training the instructional materials, handouts, visuals and other teaching accessories used or to be used in the training programs. Upon request from the Office of Education and Training, MSHA, the operator shall provide information concerning the schedules of upcoming training programs.

(f) The operator shall make a copy of the MSHA approved training plan available at the mine site for MSHA inspection and evaluation by the miners and their representatives.

(g) Except as provided in § 48.7 (New task training of miners) and § 48.11 (Hazard training) of this subpart A, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the Office of Education and Training, MSHA, in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA, to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructor's qualifications and teaching experience.

(3) At the discretion of the Chief of the Training Center, instructors may be designated as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Instructors shall indicate in the training plans submitted for approval whether they want to have instructors approved based on monitored performance. The Training Center Chief shall consider such factors as the size of the mine, the number of employees, the mine's safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the Chief of the Training Center must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate a reasonable level of competence before the Chief of the Training Center on the matter. A decision by the Chief of the Training Center to revoke an instructor's approval may be appealed by the instructor to the Director of Education and Training, MSHA, 4915 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Director of Education and Training within 60 days from the date on which the Chief of the Training Center makes such a decision. Upon revocation of an instructor's approval, the chief of the training center shall immediately notify operators who use the instructor for training.

(j) The Chief of the Training Center for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or to propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of training and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.8(c) (Annual refresher training of miners) of this part A, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located, and the miners' representative of any changes or modifications the operator proposes to make in the approved training plan. The operator shall obtain the approval of the Chief of the Training Center for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall conform to suspending the suspension action under the provisions of sections 104 and 110 of the Act and other related regulations until, that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training.
§ 48.5 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 40 hours of training as prescribed in this section before such miner is assigned to work duties. Such training shall be conducted in conditions which, as closely as practicable, duplicate actual underground conditions, and approximately 8 hours of training shall be given at the minesite. 

(b) The training program for new miners shall include the following courses:

1. Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors. The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

2. Self-rescue and respiratory devices. The course shall include instruction, and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. Such course shall be given before the new miner goes underground.

3. Entering and leaving the mine; transportation; communications. The course shall include instruction on the procedures in effect for entering and leaving the mine; the check-in and checkout system; in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

4. Introduction to the work environment. The course shall include a visit and tour of the mine or portions of the mine which are representative of the entire mine. A method of mining utilized at the mine shall be observed and explained.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.6 Training of newly employed experienced miners; minimum courses of instruction.

(a) A newly employed experienced miner shall receive and complete training in the program of instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for newly employed experienced miners shall include the following:

1. Introduction to work environment. The course shall include a visit and tour of the mine. The methods of mining utilized at the mine shall be observed and explained.

2. Mandatory health and safety standards. The course shall include the mandatory health and safety standards pertinent to the tasks to be assigned.

3. Authority and responsibility of supervisors and miners' representatives. The course shall include a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

4. Entering and leaving the mine; transportation; communications. The course shall include instruction in the procedures in effect for entering and leaving the mine; the check-in and check-out system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

5. Mine map; escapeways; emergency evacuation; barricading. The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency plans in effect at the mine; and the location of abandoned areas. Also included shall be an introduction to the methods of barricading and the locations of the barricading materials; where applicable, the program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

6. Roof or ground control and ventilation plans. The course shall include an introduction and instruction on the roof or ground control plan. In effect at the mine and procedures for roof and rib or ground control; and an introduction to the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

7. Health. The course shall include instruction on the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

8. Electrical hazards. The course shall include recognition and avoidance of electrical hazards.

9. First aid. The course shall include instruction in first aid methods acceptable to MSHA.

10. Mine gases. The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

11. Health and safety aspects of the tasks to which the new miner will be assigned. The course shall include instruction in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

12. Other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods, including oral, written, or practical demonstration, to determine successful completion of the training shall be included in the training plan. The methods for determining such completion shall be administered to the miner before he is assigned work duties.

(d) Upon proof by an operator that a newly employed miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give the miner and the miner shall receive and complete the instruction and program of training set forth in paragraph (b) of § 48.6 (Training of newly employed experienced miners), and § 48.7 (New task training of miners), if applicable, before commencing work.
(6) Roof or ground control and ventilation plans. The course shall include an introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) Supervision and production. The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(8) Such training may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyer systems operators, roof and ground control machine operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph and paragraph (b) of this section has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

1. Health and safety aspects and safe operating procedures for work tasks, equipment, and machinery. The training shall include instruction in the health and safety aspects and the safe operating procedures related to the assigned tasks, and shall be given in an on-the-job environment; and

2. Supervised practice during nonproduction. The training shall include supervised practice in the assigned tasks, and the performance of work duties at times or places where production is not the primary objective of;

3. Supervised operation during production. The training shall include, while under direct and immediate supervision and production is in progress, operation of the machine or equipment and the performance of work duties.

4. New or modified machines and equipment. Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

5. First aid. The course shall include a review of first aid methods acceptable to MSHA.

6. Electrical hazards. The course shall include recognition and avoidance of electrical hazards.

7. Prevention of accidents. The course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

§ 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a minimum of 8 hours of annual refresher training as prescribed in this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

1. Mandatory health and safety standards. The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.

2. Transportation controls and communication systems. The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

3. Barricading. The course shall include a review of the methods of barricading and locations of barricading materials, where applicable.

4. Roof or ground control and ventilation plans. The course shall include a review of roof or ground control plans in effect at the mine and the procedures for maintaining and controlling ventilation.

§ 48.9 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the minesite for inspection by MSHA and for examination by the mine's management, the miner's representative, and State inspection agencies. Where a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.
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(c)Copies of training certificates for currently employed miners shall be kept at the minesite for 2 years, or for 60 days after termination of employment.

§ 48.10 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.2(d) (Definition of normal working hours) of this subpart A.

(b) If such training be given at a location other than the normal place of work, miners shall be compensated for the additional cost, such as mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.11 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.2(a)(2) (Definition of miner) of this subpart A, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard, recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules, and safe working procedures;

(4) Self-rescue and respiratory devices; and

(5) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.3(a) (Training plans: Submission and approval) of this subpart A and shall include a statement on the methods or instruction to be used.

(d) In accordance with § 48.9 (Records of training) of this subpart A, the operator shall maintain and make available for inspection certificates that miners have received the hazard training required by this section.

(e) Miners subject to hazard training shall be accompanied at all times while underground by an experienced miner, as defined in § 48.2(b) (Definition of miner) of this subpart A.

§ 48.12 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by a Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners, or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

§ 48.21 Scope.

The provisions of this subpart B set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining of miners working at surface mines and surface areas of underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working in underground mines are set forth in subpart A of this part.

§ 48.22 Definitions.

For the purposes of this subpart B—

(a)(1) "Miner" means, for purposes of § 48.25 through 48.30 of this subpart B, any person working in a surface mine or surface area of an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works at the mine on a continuing, even if irregular, basis. Short-term, specialized contract workers, such as drillers and爆破手, who are engaged in the extraction and production process and who have received training under § 48.26 (Training of newly employed experienced miners) of this subpart B, may in lieu of subsequent training under that section for each new employment, receive training under § 48.31 (Hazard training) of this subpart B. This definition does not include:

(1) Construction workers and shaft and slope workers under subpart C of this part;

(ii) Supervisory personnel subject to MSHA approved State certification requirements;

(iii) Any person covered under paragraph (a)(2) of this section.

(a)(2) Miners means, for purposes of § 48.31 (Hazard training) of this subpart B, any person working in a surface mine or surface area of an underground mine excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved State certification requirements. This definition includes any delivery, office, or scientific worker, or occasional, short-term maintenance or service worker contracted by the operator, and any resident engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as a miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training acceptable to MSHA from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months' experience working in a surface mine or surface area of an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.25 (Training of new miners) of this subpart B.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a surface mine or surface area of an underground mine; or any independent contractor identified as an operator performing services or construction at such time.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.
§ 48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of a mine shall have an MSHA approved plan containing procedures for training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

1. In the case of a mine which is operating on the effective date of this subpart B, the operator of the mine shall submit such plan for approval within 150 days after the effective date of this subpart B.

2. Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

1. The company name, mine name, and MSHA identification number of the mine.

2. The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

3. A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

4. The location where training will be given for each course.

5. A description of the teaching methods and the course materials which are to be used in training.

6. The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

7. The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

8. For the purposes of § 48.27 (New task training of miners) of this subpart B, the operator shall submit:

(d) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c) of this section.

(e) The evaluation procedures used to determine the effectiveness of training under § 48.27 of this subpart B.

(f) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan submitted to and approved by MSHA shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(g) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(h) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(i) The list of mining facilities operated by operators shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the list of mining facilities operated by operators shall be given to the miners' representative. If there is an agreed-upon miners' representative, the list of mining facilities operated by operators shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(j) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(k) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(l) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(m) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(n) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(o) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(p) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(q) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(r) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(s) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.

(t) The training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the training plan shall be given to the miners' representative. If there is an agreed-upon miners' representative, the training plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the miners' representative.
the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or proposal shall substitute revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under §48.28(c) (Annual refresher training of miners) of this subpart B, the operator shall train miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located and the miners' representative of any changes or modifications which the operator proposes to make in the approval training plan. The operator shall obtain the approval of the Training Center Chief for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training.

§48.24 Cooperative training program.

(a) An operator of a mine may conduct his own training programs, or may participate in training programs conducted by MSHA, or may participate in MSHA approved training programs conducted by State or other Federal agencies, or associations of mine operators, miners' representatives, other mine operators, private associations, or educational institutions.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§48.25 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 24 hours of training as prescribed in this section. Except as otherwise provided in this paragraph, new miners shall receive this training before they are assigned to work duties. At the discretion of the Chief of the Training Center, new miners may receive a portion of this training after assignment to work duties: Provided. That no less than 8 hours of training shall in all cases be given to new miners before they are assigned to work duties. The following courses shall be included in the 8 hours of training: Introduction to work environment, hazard recognition, and health and safety aspects of the tasks to which the new miners will be assigned. Following the completion of this 'preassignment' training, new miners shall then receive the remainder of the required 24 hours of training; or up to 16 hours, within 60 days. Operators shall indicate in the training plans submitted for approval whether they want to train new miners after assignment to duties and for how many hours. In determining whether new miners may be given this training after they are assigned duties, the Training Center Chief shall consider such factors as the mine safety record, rate of employee turnover and mine size. Miners who have not received the full 24 hours of new miner training shall be required to work under the close supervision of an experienced miner.

(b) The training program for new miners shall include the following courses:

(1) Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors. The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(2) Self-rescue and respiratory devices. The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(3) Transportation controls and communication systems. The course shall include instruction on the procedures in effect for riding in mine conveyances where applicable; the controls for the transportation of miners and materials; and the use of mine communication systems, warning signals, and directional signs.

(4) Introduction to work environment. The course shall include a visit and tour of the mine, or portions of the mine which are representative of the entire mine. The method of mining or operation utilized shall be observed and explained.

(5) Escape and emergency evacuation plans; firefighting. The course shall include a review of the mine escape system, and escape and emergency evacuation plans in effect at the mine; and instruction in the firefighting signals and firefighting procedures.

(6) Ground control; working in areas of highwalls, water hazards, pits and spoil banks; illumination and night work. The course shall include, where applicable, and introduction to instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits and spoil banks; the illumination of work areas; and safe work procedures during the hours of darkness.

(7) Health. The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained. The rights of miners and their representatives under the Act shall include the recognition and avoidance of hazards present in the mine.

(8) Electrical hazards. The course shall include recognition and avoidance of electrical hazards.
(10) **First aid.** The course shall include instruction in first aid methods acceptable to MSHA.

(11) **Explosives.** The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when no explosives are used or stored on mine property.

(12) **Health and safety aspects of the tasks to which the new miner will be assigned.** The course shall include instructions in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

(13) **Supervision and responsibility of supervisors and miners' representatives.** The training program for newly employed miners shall be observed and explained. The new miner shall receive and complete the training as prescribed in this section within 12 months preceding assignment to work duties.

(14) **Mandatory health and safety standards.** The course shall include instruction in the procedures for reporting hazards.

(15) **Transportation controls and communication systems.** The course shall include instruction on the procedures for riding on and in mine conveyances; the controls for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(16) **Escape and emergency evacuation plans; firewarning and firefighting.** The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect as the mine; and instruction in the firewarning signals and firefighting procedures.

(17) **Ground controls; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work.** The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(18) **Hazard recognition.** The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

§ 48.27 **Training of miners assigned to new work tasks.** The training program for newly employed miners shall include the following:

(a) **Miners assigned to new work tasks as mobile equipment operators.** The course shall include instruction in the safety and health aspects and safe work procedures of the task, prior to performing such task.

(b) **New or modified machines and equipment.** Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(c) **New or different operating procedures.** The course shall include, while under direct and immediate supervision and production is in progress, the operation of the machine or equipment and the performance of work duties.

§ 48.28 **Annual refresher training of miners.** The training program for all miners shall include the following courses of instruction:

(a) **Mandatory health and safety standards.** The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.
(2) Transportation controls and communication systems. The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(3) Escape and emergency evacuation plans; firewarding and firefighting. The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarding signals and firefighting procedures.

(4) Ground control; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work. The course shall include, where applicable, a review and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks; the illumination of work areas; and safe work procedures during hours of darkness.

(5) First aid. The course shall include a review of first aid methods acceptable to MSHA.

(6) Electrical hazards. The course shall include recognition and avoidance of electrical hazards.

(7) Prevention of accidents. The course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

(8) Health. The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(9) Explosives. The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) Self-rescue and respiratory devices. The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(11) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All experienced miners already employed at a mine on the effective date of the Act (March 9, 1978) shall receive refresher training, as prescribed in this section and in accordance with an approved plan, to begin not more than 90 days after the date of approval of the training program required by this subpart B.

(d) When annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.29 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA Form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the mine site for inspection by MSHA and for examination by the miners, the miners' representative and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.

(c) Copies of training certificates for currently employed miners shall be kept at the mine site for 2 years, or for 60 days after termination of employment.

§ 48.30 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.22(d) (Definition of normal working hours) of this subpart B.

(b) If such training shall be given at a location other than the normal place of work, miners shall be compensated for the additional costs, such as mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.31 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.22(2) (Definition of miner) of this subpart B, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules and safe working procedures;

(4) Self-rescue and respiratory devices; and,

(b) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.23(a) (Training plans: Submission and approval) of this subpart B and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.29 (Records of training) of this subpart B, the operator shall maintain and make available for inspection, certificates that miners have received the instruction required by this section.

§ 48.32 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by the Training Center Chief, such an appeal shall be submitted in writing to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

WATER RESOURCES POLICIES AND AUTHORITIES

Federal Participation in Covered Flood Control Channels
agency must also agree to hold the United States free from damages due to the construction works, not including damages due to the fault or negligence of the United States or its contractors; and assure continued normal Federal operation and maintenance of the project after completion. The above requirements are generally known as the “a-b-c” requirements of local cooperation from their description in section 3 of the 1886 Flood Control Act as amended. Other additional local participation is required where special local conditions warrant.

The Army Corps of Engineers is authorized by section 206 of the 1960 Flood Control Act, as amended, to provide information, technical planning assistance, and guidance to non-Federal entities to help them in identifying the magnitude and extent of the flood hazard and in planning wise use of the flood plains.

Accordingly, 33 CFR is amended by adding a new part 239 as set forth below.

This is an interpretive rule providing agency guidance concerning Corps of Engineers participation in urban flood control projects. It is exempt from the notice of proposed rulemaking requirements in 5 U.S.C. 553(b)(3)(A).

Note.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-102.


Approved.

THORVALD R. PETERSON, Colonel, Corps of Engineers, Executive Director, Engineer Staff.

RULES AND REGULATIONS

§ 239.1 Purpose.

This regulation establishes policy for determining the extent of Federal participation in covered flood control channels.

§ 239.2 Applicability.

This regulation applies to all OCE elements and all field operating agencies having civil works responsibilities.

§ 239.3 References.

§ 23.7 Separation of flood control works from urban drainage.

Covered channels are likely to be considered in boundary areas demarking urban drainage and flood control. Reporting officers shall apply the policies given in ER 1165-2-21 to separate flood control facilities from urban drainage facilities.

§ 23.8 Cost sharing.

At local protection projects local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations of utilities, streets, bridges, buildings, storm drains and other structures and improvements; hold and save the United States free from damages due to the construction works except damages due to the fault or negligence of the United States or its contractor; and assume operation and maintenance of the works after completion. In addition, local interests are required to provide additional cost sharing to reflect special local benefits or betterments. Such additional special cost sharing will not be required for covered channels when the addition of the cover increases net NED flood control benefits when compared to the open channel or when they are provided for safety in schoolyards, playgrounds, or other known play areas for juveniles. However, the separable cost of providing covers for mitigating SWB or RD impacts or to provide areas for public or private uses such as parking, or the provision of areas for recreation development, etc., will be assigned to local interests. The separable cost of recreational facilities to be constructed on or adjacent to the cover, i.e. picnic facilities, etc., are eligible for Federal participation in accordance with cost-sharing policies for recreation facilities at local protection projects. Cost-sharing policies for project features which are included to make positive contributions to the EQ account are being developed. Until such policies are developed, proposals to cover channels on this basis will be coordinated with HQDA (DAEN-CWP), Washington, D.C. 20314.

§ 23.9 Effective date.

These regulations are applicable to all projects not approved by OCE prior to the date of this regulation.

[FR Doc. 78-29045 Filed 10-12-78; 8:45 am]
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Imposition of Sanctions on Health Care Practitioners and Providers of Health Care Services
BACKGROUND

Section 1160 of the Social Security Act (42 U.S.C. 1320c-9) sets forth certain obligations of all practitioners and providers who furnish, order, or arrange for health care services for which payment may be made under the medicare, medicaid, or maternal and child health programs. These obligations include: Ordering or furnishing only necessary care that is medically necessary; furnishing care which meets professionally recognized standards of quality; and providing such evidence of the medical necessity and quality as a PSRO may reasonably require. There is also an obligation to assure that inpatient care is furnished at the proper type of facility.

PSRO's are required to review health care items and services to insure that practitioners and providers are fulfilling these obligations. If the PSRO finds that the obligations are not being met, section 1167 of the Act (42 U.S.C. 1320c-6) requires that it report its finding to HCFA. HCFA may, as a result of this report, determine that the practitioner or provider has violated an obligation under the Act and invoke a sanction. The statute authorizes two types of sanctions: Exclusion from the programs and assessment of a monetary penalty. Application of these sanctions differs to some degree between the medicare and medicaid programs.

For medicare, exclusion means that a practitioner or provider will not receive medicare reimbursement for items or services furnished during a specified period and a medicare beneficiary will not be reimbursed for such items and services.

For medicaid, exclusion means that Federal financial participation (FFP) will not be available for State payments for services furnished by a practitioner or provider that has been excluded for violation of an obligation.

A monetary penalty would mean that, as a condition for continued participation in the medicare and medicaid programs, the practitioner or provider that caused the medically improper or unnecessary care to be furnished would be required to reimburse HCFA for the actual or estimated cost (up to $5,000) of such care. The monetary penalty could either be deducted from any sums owed to the practitioner or provider by the United States or paid by the provider or practitioner with FFP funds. The monetary penalty would not be withheld from FFP payments to States under the medicaid program.

ROLE OF THE PSRO

PSRO's must make known these obligations and provide information (such as the professionally developed norms for quality of care) that is necessary to enable practitioners and providers to comply with their obligations. Moreover, the legislative history makes clear that only after voluntary and educational efforts fail to correct or remedy improper situations should the PSRO invoke sanctions. The statute requires that the PSRO's finding under this latter provision would ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

In keeping with the legislative history, these are the same factors which the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1250, 92d Cong. 2d Sess. (1972), p. 266.)

If the PSRO concluded that violations had occurred, it would have to notify the practitioner or provider that the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1250, 92d Cong. 2d Sess. (1972), p. 266.)

The proposed rule, therefore, would require that whenever a PSRO identified a situation that could result in a violation, the PSRO would notify the practitioner or provider and provide information necessary to assist in preventing a violation from occurring. However, if the PSRO determined that a violation had already occurred, it would not be required to furnish this notice and opportunity for correction.

ROLE OF THE PSRO AND THE STATEWIDE PSRO COUNCIL

PSRO's must make known these obligations and provide information (such as the professionally developed norms for quality of care) that is necessary to enable practitioners and providers to comply with their obligations. Moreover, the legislative history makes clear that only after voluntary and educational efforts fail to correct or remedy improper situations should the PSRO invoke sanctions. The statute requires that the PSRO's finding under this latter provision would ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

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The proposed rule, therefore, would require that whenever a PSRO identified a situation that could result in a violation, the PSRO would notify the practitioner or provider and provide information necessary to assist in preventing a violation from occurring. However, if the PSRO determined that a violation had already occurred, it would not be required to furnish this notice and opportunity for correction.

In this instance the PSRO would normally prepare a sanction report.

Before concluding that a violation had occurred, the PSRO would be required to consider whether the practitioner or provider has either failed to comply substantially with any obligation in a significant number of cases or has violated an obligation in a gross and flagrant manner. In such instances. A finding under this latter provision would ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

In keeping with the legislative history, these are the same factors which the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1250, 92d Cong. 2d Sess. (1972), p. 266.)

If the PSRO concluded that violations had occurred, it would have to notify the practitioner or provider of its conclusion and afford them opportunity to submit information and/or more information necessary to assist in preventing a violation from occurring. However, if the PSRO determined that a violation had already occurred, it would not be required to furnish this notice and opportunity for correction.

In this instance the PSRO would normally prepare a sanction report.

Before concluding that a violation had occurred, the PSRO would be required to consider whether the practitioner or provider has either failed to comply substantially with any obligation in a significant number of cases or has violated an obligation in a gross and flagrant manner. In such instances. A finding under this latter provision would ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

In keeping with the legislative history, these are the same factors which the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1250, 92d Cong. 2d Sess. (1972), p. 266.)
posed. The Statewide Council would review the report and attach a statement of concurrence or nonconcurrence with the PSRO recommendations before transmitting the report to HCFA.

ROLE OF HCFA

This proposed rule sets forth the criteria and process that HCFA would follow in imposing a sanction and the appellate process available to the practitioner or provider. The proposed rule provides that, once the criteria have been met, HCFA would consider include the same factors that were reviewed by the PSRO when it made its recommendation.

The process would include (as required by statute), notice to the practitioner or provider and the public before a sanction was imposed. If the sanction were exclusion, the practitioner or provider and the beneficiaries and recipients would be given at least 15 days notice to enable them to make other arrangements to deliver or obtain health care services. These notice provisions are consistent with those proposed on June 8, 1978 (43 FR 24988), for suspension of practitioners under Medicare.

The statute also provides that the practitioner or provider must have the opportunity for a hearing and judicial review of HCFA's determination. The proposed rule provides that, once a determination has been made by HCFA and a sanction imposed, the practitioner or provider could invoke the administrative hearing procedures set forth in 42 CFR Part 405, Subpart O. These procedures include an opportunity for a hearing before an administrative law judge and for judicial review of the final administrative decision.

ROLE OF THE MEDICAID STATE AGENCY

The Medicaid agency would not participate directly in the PSRO's decision to recommend a sanction. Section 1160(c) of the Act (42 U.S.C. 1320c-9) provides for the PSRO to consult with the Medicaid agency and to request its assistance in assuring that practitioners and providers meet their obligations under section 1160 of the Act. In the event of such a request, the Medicaid agency would be expected to exercise whatever influence or authority it may have over the practitioners or providers to achieve compliance with the obligations.

If HCFA decided to impose the sanction of exclusion, it would deny Federal financial participation (FFP) in Medicaid payments for the services of a practitioner or provider that had been excluded for violating an obligation. However, it would be the Medicaid agency's responsibility to disqualify an excluded practitioner or provider from eligibility to receive payments from the State. If the sanction were a monetary penalty, the State would not be required to collect the amount of the penalty and HCFA would not withhold it from FFP. The practitioner or provider would pay the monetary penalty directly to HCFA, or have it withheld from other funds due from the Federal Government.

Medical regulations at 42 CFR 455.23 would be revised to make clear that FFP will not be available in State payments for services furnished by an excluded practitioner or provider. Cross-references to § 405.315-1 and 405.614 are to regulations proposed on June 8, 1978 (43 FR 24988).

REINSTATEMENT

Policies and procedures governing reinstatement of a provider or practitioner after an exclusion were also proposed in the June 8, 1978, notice. When final regulations on exclusion are adopted, those policies will be incorporated by reference in these regulations.

§ 42 CFR Chapter IV is amended as set forth below.

1. Section 455.23 is revised to read as follows:

§ 455.23 Denial of FFP.

(a) No FFP is available in payments for services furnished to recipients by a provider or other person who is ineligible to receive payment under Medicare.

(b) Because of a determination under § 405.315-1 or § 405.614 of this chapter that the provider or other person has submitted false or excessive claims or furnished services that are substantially in excess of the recipient's needs or of unacceptable quality or

(c) Because of a determination under § 474.10 of this chapter that the provider or other person has failed to comply with his obligation, as set forth in section 1160(a) of the Act, to:

(1) Order or furnish only care that is medically necessary, of acceptable quality, and at an appropriate level; and

(II) Furnished such evidence of the medical necessity and quality of the services or items as a Professional Standards Review Organization (PSRO) may reasonably require.

(b) Denial of FFP (1) is effective when the Administrator notifies the agency of the determination; and (2) applies to services furnished after the effective date of exclusion as specified on the exclusion notice.

(c) FFP will be available in services furnished by a provider or other person after his reinstatement.

2. A new part 474 is added to read as follows:

PART 474—IMPOSITION OF SANCTIONS ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES

Sec.

474.0 Scope and definitions.

474.1 Statutory obligations of practitioners and providers.

474.2 Sanctions.

474.3 PSRO responsibilities.

474.4 Action on potential violation.

474.5 Factors in PSRO determination of a violation.

474.6 Basis for recommended sanction.

474.7 Notice and review of PSRO determination of violation.

474.8 PSRO report to the Statewide Council or to HCFA.

474.9 Role and functions of the Statewide Council.

474.10 Action by HCFA on receipt of the report.

474.11 Effective dates of exclusion.

474.12 Reinstatement after exclusion.

474.13 Right to judicial review.

474.14 Authority: Secs. 1102, 1157, and 1160(b), Social Security Act (42 U.S.C. 1392, 1320, 1320c-6, and 1320e-9).

§ 474.0 Scope and definitions.

(a) Scope. This part implements sections 1157 and 1160 of the Act by:

(1) Setting forth certain obligations imposed on practitioners and providers of services under Medicare and Medicaid.

(2) Establishing criteria and procedures for the reports required from Professional Standards Review Organizations and Statewide Councils when there is failure to meet those obligations.

(3) Specifying the policies and procedures for making determinations on violations and imposing sanctions; and

(4) Establishing policies and procedures for appeals by the affected party or review by HCFA.

(b) Definitions. As used in this part, unless the context indicates otherwise:

(1) “Act” means the Social Security Act.

(2) “Beneficiary” means an individual entitled to Medicare benefits under title XVIII of the Act.

(3) “Exclusion” means that items or services furnished by a specified health care practitioner or provider will not be reimbursed under Medicare, and State Medicaid payments for such services are not subject to Federal financial participation.

(4) “Federal financial participation (FFP)” means the Federal share of State payments for services furnished to Medicaid recipients.

(5) “HCFA” stands for Health Care Financing Administration.

(6) “Health care services” or “Services” means services or items for which payment may be made (in whole or in part) under the Act.

(7) “Medicaid agency” means the single State agency designated to ad-
§ 474.3 PSRO responsibilities.
(a) The PSRO shall identify situations that may result in a violation of the obligations specified in § 474.1 and help to prevent their occurrence as provided in § 474.4.
(b) The PSRO shall determine when a violation of an obligation has occurred and report the matter, with recommendations for action, to the Statewide Council or, if there is no Council, to HCFA.

§ 474.4 Action on potential violation.
If a PSRO identifies a situation that may result in a violation, it shall send a written notice containing the following information:
(a) The obligation involved;
(b) The situation, circumstances, or activity which, if continued, may result in a violation;
(c) The authority and responsibility of the PSRO to report a violation of obligations;
(d) A suggested method for correcting the situation and complying with the obligation;
(e) At the discretion of the PSRO, a time period for corrective action by the practitioner or provider;
(f) The sanction that the PSRO could recommend if a violation occurs; and
(g) An invitation to discuss the problem with representatives of the PSRO.

§ 474.5 Factors in PSRO determination of a violation.
If the PSRO identifies a violation, it shall determine:
(a) Which obligation specified in § 474.1 has been violated; and
(b) Whether the practitioner or provider has:
(1) Failed to comply substantially with an obligation, in a significant number of cases; or
(2) Grossly and flagrantly violated an obligation in one or more instances.
§ 474.6 Basis for recommended sanction.
The PSRO’s recommendation of the type of sanction to be imposed shall be based on a consideration of:
(a) The type of offense involved;
(b) The severity of the offense;
(c) The anticipated deterrent effect of the recommended sanction;
(d) The previous sanction record of the practitioner or provider; and
(e) Other factors that the PSRO concludes are relevant to a particular case.

§ 474.7 Notice and review of PSRO determination of violation.
(a) Written notice. If the PSRO determines that a violation has occurred, it shall promptly give written notice to the practitioner or provider containing the following information:
(1) The determination of a violation;
(2) The obligation violated;
(3) The basis for the determination;
(4) The sanction to be recommended; and
(5) The right of the practitioner or provider to submit to the PSRO, within 20 days of the date on the notice, additional information or a written request for a meeting with the PSRO to review and discuss the determination, or both.
(b) Review of determination. (1) The PSRO may, on the basis of additional information submitted by the practitioner or provider, affirm, modify, or reverse its determination or the sanction to be recommended; and
(2) The PSRO shall promptly give written notice to the practitioner or provider of any action it takes as a result of the additional information received.

§ 474.8 PSRO report to the Statewide Council or to HCFA.
(a) Manner of reporting. If the PSRO determines that a violation has occurred, it shall submit a report to the Statewide Council or, if there is no Council, directly to HCFA.
(b) Content of the report. The PSRO report shall include:
(1) Identification of the practitioner or provider, and in the case of a provider, the name of its director, administrator, or owner;
(2) The type of health care service involved;
(3) A statement of facts describing each failure to comply with an obligation, with specific dates, places, circumstances, and any other relevant information;
(4) Pertinent documentary evidence; and
(5) Copies of written correspondence and written summaries of oral exchanges with the practitioner or provider regarding the violation;
(6) The PSRO's finding that the practitioner or provider has violated an obligation under the Act; and
(7) The PSRO's recommendation of the sanction, if any, and the basis for that recommendation.

§ 474.9 Role and functions of the Statewide Council.

(a) Council review and comment. The Council shall:

(1) Review the report submitted by the PSRO to assure that it is complete and complies with all requirements set forth in § 474.8(b); and
(2) Prepare a statement concurring or nonconcurring with the PSRO's recommended action, and identifying any areas in which the PSRO report is incomplete.

(b) Transmittal to HCFA. The Council shall promptly transmit to HCFA the PSRO report and its statement of concurrence of nonconcurrence, with any additional comments or recommendations.

§ 474.10 Action by HCFA on receipt of the report.

(a) Determination of violation. HCFA will review the PSRO report and determine (on the basis of the factors specified in § 474.5) whether a violation has occurred.

(b) Determination of sanction. If HCFA concludes that there is a violation, it will determine whether to impose a sanction after considering:

(1) The recommendation of the PSRO and the Statewide Council;
(2) The type of offense;
(3) The severity of the offense;
(4) The anticipated deterrent effect of the sanction;
(5) The previous sanction record of the practitioner or provider;
(6) Availability of alternative sources of services in the community; and
(7) Any other matters relevant to the particular case.

(c) Notice to provider or practitioner. (1) HCFA will notify the provider or practitioner of an adverse determination and of the sanction to be imposed at least 15 days before the effective date of the sanction.

(2) The notice will specify:

(i) The basis for the determination;
(ii) The sanction to be imposed;
(iii) The effective date and, if appropriate, the duration of the exclusion;

(iv) The appeal rights of the practitioner or provider; and
(v) In the case of exclusion, the earliest date on which HCFA will accept a request for reinstatement.

(d) Public notice. HCFA will notify the public by publication in a newspaper of general circulation in the PSRO area. The notice will identify the sanctioned provider or practitioner; specify the sanction imposed; and if the sanction is exclusion, the effective date and duration.

(e) Notice to other affected entities. HCFA will give notice, as appropriate, to:

(1) The PSRO that originated the sanction report and the Statewide Council involved;
(2) State Medicaid and Title V agencies; State Medicaid fraud control units and State licensing bodies;
(3) Hospitals, skilled nursing facilities, home health agencies, and health maintenance organizations (HMO's);
(4) Medical societies and other professional organizations; and
(5) Medicare carriers and intermediaries, health care prepayment plans, and other affected agencies and organizations.

(f) Effect of HCFA determination. (1) A practitioner or provider dissatisfied with a HCFA determination is entitled to a hearing and review by the appeals council in accordance with §§ 405.1531-405.1595 of this chapter.

(2) The HCFA determination will continue in effect unless revised by a hearing decision.

§ 474.14 Effective dates of exclusion.

(a) General provisions. Except as provided in paragraph (b) of this section:

(1) Payment will not be made under Medicare to an excluded practitioner or provider and FEP will not be available under Medicaid for services furnished by an excluded practitioner or provider after the effective date of exclusion. (See § 405.315-1(j) of this chapter.)

(2) Assignment of a beneficiary's claim for services furnished after the effective date of exclusion will not be valid.

(b) Exceptions. (1) For inpatient hospital services or posthospital extended care services furnished to a beneficiary or recipient who was admitted before the effective date of exclusion, payment will be available for services provided up to 30 days after that date.
OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment and Notice of Public Hearing
FOR FURTHER INFORMATION

The problem of organizational conflicts of interest has received much recent attention by Federal executive agencies and Congress. It is the view of this Office that any attempted solution to this problem—to the extent it involves imposing procurement regulations and contractual requirements—should be uniformly applicable Governmentwide.

This policy is directed to the avoidance of contractual relationships which might encourage contractors to give biased advice and to the reduction of opportunities for contractors to gain an unfair competitive advantage. The policy would require contractors to disclose existing potential organizational conflicts when submitting an offer and to stay free of conflicts during performance or be terminated.

DATE: Comments must be received on or before December 13, 1978, and a public hearing will be held on November 17, 1978, in Room 10, New Executive Office Building, Washington, D.C. 20503.

Hearing will be held in Room 10, New Executive Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Deputy Associate Administrator for Regulations and Procedures, telephone 302-305-6166.

SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for Federal procurement policy is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, regulations, procedures, and forms are subject to those prescribed by the Administrator.

The Office of Federal Procurement Policy, Office of Management and Budget, is considering the adoption of a policy which would require the use by all Federal executive agencies of regulations and contract clauses governing organizational conflicts of interest.

The “Organizational Conflicts of Interest” regulations and clauses which follow are proposed for mandatory use by all Federal executive agencies.

SECTION ANALYSIS

Section 2402. Defines organizational conflicts of interest (OCI) as an interest that may diminish objectivity or give unfair competitive advantage. This definition includes the interest of chief executives and directors of an organization which may be in a position to influence the performance of the contract, and prospective and current contractors so as to reduce another opportunity for abuse.

Section 2403. Lists possible situations where OCI may exist or arise. This is to overcome the belief by many that OCI covers only “hardware exclusion” and restrictive specifications.

Section 2404. Requires offerors to disclose potential OCI. One of the major weaknesses of the current regulation is that no disclosure is required and contracting officers are making awards with little knowledge of potential OCI.

Section 2405. Requires notice in the solicitation that if an OCI could not be eliminated OCI will be incorporated into the contract. Such a clause could prohibit a contractor from some future work and he should be advised of this prior to making a proposal.

Section 2406. Requires that a solicitation representation be included in all evaluation, consultant, management support, and professional service contracts. The requirement in the first draft that such solicitation notice and clauses be contained in other contracts was deleted since the potential for OCI in such contracts is limited and the administration burden very heavy.

Section 2407-1. The general conflict clause requires the contractor to disclose potential OCI or certify in the absence of any disclosure that there is no conflict of interest, and requires notice to the contracting officer (C.O.) if one arises. It also gives the C.O. the authority to terminate.

Lester A. Fettig,
Administrator.

EDITORIAL Note—This proposed policy would amend the Federal Procurement Regulations by adding the following new regulations and would supersede appendix G of the Armed Services Procurement Regulations (ASPR) and is a revision of the proposed regulation published September 20, 1977 (42 FR 47223).

Subpart 1.24--Organizational Conflicts of Interest

Sec.

1.2400 Scope of subpart.
1.2401 Policy.
1.2402 Definitions.
1.2403 Conflict of Interest.
1.2404 Disclosure of organizational conflicts of interest.
1.2405 Notices and representations; action required of contracting officers.
1.2406 Disclosure or representation.
1.2407 Contract clauses.
1.2407-1 General conflict clause.
1.2407-2 Special contract clause.
1.2408 Contract award when an organizational conflict of interest is certified.
1.2409 Action in lieu of termination.
1.2410 Architect-engineering and construction contracts.
1.2411 Subcontracts.
1.2412 Remedies.
1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Subpart 1.24--Organizational Conflicts of Interest

§1.2400 Scope of subpart.

This subpart sets forth policies and procedures regarding organizational conflicts of interest.

§1.2401 Policy.

It is the policy of the Government that organizational conflicts of interest connected with the procurement of supplies, construction, and services be identified, prior to award and be adequately eliminated, or neutralized.

§1.2402 Definitions.

(a) The term "organizational conflicts of interest" means that a relationship exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors, where they may be in a position to influence the advice or assistance rendered to the Government) (1) has interests which may diminish its capacity to give impartial, technically sound, objective assistance and advice, (2) will result in an unfair competitive advantage. It does not include the...
normal flow of benefits from the performance of a contract.

(b) The term “contractor” means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to an agreement with the United States of America. As used in this definition, the term “affiliate” has the same meaning as provided in 41 CFR Sec. 1-1.601-1(e).

§ 1.2403 Conflict of interest
(a) In addition to other situations contained in § 1.2413, an organizational conflict of interest may exist or arise:
(1) Even though no follow-on procurement is anticipated;
(2) When a contract is awarded on a noncompetitive or a sole source basis;
(3) Even though a hardware exclusion clause may not be appropriate;
(b)(1) An organizational conflict of interest is more likely to be disclosed if a contract is competitive. Accordingly, greater care shall be exercised in the absence of competition.
(2) This regulation does not apply to competitively awarded (1) design-build, turnkey, total package, or multistep contracts; (2) contracts awarded in accordance with OMB Circular A-105; or (3) contracts for performance against functional specifications. The competitive nature of such contracting methods negates OGL.
(c) An organizational conflict of interest is presumed to exist whenever one of the contractual relationships prohibited by paragraph 1-2413 would appear to result.

§ 1.2404 Disclosure of organizational conflicts of interest.
When submitting offers (quotations and proposals) contemplating a negotiated contract for (1) evaluation services and for technical direction, consulting, management support services, and professional services, and (2) or for negotiated solicitations declared by the head of the procuring activity to warrant such disclosure in connection with the procurement of supplies and services, offerors and contractors (with respect to modifications) shall be required to disclose relevant information bearing on the possible existence of any organizational conflicts of interest or complete the representation required by § 1.2406. When the Government finds that an organizational conflict of interest exists or may exist with respect to an offeror or contractor, no contract or contract modification award covered by § 1.2406 shall be made until the organizational conflict of interest has been adequately eliminated or neutralized, except as provided in § 1.2408 below.

§ 1.2405 Notices and representations; action required of contracting officers.
(a) The disclosure or representation required by § 1.2406 is designed to alert the contracting officer to situations or relationships which may constitute either present or anticipated organizational conflict of interest with respect to a particular offeror or contractor. However, this disclosure or representation may not identify a potential organizational conflict of interest involving a successful offeror that could affect his participation in subsequent procurements arising out of or related to work performed under a contract that results from the solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the Government, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to eliminate or neutralize such conflict will be included in any resultant contract as required by § 1.2407(c)(2). Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent procurements. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable and in no event shall a exclusion be stated which is not related to a specific expiration date or an event certain. The Government shall not determine without notice on an after-the-fact basis that performance of a contract created an organizational conflict of interest with respect to procurements arising out of or related to work performed under that contract.

§ 1.2406 Disclosure or representation.
(a) The disclosure or representation prescribed by this section shall be included in all solicitations, scope modifications, and unsolicited proposals (1) for the conduct of evaluation services and for technical direction, consulting, management support services, and professional services. It may also be employed as otherwise deemed desirable by the Heads of agencies.
(b) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or current planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how their organizational structure and/or management systems limit their knowledge of possible organization conflicts of interest relating to other division or sections of the organization and how that structure or system would eliminate or neutralize such organizational conflict.
(c) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.
(d) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest. If such organizational conflict of interest is found to exist, the Department may (1) impose appropriate conditions which eliminate or neutralize such conflict, (2) disqualify the offeror, or (3) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.
(e) Failure to provide the disclosure or execute the representation will be deemed to be a minor irregularity and the offeror or contractor will be permitted to correct the omission.
(f) Refusal to provide the disclosure or representation and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant interest shall disqualify the offeror or contractor for award.

§ 1.2407 Contract clauses.
§ 1.2407-1 General contract clause.
All contract actions subject to the disclosure or representation requirement § 1.2406 shall include the following clause:

Organizational Conflicts of Interest—General
(a) The contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, he does not have any organizational conflict of interest as defined in the Federal Procurement Regulations (see 41 CFR 1.2402(a)) and the Armed Services Procurement Regulation (see par. 1-2402(a)) or that he has disclosed all relevant information and requested the contracting officer to make a determination with respect to this contract.
(b) The contractor agrees that, if awarded, he discovers an organizational conflict of interest with respect to this contract, he shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to eliminate or neutralize the conflict. The Government may, however, terminate the contract for the convenient.
§ 1.2407-2 Special contract clause.

When an organizational conflict of interest is found to exist, it shall be adequately eliminated, or neutralized through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include but are not limited to:

(a) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(b) Software exclusion clauses;

(c) Clauses which require the contractor, members of its Board of Directors, or its chief executives to eliminate, or neutralize an organizational conflict of interest; and

(d) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use.

The prospective contractor shall be given the opportunity to negotiate the terms and conditions of the clause and its application. The extent and time period of any restrictions shall be specified in the clause.

§ 1.2408 Contract award when an organizational conflict of interest is present.

(a) No contract or modification award of the type defined in § 1.2406(a) shall be made to an offeror or contractor having an organizational conflict of interest with respect to that contract or modification unless:

1. The conflict has been eliminated or neutralized; or

2. The contracting officer of the agency determines that the award of the contract would be otherwise in the best interests of the Government. Where such a determination is made, an appropriate written finding and determination shall be placed in the contract file.

(b) Examples of circumstances justifying such a determination include but are not necessarily limited to:

1. Situations where the public exigency will not otherwise permit; and

2. Situations where the requirement cannot otherwise be obtained.

§ 1.2409 Action in lieu of termination.

If the contracting officer determines that it would not be in the best interests of the Government to terminate a contract as provided in the clause required by § 11.2407, the contracting officer shall take every reasonable action to eliminate, or otherwise neutralize the organizational conflict of interest.

§ 1.2410 Architect-engineering and construction contracts.

The award of architect-engineering or project manager contracts and follow-on construction contracts or subcontracts to the same contractor is prohibited. However, competitively awarded design-build or turnkey contracts are not prohibited.

§ 1.2411 Subcontracts.

The contractor shall require a disclosure or representation in accordance with § 1.2408 from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the Government and shall include in consultant agreements or in such subcontracts involving performance of work under a contract covered by this section, contract clauses in accordance with § 1.2407.

§ 1.2412 Remedies.

In addition to other remedies permitted by law or contract, the agency may disqualify a contractor from subsequent agency contracts for a knowing breach of the restriction in this section or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed by this section.

§ 1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Introduction: The following examples illustrate types of organizational conflicts of interest which frequently arise, but they are not all inclusive. They are not rules in the literal sense, but are only examples of the two principles enumerated in the definition of an "organizational conflict of interest" set forth in paragraph 1.2402 above. These two basic principles—(1) preventing conflicting roles and competing interests which might bias a contractor's judgment, and (2) preventing a contractor from gaining an unfair competitive advantage over others—are the fundamental goals which must always be borne in mind in reaching a determination as to the presence or absence of an organizational conflict of interest. Organizational conflicts may involve software and services, as well as hardware. Many consulting and engineering firms, for example, have no hardware capability but may nevertheless perform work under contractual situations giving rise to potential conflicts under the two principles mentioned above. Therefore, the possible need for using both hardware and software exclusion clauses must be considered in appropriate cases, particularly in the field of research studies, technical consultant and management support services and test and evaluation, where objectivity may be influenced or a competitive advantage gained through access to information regarding future Government plans or programs.

(a) If a contractor agrees to provide systems engineering and technical direction or management support for a project without at the same time assuming overall contractual responsibility for:

1. Development, or

2. Integration, assembly, and checkout, or

3. Production or construction,

then that contractor shall not later be allowed to supply the system or any major components construction thereof, or to be a subcontractor or consultant to a supplier of the system or construction or any major components thereof.

Explanation: The contractor occupies a highly influential and responsible position as an agent of the Government both in determining basic concepts of a project and in supervising their execution by other contractors. To ensure the objectivity of its services and hence a more soundly planned project, the contractor must not be in a position to make decisions which could favor its own products or services. Furthermore, it would be inconsistent with the managerial responsibility of a contractor for it to be concurrently one of the component suppliers or contractors.

(b) If a contractor agrees to prepare and furnish complete specifications covering nondevelopmental items to be used in competitive procurement, that contractor shall not be allowed to furnish such items, either as a prime or subcontractor, for a reasonable period of time including, at least, the initial procurement. This example shall not apply to:

1. Contractors who furnish at Government request specifications or data with respect to the product they furnished, even though the specifications or data may have been paid for separately or in the price of the product.

2. Situations where one or more contractors acting as industry representatives assist Government agencies in preparing, refining, or coordinating specifications, regardless of source, which assistance is supervised and controlled by Government representatives.
(3) Contracts for developmental or prototype items.

(4) Competitive contracts awarded pursuant to the authority of the American Telephone and Telegraph Company (AT&T) or the United States Postal Service.

(5) Competition for performance against function specifications.

Explanation: If a single contractor is engaged by the Government to draft complete specifications for nondevelopmental construction projects, it should be eliminated for a reasonable time from competition for production based on the specifications. This should be done in order to avoid a situation where he could draft specifications which would favor his own products or capabilities. In this way the Government can be assured of getting unbiased advice as to the content of its specifications and can avoid allegations of favoritism in the award of production contracts.

In the development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop their own software, since software can be written to implement the function. Since software can be written to implement the function, a company is awarded a contract to develop the software after development under its development contract.

Illustration E: A System Engineering and Integration contract is awarded to Company A. As part of its effort it is required to identify and modify commercially available software to integrate a new system, and identify and provide performance specifications for the commercial hardware required to result in the system. Since the identified packages and modifications can be biased toward a particular vendor's hardware when used in a follow-on acquisition, Company A should be barred from at least the initial follow-on computer hardware procurement.

Illustration F: A study contract is awarded to Company A to solve a computer interface problem. The effort will require the identification of commercial equipment that will solve the interface problem. Since the vendor's judgment could be biased if allowed to recommend its own equipment, it should be barred from at least the initial follow-on procurement resultant from its interface effort.

(c) If a single contractor, other than a company which has participated in the development or design of a system, agrees to assist a Government agency or a contractor of a Government agency in the preparation of a statement of work, or agrees to provide material leading directly, predictably, and without delay to a statement of work to be used in the competitive procurement of a system or services, that contractor shall not be allowed to supply the services, or the system or major components thereof, unless it is the sole source. The content of a statement of work shall not be considered predictable if more than one contractor is involved in the preparation of material leading to it.

Explanation: The various services related to a statement of work to be used in a competitive procurement should normally be performed by the Government agency. However, when it is necessary to assure the performance of contractors, they may often be in a position to favor their own products or capabilities. To overcome this possibility of bias, such contractors are to be prohibited from supplying a system or services pursuant to data or work statements growing out of their services. No prohibitions are imposed on development contractors for the reasons given in the explanation to rule (b).

Illustration A: Company A prepared detailed plans for the design of a rocket fuels system. The Government agency gives access to the contractor's data and kits it to another contractor A. Since Company A was allowed to provide the data, the contractor A shall not be permitted to bid on this contract.

Illustration B: Company A receives a contract to prepare a detailed plan for the procurement of services aimed at the advanced scientific and engineering training of a Government agency. The Government agency is interested in the curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training, and shall not be allowed to bid on this contract.

(d) If a contractor gains access to proprietary data of other companies incidental to the performance of a Government contract, the contractor must agree with such companies to protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the contractor shall not be permitted to utilize the data for any purposes other than that for which it was furnished to him unless otherwise specifically provided for in his contract or unless written authorization from the owner of the data has been obtained.

Explanation: Proprietary data is information considered so valuable by its owners that it is held secret by them and their licensees. Where a contractor must obtain such data from other companies for purposes of performing a Government contract, and can obtain it by the leverage of that contract, he will gain an advantage over other companies unless there are restrictions upon its use. Such restrictions are necessary both to protect the data, and to encourage companies to furnish it to contractors when necessary for the performance of a Government contract. The rule is not intended to protect proprietary data furnished voluntarily by other companies without limitations as to use, or data which falls into the public domain.

Illustration A: Company A is selected to study the use of lasers in military communications. The Government agency will request that firms doing research in the field provide proprietary data available to A. In order to receive the contract, A must agree with such firms to protect any proprietary data it obtains, so long as it remains proprietary, and shall not be permitted to utilize the data in supplying any lasers to the Government agency. While A could not receive a competitively awarded contract to perform additional studies of lasers using such data, it may receive a contract award if it is the sole source.

Illustration B: A contractor in connection with the performance of a study, consulting or similar contract will be given information by a Department regarding the Department's plans or programs, which is not available to other interested potential contractors shall not be permitted to compete with.
such firms for work relating to such plans or programs. 

(f) A contractor shall not, without making a full disclosure to the contracting officer, and in the absence of adequate safeguards, be allowed to evaluate or perform other consulting services: (1) Which will necessarily require the evaluation of the contractor's own work product, or (2) with respect to the product or services of any other contractor with which the contractor has an existing consulting relationship.

(g) A contractor performing evaluation or consulting services for the Government in connection with a competitive procurement shall not be permitted to enter into a contractual relationship with the successful offeror with respect to work directly and predictably arising out of or related to the performance of the contract resulting from the competition.

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