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federal register

FRIDAY, FEBRUARY 2, 1979

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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10 6392

40 CFR

81 6395

PROPOSED RULES:

65 ..... 6465-6469, 6754
86 6650

42 CFR

50 6716
441 6717

PROPOSED RULES:

124 6842

43 CFR

405 6395

PROPOSED RULES:

3300 6471
3800 6481

45 CFR

220 6718
222 6718
228 6718
1067 6396

46 CFR

512 ..... 6718, 6719

47 CFR

73 ..... 6721, 6722

PROPOSED RULES:

1 6755
25 6755
73 ..... 6757, 6758
95 6759
97 6759

49 CFR

1033 ..... 6416, 6728-6731

PROPOSED RULES:

1033 6759
1132 6759

50 CFR

26 6417
32 6418
33 6417-6419
651 6732

PROPOSED RULES:

611 6761

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rules and regulations

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

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

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment continues the exception under Schedule A of all positions on the staff of the President's Commission on the Coal Industry, but with the provision that no one may serve under this authority after December 14, 1979. This amendment is authorized because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3199 (n)(1) is amended as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(n) *President's Commission on the Coal Industry.*

(1) All positions on the staff of the President's Commission on the Coal Industry. No one may serve under this authority after December 14, 1979.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

OFFICE OF PERSONNEL MANAGEMENT

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-3490 Filed 2-1-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for the President's Commission on Olympic Sports because this organization no longer exists.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3199(s) is revoked, as follows:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(s) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

OFFICE OF PERSONNEL MANAGEMENT

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-3489 Filed 2-1-79; 8:45 am]

[1505-01-M]

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Department of Commerce, U.S. International Trade Commission, Department of Transportation

Correction

In FR. Doc. 79-2793 appearing on page 5371 in the issue of Friday, January 26, 1979, on page 5372, the 1st two section headings were inadvertently transposed. They should have read § 213.3314 Department of Commerce. and § 213.3339 U.S. International Trade Commission.

[3410-02-M]

Title 7—Agriculture

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

[Lemon Regulation 184]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period February 4-10, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: February 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the Act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 30, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports

the demand for lemons has eased somewhat from the previous week.

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

§ 910.484 Lemon Regulation 184.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 4, 1979, through February 10, 1979, is established at 205,000 cartons.

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

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

Dated: February 1, 1979.

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

[FR Doc. 79-3971 Filed 2-1-79 12:26 pm]

[3410-02-M]

[Papaya Reg. 9, Amdt. 2]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment relaxes the quality requirement applicable to intrastate shipments of Hawaiian papayas during the period January 29 through April 30, 1979. Such action recognizes the current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Papaya Administrative Committee, established under this marketing order, and upon other information, it is found that this amendment will tend to effectuate the declared policy of the act. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The Papaya Administrative Committee reports that heavy rains are continuing in much of the production area increasing the incidence of disease and reducing the supply of papayas meeting current requirements to an amount less than needed to meet present and prospective market demand. The amendment recognizes demand conditions for papayas and is consistent with the quality of much of the potential supply in the period specified. The amendment is designed to permit movement of available supplies of papayas consistent with the interests of producers and consumers.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

In § 928.309 (Papaya Regulation 9; 44 F.R. 30, 3669) paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) inserted reading as follows:

§ 928.309 Papaya Regulation 9.

(a) * * *
(1) * * *
(2) * * *
(b) * * *

(c) Notwithstanding the provisions of paragraph (a)(1) of this section, any handler may during the period January 29 through April 30, 1979, handle papayas to any destination within the production area which meet the requirements of Hawaii No. 1 grade, except that allowable tolerances for defects may total 10 percent: *Provided,* That not more than 5 percent shall be for serious damage, of which not more than 1 percent shall be for immature fruit, and not more than 1 percent shall be for decay: *Provided further,* That such papayas shall individually weigh not less than 13 ounces each.

* * * * *

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

Dated January 29, 1979, to become effective January 29, 1979.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-3620 Filed 2-1-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 78G-0488]

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Cocoa Butter Substitute From Palm Oil; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period on Final Rule.

SUMMARY: In response to a request for extension, the Food and Drug Administration (FDA) is extending the comment period on the tentatively established name "cocoa butter substitute from palm oil" as the common or usual name for the food additive 1-palmitoyl-2-oleoyl-3-stearin.

DATES: Comments on the common or usual name provisions by February 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 21, 1978 (43 FR 54238), the Commissioner of Food and Drugs published a regulation affirming that cocoa butter substitute from palm oil is generally recognized as safe (GRAS) for human

use in nonstandardized confectionery products. The document also established "cocoa butter from palm oil" as the common or usual name for the ingredient 1-palmitoyl-2-oleoyl-3-stearin and provided for a 60-day comment period (to January 22, 1979) on the common or usual name.

The Commissioner has received a request for a 30-day extension of time for comment from the law firm of Freeman, Meade, Wasserman and Schneider, New York City, NY, on behalf of its clients, several of whom are European companies. The additional time is needed to permit gathering and preparing views of the clients for submission to FDA.

The Commissioner is extending the comment period regarding the common or usual name for this ingredient to February 21, 1979.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 202(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), the comment period on the November 21, 1978 (43 FR 54238) document concerning the establishment of "cocoa butter substitute from palm oil" as the common or usual name for 1-palmitoyl-2-oleoyl-3-stearin is extended to February 21, 1979.

Interested persons may, on or before February 21, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the name established by this regulation. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. A notice will be published at the end of the comment period to address the comments received in response to the common or usual name provision of this regulation, and, if appropriate, the notice will modify the common or usual name.

Dated: January 30, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-3805 Filed 1-31-79; 11:48 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Nalorphine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to codify a previously approved new animal drug application (NADA) providing for safe and effective use of injectable nalorphine hydrochloride as an antidote to respiratory and circulatory depression in dogs. The condition results from overdosage of, or unusual sensitivity to, morphine and certain other narcotics. The NADA is held by Merck Sharp & Dohme Research Laboratories.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Rahway, NJ 07065, is sponsor of an NADA (10-424V) providing for use in dogs of a 5-milligram-per-cubic-centimeter nalorphine hydrochloride injection used as a specific antidote to respiratory and circulatory depression caused by morphine and certain other narcotics.

The application was approved by letter on April 5, 1956. However, the approval was not published because it was granted before enactment of the Animal Drug Amendments of 1968 (Pub. L. 90-399). One of the requirements of the Amendments is that approval of NADA's must be published in the FEDERAL REGISTER. Therefore, the regulations are amended to codify this application.

Codification of a previously approved NADA does not constitute reaffirmation of the drug's safety and effectiveness. Because this application was approved before July 1, 1975, a summary of safety and effectiveness data and information submitted in accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) to support this application is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.1452 to read as follows:

§ 522.1452 Nalorphine hydrochloride injection.

(a) *Specifications.* Each milliliter of aqueous solution contains 5 milligrams of nalorphine hydrochloride.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* One milligram per 5 pounds; intravenously, intramuscularly, or subcutaneously.

(2) *Indications for use.* Respiratory and circulatory depression in dogs resulting from overdosage of, or unusual sensitivity to, morphine and certain other narcotics. Not for depression due to any other cause.

(3) *Limitations.* Successive doses of the drug gradually lose their analeptic effect and eventually induce respiratory depression equal to that of opiates. Therefore, do not exceed therapeutic dosage. Do not mix drug with meperidine solutions because the buffer will cause precipitation.

Effective date. This regulation is effective February 2, 1979.

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

Dated: January 26, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-3391 Filed 2-1-79; 8:45 am]

[4110-03-50]

[Docket No. 78N-0437]

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

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Revocation of Obsolete Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This docment amends the new animal drug regulations by deleting the provisions for the combination drugs progesterone with estradiol benzoate for the treatment of lambs and testosterone with diethylstilbestrol for the treatment of cattle. The regulations are being revoked because approval of the drugs to which they refer was previously withdrawn.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In § 522.1940 *Progesterone and estradiol benzoate in combination*, paragraph (d)(1) was initially issued to reflect approval of new animal drug application (NADA) 9-442V of Syntex Laboratories, Inc., 3401 Hillview Dr., Palo Alto, CA 94304. In the FEDERAL REGISTER of March 22, 1973 (38 FR 7481), the agency issued a notice withdrawing approval of the application, including all amendments and supplements thereto.

Section 522.2350 *Testosterone and diethylstilbestrol in combination* was initally issued to reflect approval of new animal drug application (NADA) 11-365V of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540. In the FEDERAL REGISTER of November 26, 1976 (41 FR 52106), the agency issued a notice withdrawing approval of the application to be effective December 27, 1976.

Inadvertently, corresponding documents failed to publish revoking the corresponding regulations upon which these approvals relied pursuant to section 512(i) of the act (21 U.S.C. 360b(i)).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 522 and 556 are amended as follows:

1. Part 522 is amended as follows:

§ 522.1940 [Amended]

a. In § 522.1940 *Progesterone and estradiol benzoate in combination* by revoking paragraph (d)(1) and marking it reserved.

§ 522.2350 [Revoked]

b. By revoking § 522.2350 *Testosterone and diethylstilbestrol in combination.*

§ 556.708 [Revoked]

2. Part 556 is amended by revoking § 556.708 *Testosterone.*

Effective date. This regulation is effective February 2, 1979.

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

Dated: January 24, 1979.

TERENCE HARVEY,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 79-3212 Filed 2-1-79; 8:45 am]

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

National Standards for Specific Information Signs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule extends the standard for specific information signs to signs erected within the rights-of-way of the Federal-aid primary highway system, in accordance with section 122(a) of the Federal-Aid Highway Act of 1976, 23 U.S.C. 131(f). It also makes revision to existing requirements for such signs on the rights-of-way of the Interstate system and other freeways where specific information signs are allowed under the present regulations. Preparation of this final rule has been coordinated with the Federal Highway Administration Task force to Restudy Directional and Informational Signing which was formed to conduct the study required by section 122(b) of the Federal-Aid Highway Act of 1976, 23 U.S.C. 131(q)(1). The Task Force has not yet issued its final report. These rules will be reviewed as part of that report, along with all other regulations governing the dissemination of directional information of interest to the traveling public. These regulations do not alter the status of existing experimental business directional signing projects authorized by the Federal Highway Administration.

EFFECTIVE DATE: February 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. J. J. Crowley, Director, Office of Traffic Operations, 202/426-0372; or Ms. Barbara Dalmut, Office of the Chief Counsel, 202/426-0791, 400 7th Street, SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: On September 14, 1977, under FHWA Docket No. 77-6, there was published in the FEDERAL REGISTER (42 FR 46060) a notice of proposed rulemaking with proposed amendments of the existing standards for specific information signs to include additional classes of highways as authorized by section 122(a) of the Federal-Aid Highway Act of 1976.

Section 122(a) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 90 Stat. 425, amended section 131(f) of Title 23, United States Code. Section 131(f) previously had authorized the Secretary, in consultation with the States, to provide areas within the Interstate System rights-of-way on which specific information signs could be erected. The amendment extends this authorization to permit the erection of such signs within the rights-of-way of primary system highways as well.

The agency reviewed comments on the proposed regulations from a substantial number of State highway agencies, some business and trade associations, and from other interested parties. A number of comments were rejected as contrary to the law or national standards contained in the Manual on Uniform Traffic Control Devices (MUTCD). Several commenters made suggestions for editorial revisions which have been incorporated into this final rule.

DISCUSSION OF MAJOR COMMENTS

A new section on "Applicability" was added in order to clarify that the law extends specific information signing to Federal-aid primary highways.

DEFINITIONS

Several definitions have been revised in accordance with the submitted comments. The definition of "business sign" was revised to clearly indicate that a business name may be used with or without a brand or trademark. Since the standards apply to all highways open to public travel, the term "conventional primary highways" was deleted from the statement of purpose and all other sections of the regulation. This deletion made the use of the terms "freeway" and "expressway" unnecessary for this section. The definition of these and other terms appear in the MUTCD and 23 U.S.C. 101.

LOCATION

The reference to suburban and urban areas was deleted, and the criteria for signing outside rural areas was delegated to the State highway agencies in response to four comments reviewed.

Five comments noted difficulties in locating signs near the right-of-way line. Responsibility for the lateral location of signs within the right-of-way has been delegated to the highway agencies.

The term "clear zone" was substituted for "30 feet from the edge of the traveled way" due to comments that these terms are synonymous and the

former is more commonly used in highway standards.

CRITERIA FOR SPECIFIC INFORMATION PERMITTED

Six comments proposed various restrictions on the distance criteria. This responsibility will remain with the State highway agencies. Provisions for signing beyond the 3-mile limitation have been clarified so as to allow signing for more than one service of each type beyond the 3-mile increment.

Sixteen comments concerned the minimum criteria for eligible services. The hours of operation for gas services were modified, maintaining the 16-hour daily operation for services on freeways and expressways, but lowering the requirement to 12 hours of continuous operation for services on conventional roads. The requirement for offering lubrication services was eliminated. Other criteria remain the prerogative of the States, including the suggestion to make eligibility for signing contingent upon billboard removal.

Since specific information signs are intended for "essential" motorist services, other suggested services were not considered eligible for signing. Suggestions such as including "all legitimate businesses" as eligible for signing, and identifying service stations that dispense diesel fuel, will receive continuing consideration.

COMPOSITION

The requirements for fixed sign panel sizes given in §§ 655.306(c), 655.307(c), and 655.308(c) of the proposed rule were considered too restrictive upon the highway agencies, and were therefore eliminated and replaced with the general size criteria added to this section.

Appendix A, "Specific Information Signs", provides examples of typical specific information signs for both single exit and double exit interchanges. The Appendix incorporates the requirements of this regulation by means of these illustrations.

Eight comments suggested additional requirements for the composition of the business signs. The determination of additional requirements will remain the prerogative of the highway agencies.

SPECIAL REQUIREMENTS—INTERSTATE HIGHWAYS AND OTHER FREEWAYS

Based on seven comments from State highway agencies and other parties, the distance between signs on Interstate highways and other freeways was changed to the recommended 800 feet so as to conform to standards in the MUTCD.

Convenient reentry and the general location of the signs near interchanges are considered essential to motorists, so these requirements were not changed as suggested.

Minor mandatory features of ramp signs were made permissive to allow additional flexibility, but the provision for showing distances to services was made mandatory for the benefit of motorists, in accordance with six comments received.

The paragraph on composition was reworded for clarity. The requirement for a separate exit number panel was eliminated to reduce sign costs and for consistency with double-exit signs. The display of distance on the sign panel is not required as suggested in three comments, since convenient reentry and distances on ramp signs and other factors make this feature redundant.

The placement of the directional legend on signs at remote rural interchanges was changed for consistency with other sign composition as suggested.

The use of exit numbers on the signs, where applicable, was retained since this is a requirement of the MUTCD.

The maximum size requirement for signs was eliminated as it imposed undue restrictions on the State highway agencies. The lettering size requirement was retained as necessary for proper readability. This revision was made for signs on all classes of highways.

SPECIAL REQUIREMENTS—EXPRESSWAYS

The suggestion to delete this section and other sections was unacceptable as it would be contrary to the intent of the Federal-Aid Highway Act of 1976.

Eight comments objected to the mandatory spacing of signs at intersections on expressways. Since existing features and available space at intersections can vary considerably, it was agreed that spacing should be adjusted to meet field conditions as determined by the State highway agencies. It was also agreed that highway agencies could provide trailblazers to the services if desirable.

It was concluded from comments submitted that signing at interchanges on expressways should be consistent with freeway signing and that highway agencies should be allowed, at their discretion, to sign isolated intersections on an expressway in the same manner as the other interchanges on that expressway.

The paragraph on intersection signing was reworded for clarity and consistency with other paragraphs and to provide uniform composition of signs at all locations. The use of directional arrows and other minor flexibility have been provided as suggested in 16 comments.

SPECIAL REQUIREMENTS—CONVENTIONAL ROADS

The Federal-aid primary system includes conventional roads. Therefore, five suggestions to eliminate this section and to allow a variety of alternate types of signing were considered contrary to the intent of the Act.

Since the location and composition of signs for conventional roads are the same as signs for intersections on expressways, the 16 comments on these items were considered along with comments on § 655.307, Special Requirements—Expressways.

PROCEDURES

The section on the State's prerogative has been reworded for clarity, without any substantive changes.

The State Signing Policy has been revised to reflect other changes in the regulation. In order to provide additional flexibility as suggested, a policy is no longer mandatory.

Section 655.309 was revised to reflect comments which noted that FHWA approval is not required for non-Federal-aid projects and that opportunities for consultation have been provided through the Notice of Proposed Rulemaking and other means. In order to receive approval of their signing projects, the States will follow the same procedures as other Federal-aid projects in the State.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on: January 23, 1979.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

In consideration of the foregoing, the Federal Highway Administration (FHWA) hereby amends Chapter I of Title 23, Code of Federal Regulations, Part 655, Subpart C to read as set forth below.

PART 655—TRAFFIC OPERATIONS

Subpart C—National Standards for Specific Information Signs

Sec.
655.301 Purpose.
655.302 Applicability.
655.303 Definitions.
655.304 Location.
655.305 Criteria for specific information permitted.
655.306 Composition.
655.307 Special requirements—Interstate highways and other freeways.
655.308 Special requirements—expressways.
655.309 Special requirements—conventional roads.
655.310 Procedures.

Appendix A—Specific information signs.

AUTHORITY: 23 U.S.C. §§ 109(d), 131(f), and 315; 49 CFR 1.48(b).

Subpart C—National Standards for Specific Information Signs

§ 655.301 Purpose.

The purpose of this regulation is to establish standards for signs erected within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public.

§ 655.302 Applicability.

The provisions of this regulation are applicable to the Federal-aid primary highway system, including Interstate highways. However, nothing in this regulation shall be construed to prevent any State from applying the standards to other classes of highways.

§ 655.303 Definitions.

Except as defined in this section, the terms used in this regulation shall be defined in accordance with the definitions and usage of the Manual on Uniform Traffic Control Devices[1] (MUTCD).

(a) "Business sign"—a separately attached sign mounted on the rectangular sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on a crossroad at or near an interchange or an intersection.

(b) "Specific information sign"—a rectangular sign panel with:

(1) The words, "GAS," "FOOD," "LODGING," or "CAMPING";

(2) Directional information; and

(3) One or more business signs.

(c) "State"—any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, or American Samoa.

§ 655.304 Location.

(a) *Intended for rural areas.* Specific information signs are intended for use primarily in rural areas. Any installation of such signs outside rural areas shall be consistent with the State signing policy criteria of paragraph (b) of § 655.310.

(b) *Lateral location.* The specific information signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right-of-way. Unprotected sign panel supports located within the clear zone shall be of a breakaway design.

(c) *Relative location.* In the direction of traffic, successive specific information signs shall be those for "CAMPING," "LODGING," "FOOD," and "GAS" in that order.

§ 655.305 Criteria for specific information permitted.

(a) *Conformity with laws.* Each business identified on a specific information sign shall have given written assurance to the State of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin, and shall not be in breach of that assurance.

(b) *Distance to services.* The maximum distance that service facilities can be located from the main traveled way to qualify for a business sign shall be in accordance with State standards, but not to exceed 3 miles in either direction; except that, if within that 3-mile limit services of the type being considered are not available, the limit of eligibility may be extended in 3-mile increments until services of the type being considered, or 15 miles, are reached.

(c) *Types of services permitted.* The types of services permitted shall be limited to "GAS," "FOOD," "LODGING," and "CAMPING." To qualify for display on a specific information sign:

(1) *"GAS" shall include:*

(i) Vehicle services, which shall include fuel, oil, tire repair, and water;

(ii) Restroom facilities and drinking water;

(iii) Continuous operation at least 16 hours per day, 7 days a week for freeways and expressways, and continous operation at least 12 hours per day, 7 days per week for conventional roads; and

(iv) Telephone.

(2) *"FOOD" shall include:*

(i) Licensing or approval, where required;

(ii) Continuous operation to serve three meals a day, 7 days a week; and

(iii) Telephone.

(3) "LODGING" shall include:

(i) Licensing or approval, where required;

(ii) Adequate sleeping accommodations; and

(iii) Telephone.

(4) *"CAMPING" shall include:*

(i) Licensing or approval, where required;

(ii) Adequate parking accommodations; and

(iii) Modern sanitary facilities and drinking water.

(d) *Number of signs permitted.* The number of specific information signs permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of business signs permitted on a sign panel is specified in §§ 655.307(b), 655.308(b), and 655.309(b). In exceptional cases, additional business signs may be considered.

§ 655.306 Composition.

(a) *Sign panels.* The sign panels shall have a blue background with a white reflectorized border. The panels may be illuminated. The size of the sign panels shall not exceed the minimum size necessary to accommodate the maximum number of business signs permitted using the required legend height and the interline and edge spacing specified in the MUTCD.

(b) *Business signs.* Business signs shall have a blue background with a white legend and border. The principal legend should be at least equal in height to the directional legend on the sign panel. Where business indentification symbols or trademarks are used alone for a business sign, the border may be omitted, the symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size. Messages, symbols, and trademarks which resemble any official traffic control device are prohibited. The vertical and horizontal spacing between business signs on sign panels shall not exceed 8 inches and 12 inches, respectively. Typical sign locations prepared from these standards are shown in Appendix A.

(c) *Legends.* All directional arrows and all letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

§ 655.307 Special requirements—Interstate highways and other freeways.

(a) *Location.* (1) *Separate sign panel.* Except as provided in paragraph (b)(3) of this section, a separate sign panel shall be provided for each type of service for which business signs are displayed.

(2) *Relationship to exit gore.* The specific information signs shall be erected between the previous interchange and 800 feet in advance of the exit direction sign at the interchange from which the services are available. There should be at least 800 feet spacing between the signs. Excessive spacing should be avoided.

(3) *Convenient reentry required.* Specific information signs shall not be erected at an interchange where the motorist cannot conveniently reenter the freeway and continue in the same direction of travel, or at interchanges between freeways.

(4) *Exit ramp signs.* At single-exit interchanges where service facilities are

[1] The Manual on Uniform Traffic Control Devices (MUTCD) is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

not visible from a ramp terminal, ramp signs shall be installed along the ramp or at the ramp terminal, and may be provided along the crossroad. These signs shall be duplicates of the corresponding specific information signs along the main roadway but reduced in size. Service information for visible facilities may be omitted. The signs shall include the distances to the service installations and directional arrows in lieu of words. The minimum letter height should be 4 inches except that any legend on a symbol shall be proportional to the size of the symbol. Ramp signing may be used on ramps and crossroads at double-exit interchanges.

(b) *Composition.* (1) *Single-exit interchanges.* The name of the type of service followed by the exit number shall be displayed in one line above the business signs. At unnumbered interchanges, the directional legend NEXT RIGHT (LEFT) shall be substituted for the exit number. The "GAS" specific information sign shall be limited to six business signs; the "FOOD," "LODGING," and "CAMPING" specific information signs shall be limited to four business signs each.

(2) *Double-exit interchanges.* The specific information signs shall consist of two sections, one for each exit. The top section shall display the business signs for the first exit and the lower section shall display the business signs for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the business signs in each section. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) and SECOND RIGHT (LEFT) shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one exit, one section of the specific information sign may be omitted, or a single-exit interchange sign may be used. The number of business signs on the sign panel (total of both sections) shall be limited to six for "GAS" and four each for "FOOD," "LODGING," and "CAMPING."

(3) *Remote rural interchanges.* In remote rural areas, where not more than two qualified facilities are available for each of two or more types of services, business signs for two types of services may be displayed on the same sign panel. Not more than two business signs for each type of service shall be displayed in combination on a panel. The name of each type of service shall be displayed above its respective business sign(s), and the exit number shall be displayed above the names of the types of services. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number. Business signs should not be combined on a panel when it is anticipated that additional service facilities will become available in the near future. When it becomes necessary to display a third business sign for a type of service displayed in combination, the business signs involved shall then be displayed in compliance with paragraphs (b) (1) and (2) of this section.

(c) *Size.* (1) *Business signs.* (i) Each business sign displayed on the "GAS" specific information sign shall be contained within a 48-inch-wide and 36-inch-high rectangular background area, including the border.

(ii) Each business sign on the "FOOD," "LODGING," and "CAMPING" specific information signs shall be contained within a 60-inch-wide and 36-inch-high rectangular background area, including border.

(2) *Legends.* All letters used in the name of the type of service and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

§ 655.308 Special requirements—expressways.

(a) *Location.* (1) *Interchanges.* The location of specific information signs and exit ramp signs erected for interchanges shall be in accordance with the provisions of paragraph (a) of § 655.307.

(2) *Intersections.* The specific information signs should be erected between the previous interchange or intersection and 300 feet in advance of the intersection from which the services are available. The spacing between sign panels, and between sign panels and other traffic control devices, should be determined on the basis of an engineering study. Business signs should not be displayed for a type of service for which a qualified facility is visible from a point on the traveled way 300 feet from the intersection. Signs similar to exit ramp signs of paragraph (a)(4) of § 655.307 may be provided on the crossroad.

(b) *Composition.* (1) *Interchanges.* The composition of specific information signs and exit ramp signs erected for interchanges shall be in accordance with paragraph (b) of § 655.307.

(2) *Intersections.* A maximum of four business signs for each type of service shall be displayed along each approach to the intersection. No more than four business signs shall be displayed on each sign panel. A maximum of two business signs for each of two different types of services may be combined on the same sign panel. The name of each type of service shall be displayed above its business sign(s) together with an appropriate legend such as NEXT RIGHT (LEFT) or a directional arrow.

(c) *Size.* (1) *Interchanges.* (i) *Business signs.* Business signs shall conform to the sizes specified in paragraph (c)(1) of § 655.307.

(ii) *Legends.* Legends shall conform to the requirements of paragraph (c)(2) of § 655.307.

(2) *Intersections.* (i) *Business signs.* Each business sign shall be contained within a 36-inch wide and 24-inch high rectangular background, area, including border; except that, where permitted in the State signing policy of paragraph (b) of § 655.310 the business signs may conform to the requirements of paragraph (c)(1) of § 655.307.

(ii) *Legends.* All letters used in the name of the type of service and the directional legend shall be 6-inch capital letters; except that, where permitted in the State signing policy of paragraph (b) of § 655.310, the legends may conform to the requirements of paragraph (c)(2) of § 655.307.

(iii) *Coordination of sizes.* Business signs and legends in accordance with paragraphs (c)(1) and (2) of § 655.307, respectively, shall be used only in combination with each other. They shall not be used on conventional roads.

§ 655.309 Special requirements—Conventional roads.

(a) *Location.* The location of the specific information signs shall be as specified in paragraph (a)(2) of § 655.308.

(b) *Composition.* The composition of the specific information signs shall be as specified in paragraph (b)(2) of § 655.308.

(c) *Size.* (1) *Business signs.* Each business sign shall be contained within a 24-inch wide and 18-inch high rectangular background area, including border.

(2) *Legends.* All letters used in the name of the type of service and the directional legend shall be 4-inch capital letters.

§ 655.310 Procedures.

(a) *State's prerogative.* Specific information signs may be erected at the option of the State. All specific information signs erected on any highway open to public travel shall conform to the provisions of this regulation.

(b) *State signing policy.* The State should develop a policy for specific information signing prior to sign installation. This policy, as a minimum, shall include criteria for:

(1) Distances to eligible services;

(2) Selection of eligible businesses;

(3) Use of business signs and legends conforming to the provisions of paragraphs (c)(1) and (2) of § 655.307, respectively, at intersections on expressways;

(4) Removing or covering business signs during off seasons for businesses operated on a seasonal basis;

(5) Prescribing the circumstances, if any, in which specific information

signs may be used outside rural areas; and

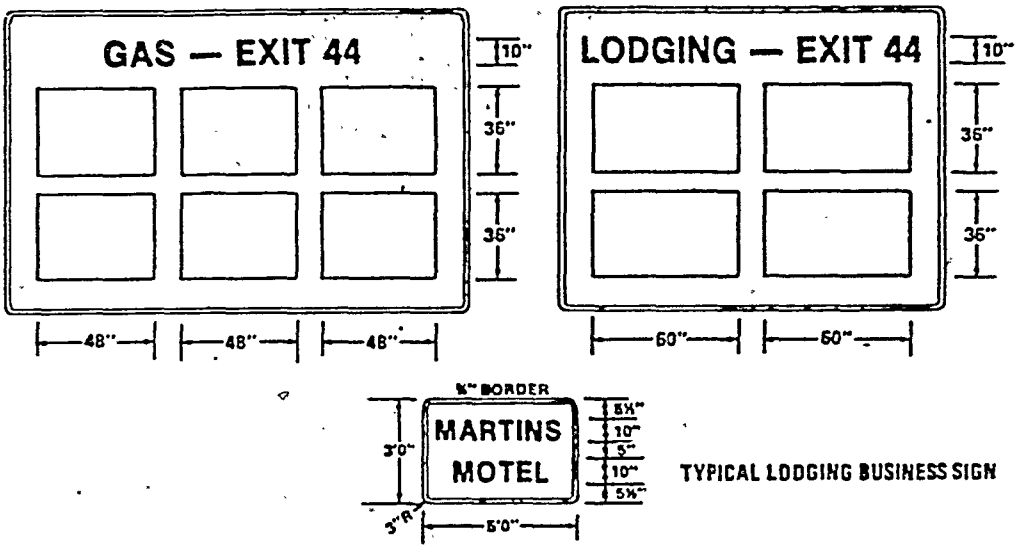
(6) Determining the costs to businesses for initial permits installation, annual maintenance, removal, etc., of business signs.

(c) *Eligibility of funds.* Federal-aid highway funds are eligible to participate in the cost and erection of specific information signs on Federal-aid highways in the same manner that such funds are eligible for other highway traffic control devices on the Federal-aid highway systems. However, Federal-aid highway funds are not eligible to participate in the cost of procuring and installing the business signs on sign panels or on ramp signs.

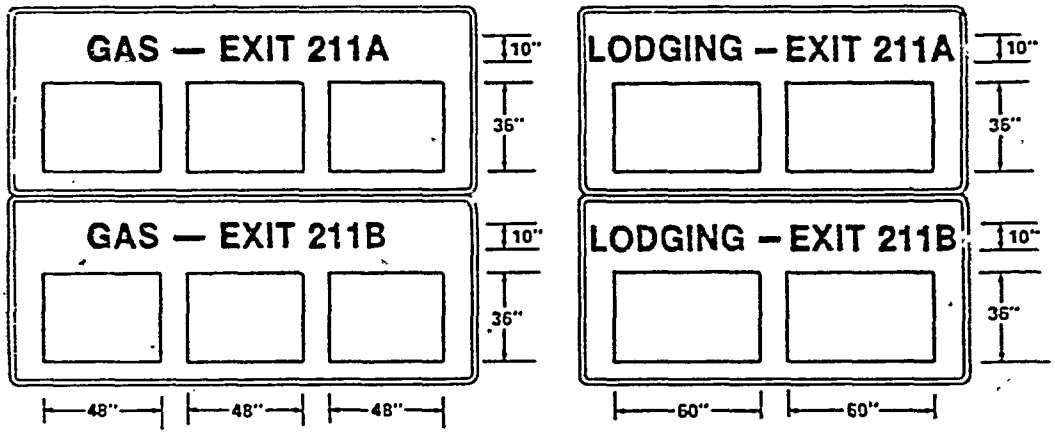
(d) *Approvals.* The procedures for obtaining approval for programming, project authorizations, and other actions for Federal-aid projects which include these signs shall follow the same procedures as other Federal-aid projects in the State.

[4910-22-C]

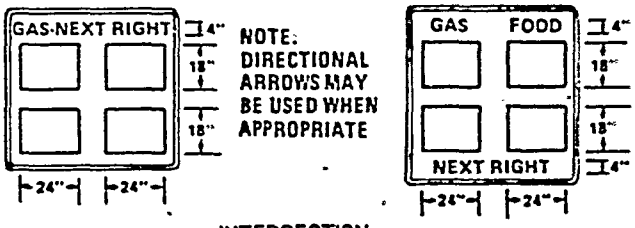
APPENDIX A -- SPECIFIC INFORMATION SIGNS



SINGLE EXIT INTERCHANGE

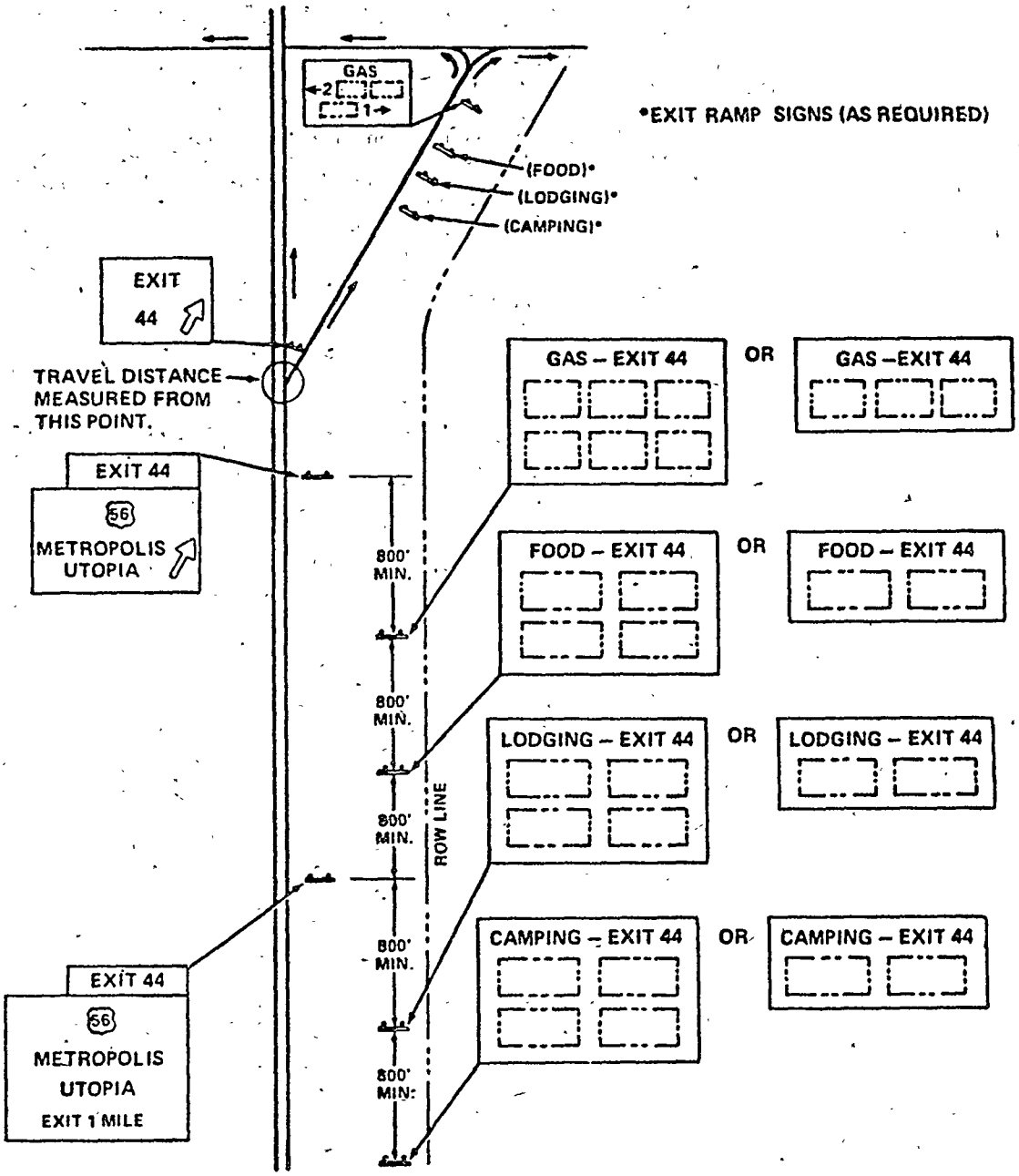


DOUBLE EXIT INTERCHANGE



INTERSECTION

TYPICAL SPECIFIC INFORMATION SIGNS



TYPICAL SIGNING FOR SINGLE EXIT INTERCHANGES

[FR Doc. 79-3739 Filed 2-1-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

PART 9—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REDUCTION ACT OF 1975

Certain Provisions for TRASOP's

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction; section number changed.

SUMMARY: This document corrects the numerical designation of the new section added to Part 9 of the Code of Federal Regulations by Treasury Decision 7589. The Treasury decision, published in the FEDERAL REGISTER for January 19, 1979, adopted temporary regulations relating to investment credit employee stock ownership plans ("TRASOP's"). The Treasury decision affects all employees who participate in TRASOP's and employees who establish TRASOP's.

DATE: This correction is effective as of January 19, 1979, the publication date of T.D. 7589 in the FEDERAL REGISTER. The regulations section to which this correction relates is generally effective for taxable years ending after January 21, 1975.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3589) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 19, 1979, the FEDERAL REGISTER (44 FR 4144) published Treasury Decision 7589. The Treasury decision provided temporary regulations relating to TRASOP's by adding a new section to 26 CFR Part 9, Temporary Income Tax Regulations under the Tax Reduction Act of 1975. However, the new section was erroneously designated as § 9.2

This document redesignates the newly-added section as § 9.3.

DRAFTING INFORMATION

The principal author of this document was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service.

Correction of Treasury decision:

§ 9.2 Redesignated as § 9.3

Accordingly, Treasury Decision 7589 as published in the FEDERAL REGISTER (44 FR 4144) on January 19, 1979, is corrected by redesignating § 9.2 as § 9.3.

GEORGE H. JELLY,
Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 79-3568 Filed 2-1-79; 8:45 am]

[4510-27-M]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 552—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Administrative Changes

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This rule amends the Wage and Hour Division regulations concerning the application of the Fair Labor Standards Act to domestic service workers to reflect 1977 amendments to that Act as well as to the Social Security Act. The amendment to the Fair Labor Standards Act raises the minimum wage, and the amendment to the Social Security Act changes the eligibility requirements from $50 per quarter to $100 annually. This rule implements those amendments.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, S-3508, Washington, D.C. 20210; (202) 523-7043.

SUPPLEMENTARY INFORMATION: Domestic service employees covered by the Fair Labor Standards Act include employees whose compensation constitutes wages under section 209(g) of Title II of the Social Security Act. The definition of wages under that Act was changed by the Social Security Amendments of 1977 from "compensation paid in cash during a calendar quarter totaling $50 or more" to "compensation paid in cash during a calendar *year* totaling *$100* or more" (emphasis added). This change was effective as of January 1, 1978. In addition, the minimum wage applicable to domestic service employees (section 6(b) of the Fair Labor Standards Act) was increased by the Fair Labor Standards Amendments of 1977 to $2.65 an hour, effective January 1, 1978, with annual increases to $2.90, $3.10, and $3.35 on each subsequent January 1st. These amendments to the Social Security Act and the Fair Labor Standards Act require corresponding changes in §§ 552.2(b) and 552.100(a)(1) of the regulations.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Wage and Hour Divison. Because the changes are not substantive but are merely to conform the regulations to legislative enactments, there is no requirement to publish for comment or delay the effective date.

1. Section 552.(b) of part 552, Title 29, Code of Federal Regulations is amended to read as follows:

§ 552.2 Purpose and scope.

* * * * *

(b) Section 2(a) of the Act finds that the "employment of persons in domestic service in households affects commerce." Section 6(f) extends the minimum wage protection under section 6(b) to employees employed as domestic service employees under either of the following circumstances: (1) If the employee's compensation for such services from his employer would constitute wages under section 209(g) of Title II of the Social Security Act, that is, if the compensation paid in cash during a calendar year totaled $100 or more (or, prior to January 1, 1978, during a calendar quarter totaled $50 or more); or (2) if the employee was employed in such domestic service work by one or more employers for more than 8 hours in the aggregate in any workweek. Section 7(1) extends generally the protection of the overtime provisions of section 7(a) to such domestic service employees. Section 13(a)(15) provides both a minimum wage and overtime exemption for "employees employed on a casual basis in domestic service employment to provide babysitting services" and for domestic service employees employed" to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves." Section 13(b)(21) provides an overtime exemption for domestic service employees who reside in the household in which they are employed.

* * * * *

2. Section 552.100(a)(1) of Part 552, Title 29, Code of Federal Regulations is amended to read as follows:

§ 552.100 Application of minimum wage and overtime provisions.

(a)(1) Domestic service employees must receive for employment in any household a minimum wage of not less than—

$1.90 an hour beginning May 1, 1974, $2.00 an hour beginning January 1, 1975, $2.20 an hour beginning January 1, 1976, $2.30 an hour beginning January 1, 1977, $2.65 an hour beginning January 1, 1978, $2.90 an hour beginning January 1, 1979, $3.10 an hour beginning January 1, 1980, and $3.35 an hour after December 31, 1980.

* * * * *

(Sec. 29(b), 88 Stat. 76; (29 U.S.C. 206(f)); Secretary's Order No. 16-75, dated November 25, 1975 (40 FR 55913), and Employment Standards Order No. 76-2, dated February 23, 1976 (41 FR 9016)).

Signed at Washington, D.C., this 26th day of January 1979.

XAVIER M. VELA,
Administrator,
Wage and Hour Divison.

[FR Doc. 79-3709 Filed 2-1-79; 8:45 am]

[7910-01-M]

Title 32—National Defense

CHAPTER XIV—RENEGOTIATOIN BOARD

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

Common Carriers by Water

AGENCY: Renegotiation Board.

ACTION: Final rule.

SUMMARY: The Board has amended its regulations concerning the exemption from renegotiation of common carriers and public utilities. This amendment extends the period of exemption for certain contracts with common carriers for transportation by water to October 1, 1976. In light of the Board's experience, the occurrence of excessive profits under these contracts is improbable. Furthermore, this amendment will relieve a number of contractors from making filings with the Board.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, Tel.: (202) 254-8277.

SUPPLEMENTARY INFORMATION: Under Section 106(a)(4) of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1216(a)(4)), certain contracts involving the furnishing or sale of transportation by a common carrier by water are exempt from renegotiation. Such contracts are exempt if they are subject to the jurisdiction of the Interstate Commerce Commission under Part III of the Interstate Commerce Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933. The Renegotiation Act of 1951 further provides that the exemption applies to other such contracts "* * * in any case in which the Board finds that the regulatory aspects of rates for such furnishing or sale, are such as to indicate, in the opinion of the Board, that excessive profits are improbable * * *." Pursuant to this authority, the Board had issued a regulation, 32 CFR 1453.3(d)(2)(i), which exempted all amounts received or accrued before January 1, 1976, under all prime contracts for transportation by common carrier by water at, or at rates below, rates or charges filed with, fixed, approved or regulated by the Federal Maritime Board before August 12, 1961, or by the Federal Maritime Commission on or after August 12, 1961, and all prime contracts with the Military Sea Transportation Service for transportation of cargo at rates or charges based upon the manifest meas>urement or manifest weight of the cargo. By this action, the Board extends this exemption to amounts received or accrued through September 30, 1976.

The Board has determined that this amendment is not a significant regulation under Executive Order 12044 and the Board's General Order No. 9.

The Board has amended Chapter XIV of 32 CFR as set forth below.

Dated: January 18, 1979.

GOODWIN CHASE,
Chairman.

§ 1453.3 [Amended]

32 CFR 1453.3(d)(2)(i) is amended by changing "January 1, 1976" to "October 1, 1976."

[FR Doc. 79-3701 Filed 2-1-79; 8:45 am]

[4110-85-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 50—POLICIES OF GENERAL APPLICABILITY

Subpart C—Abortions and Related Medical Services in Federally Assisted Programs of the Public Health Service

AGENCY: Public Health Service.

ACTION: Final rule.

SUMMARY: The Department is making a technical amendment to the regulations which govern Federal financial participation in expenditures for abortions supported with funds appropriated to the Department of Health, Education, and Welfare and administered by the Public Health Service. The citation of authority is being amended in order to indicate that these regulations remain in effect under the Departments of HEW and Labor Appropriations Act for fiscal year 1979.

EFFECTIVE DATE: These regulations are effective as of October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Marilyn L. Martin, Room 722H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, 202-245-7581.

SUPPLEMENTARY INFORMATION: Subpart C of 42 CFR Part 50 was originally promulgated pursuant to Pub. L. 95-205, the Department's Appropriation Act for fiscal year 1978. The language prohibiting the use of funds for certain abortions has been repeated in the Department's Appropriation Act for fiscal year 1979. Thus, the Department is reissuing Subpart C of 42 CFR Part 50 under the authority of Section 210 of Pub. L. 95-480, the Departments of HEW and Labor Appropriations Act for fiscal year 1979.

Because the reissuance of these regulations will not result in any substantive changes, the regulations will take effect immediately. Therefore, the authority citation in Subpart C of 42 CFR Part 50 is amended as set forth below.

Dated: December 27, 1978.

CHARLES MILLER,
Acting Assistant
Secretary for Health.

Approved: January 26, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

The authority citation at Subpart C of 42 CFR Part 50 is revised to read as follows:

AUTHORITY.—Sec. 101 of Pub. L. 95-205, 91 Stat. 1461; Sec. 210 of Pub. L. 95-480, 92 Stat. 1586.

[FR Doc. 79-3553 Filed 2-1-79; 8:45 am]

[4110-35-M]

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

Abortions

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

ACTION: Final regulations.

SUMMARY: This amends current regulations governing the Department's expenditures for abortions under the Medicaid program. This amendment is being made because of the expiration of Pub. L. 95-205, which appropriated funds for FY 78 and is the statutory basis for the current regulations, and the enactment of the Department of HEW and Labor Appropriations Act (Pub. L. 95-480), which appropriated funds for FY 79 and contains identical limitations on Federal funding of abortions as Pub. L. 95-205. This amendment simply amends the statutory basis for the current regulations, making them applicable to funds appropriated under Pub. L. 95-480.

EFFECTIVE DATE: These regulations are effective as of October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Cook, Room 4423, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, 202-245-0962.

SUPPLEMENTARY INFORMATION: Section 210 of the HEW appropriations act for fiscal year 1979 contains restrictions on the extent to which funds appropriated under that Act may be used for abortions. These restrictions are identical to those contained in section 101 of Pub. L. 95-205. These restrictions are that no Federal funds shall be used to perform abortions except: (1) where the life of the mother would be endangered if the fetus were carried to term; (2) for such medical precedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; and (3) in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Regulations implementing section 101 of Pub. L. 95-205 for the Medicaid program (Title XIX of the Social Security Act) were published on February 2, 1978, and republished on February 3, 1978 (43 FR 4570 and 4832). At that time, they were codified at 42 CFR part 449. Amendments to these regulations were published on July 21, 1978 (43 FR 31868). On September 29, 1978, as part of the Medicaid recodification project, these regulations were recodified, without substantive change, at 42 CFR Part 441, Subpart E, effective October 1, 1978 (43 FR 45176, 45229). The purpose of this amendment is to update the statutory basis for the current regulations and make them applicable to funds appropriated under Pub. L. 95-480. There is no change in the substance of the current regulations.

It should be noted that amendments to the regulations governing abortions under the social services programs administered by the Administration for Public Services, under title XX for programs in the States and titles I, IV-A, XIV and XVI (AABD) for programs in the territories, are also being published today. These amendments correct citations to the Medicaid regulations and update the statutory authority. This is necessary because the social services regulations incorporate these Medicaid regulations by cross-reference. (*See* 43 FR 4843 and 52173). In addition, amendments are also being published today which extend the current regulations governing the Federal funding of abortions under programs and projects administered by the Public Health Service, to cover funds appropriated by Pub. L. 95-480.

Notice of Proposed Rulemaking and a delayed effective date have been waived for three reasons. First, the limitations set forth in Pub. L. 95-480 are effective beginning on October 1, 1978, and there is a compelling need to provide immediate direction to the States and territories as to which abortions may be funded with appropriations for FY 79 under that Act. Second, the amendments simply extend the current regulations and, therefore, failure to provide advance notice does not require the States to vary the administration of their programs in any manner. Third, the regulations implement the identical statutory limitations which were implemented for FY 78, and the public was previously afforded opportunity to comment on these regulations.

42 CFR 441.200 is revised to read as follows:

§ 441.200 Basis and purpose.

This subpart implements the limitations on the Federal funding of abortions contained in section 101 of Pub. L. 95-205 and section 210 of Pub. L. 95-480.

Dated: November 28, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care, Financing Administration.

Approved: January 26, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare.

[FR Doc. 79-3555 Filed 2-1-79; 8:45 am]

[4110-92-M]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SERVICE PROGRAMS FOR FAMILIES AND CHILDREN, INDIVIDUALS AND FAMILIES, AND AGED, BLIND, OR DISABLED PERSONS

Federal Financial Participation in State Claims for Abortions

AGENCY: Administration for Public Services (APS), Office of Human Development Services (OHDS), HEW.

ACTION: Final rule.

SUMMARY: Amendments are being made to regulations governing the Federal funding of abortions under social services programs. These amendments are being made because of the recodification of the Medicaid regulations, which these regulations incorporate by reference, and because of the enactment of Pub. L. 95-480, which contains identical limitations on the Federal funding of abortions with FY 79 funds as were applicable to FY 78 funds. The amendments reflect the current section numbers of Medicaid regulations and keep the statutory authorization for the social services regulations current.

EFFECTIVE DATE: These regulations are effective as of October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Johnnie U. Brooks, Room 2225, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, 202-245-9415.

SUPPLEMENTARY INFORMATION: A recodification of all Medicaid regulations, without substantive change, was published on September 29, 1978, with an effective date of October 1, 1978 (43 FR 45176). The section numbers for regulations governing the Federal funding of abortions under the Medicaid program were changed under the recodification. Since the social services regulations cross-reference the Medicaid regulations (*see* 43 FR 4843 and 52173), it is necessary to amend the social services regulations to reflect this change.

In addition, we are extending the current regulations governing the Federal funding of abortions under social services programs which are administred by APS. The basis and purpose for this extension is the same as that set forth in the preamble to an amendment, which is published elsewhere in today's issue of the FEDERAL REGISTER, which extends the current Medicaid regulations governing the funding of abortions. We are amending the authority section of the social services regulations to keep that section current by including the statutory provision which serves as the basis for the extension, section 210 of Pub. L. 95-480.

The preamble to the amendments to the Medicaid regulations also explains our reasons for waiving notice of proposed rulemaking and a delayed effective date. 45 CFR Chapter II is amended as follows:

1. Part 220 is amended by revising the authority statement following the table of contents to read as follows:

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV, PARTS A AND B OF SOCIAL SECURITY ACT

* * * * *

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); sec. 101 of Pub. L. 95-205, 91 Stat. 1461; sec. 210 of Pub. L. 95-480, 92 Stat. 1586.

* * * * *

2. Part 220, § 220.21 is amended by revising paragraph (b) to read as follows:

§ 220.21 Family planning services.

* * * * *

(b) Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.208

* * * * *

3. Part 222 is amended by revising the authority statement following the table of contents to read as follows:

PART 222—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

* * * * *

AUTHORITY: Sec. 1102, 102-103, 1002-1003, 1402-1403, 1602-1603 of the Social Security Act, 42 U.S.C. 1302, 302-303, 1202-1203, 1352-1353, 1382-1383 (AABD); sec. 101 of Pub. L. 95-205, 91 Stat. 1461; sec. 210 of Pub. L. 95-480, 92 Stat. 1586.

4. Part 222, § 222.59 is amended by revising subparagraph (b)(1) to read as follows:

§ 222.59 Services to individuals to meet special needs.

* * * * *

(b) Regarding the provision of family planning services:

(1) If a State authorizes abortions, Federal financial participation in State claims is governed by 42 CFR 441.200 through 441.208.

* * * * *

5. Part 228 is amended by revising the authority statement following the table of contents to read as follows:

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

* * * * *

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); sec. 101 of Pub. L. 95-205, 91 Stat. 1461; sec. 210 of Pub. L. 95-480, 92 Stat. 1586.

* * * * *

6. Part 228, § 228.92 is amended to read as follows:

§ 228.92 Federal financial participation in State Claims for Abortions.

Federal financial participation in State claims for abortions is governed by 42 CFR 441.200 through 441.208.

Dated: November 30, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: January 26, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare.

[FR Doc. 79-3554 Filed 2-1-79; 8:45 am]

[6730-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—VESSEL OPERATING COMMON CARRIERS BALANCE SHEET AND INCOME STATEMENTS REPORTS

[Docket 78-21; General Order 11, Amdt. 4]

PART 512—FINANCIAL REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Average Value of Rate Base

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is revising its regulations which govern the financial reports by common carriers by water in the domestic offshore trades. This change will require common carriers by water in the domestic offshore trades to provide for the computation of the average value of rate base. The use of the average value instead of the beginning of the year rate base—which is currently used—will provide a more accurate calculation of the rate of return on rate base.

EFFECTIVE DATE: This amendment shall be effective March 5, 1979, and shall be applicable to proceedings institutued on and after that date.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTAL INFORMATION: This proceeding was instituted by Notice of Proposed Rulemaking published in the FEDERAL REGISTER on *June 16, 1978* to amend § 512.7 of the Commission's General Order 11 (46 CFR Part 512). The purpose of this amendment is to provide for construction of a midyear or average value rate base. Such a rate base will better represent the actual extent of assets devoted to a trade throughout the year, as opposed to a rate base constructed at the beginning of the year, as currently required.

In its Notice the Commission recognized the fact that a rate base value for the beginning of the year indicates a value which is proper for only one point in time and not for the entire period. Because of accounting depreciation, the beginning of the year value of rate base will be steadily eroded throughout the period. Similarly, an end of the year rate base is only

proper for that one point in time. A more appropriate value for rate base would be the average value.

Comments with respect to the proposed rules were received from (1) Matson Navigation Company (Matson), (2) Military Sealift Command, (MSC) and (3) Council of American-Flag Ship Operators (CASO).

Matson did not object to the proposed rule provided its application was to be prospective only and not used as a guide in determining the reasonableness and lawfulness of rate increases which were filed before the adoption of the rule. Matson requested that the report of the Commission promulgating the proposed rule specifically recite that the rule is not intended to be used in determining the reasonableness and lawfulness of rate increases filed prior to its adoption. The Commission accepts this to be a reasonable request.

MSC's comments addressed two issues. The first dealt with whether this rulemaking proceeding is intended to establish a substantive rule for application in rate cases as well as a reporting rule. The Commission intends for this rule to be applicable to both rate cases and annual reporting requirements. MSC also took the position that an end of the year rate base is preferable to an average rate base. This position is based on the proposition that it is unfair to require ratepayers to support both depreciation, a current expense, and a return on rate base that includes any part of that depreciation.

As previously discussed, the Commission recognizes the fact that a rate base value at the beginning of the year indicates a value which is proper for only one point in time and not for the entire period. Similarly an end of year rate base is proper only for that one point in time. The average rate base would correct for the overstated value created by using a beginning of the year rate base and the understated value of rate base which results from the use of end of the year values. The Commission feels the use of the average rate base more properly balances the interests of both the carriers and the ratepayers.

Comments submitted by CASO were opposed to the amendment based on historical acceptance of the present method. The Commission feels that historical acceptance of a particular method does not necessarily preclude the evolvement of a better method. Further, as discussed previously, it is the opinion of the Commission that the use of average rate base will better balance the interests of the carriers and the ratepayers.

CASO also commented that in computing the working capital portion of the rate base, terminated voyage expenses are included without the benefit of averaging to reflect increases in operating expenses. It is the Commission's view that the working capital computation allows the maximum fair allowance for working capital in the rate base. Furthermore, the fact that terminated voyages occur throughout the accounting period tends to result in the averaging of expenses, much in the manner advocated by CASO.

Therefore, pursuant to the authority of sections 18, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 841), sections 2, 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a) and 847 and section 4 of the Administrative Procedure Act (5 U.S.C. 553); § 512.7 of Title 46 CFR is amended to read as follows:

§ 512.7 [Amended]

In § 512.7(b)(2) *Reserve for Depreciation—Vessels (Schedule II(i)*, the second sentence is amended to read as follows: For vessels owned for the entire year the accumulated reserve for depreciation for the beginning and the end of the year shall be reported and the arithmetic average thereof shall be allocated to The Service and to The Trade in the same proportion as is the cost of the vessel in Schedule I.

Subdivision (ii) is amended by adding a new sentence at the end reading as follows: The reserve for depreciation upon which the deduction is calculated shall be the average of the reserves for depreciation at the beginning of the year and at date of disposal.

A new subdivision (iii) is added as follows: (iii) For any vessels acquired during the period, an addition shall be made representing one-half of the reserve for depreciation on that vessel at the end of the year.

In § 512.7(b)(3)(i) the following three sentences will replace the first sentence: Actual invesment, representing original cost to the carrier, or to any related company, in other fixed assets employed in The Service shall be reported as at the beginning of the year. Accumulated reserves for depreciation for these assets shall be reported as at both the beginning and the end of the year. The arithmetic average of the reserves shall also be shown and shall be the amount deducted from original cost in determining rate base.

The following sentence is to be added to the end of existing § 512.7(b)(6): Where other assets are subject to depreciation, the amount of the reserve to be subtracted from the original cost in determining the component of rate base shall be the arithmetic average of the reserve for depreciation at the beginning and the end of the year.

The following sentence will be added between the existing second and third sentences of § 512.7(b)(7): In calculating depreciated costs, the reserve for depreciation to be deducted from the original cost shall be the arithmetic average of the reserve for depreciation at the beginning and the end of the year.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-3551 Filed 2-1-79; 8:45 am]

[6730-01-M]

[Docket 78-5: General Order 11, Amdt. 5]

PART 512—FINANCIAL REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Capitalization of Interest During Construction

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is revising its regulations which govern the financial reports by common carriers by water in the domestic offshore trades. This change will require common carriers by water in the domestic offshore trades to capitalize interest incurred during a period of construction in determining the value of an asset to be included in rate base. The capitalization of interest incurred during construction will assign a more accurate cost to the asset and permit a carrier to earn a rate of return on rate base which is more conceptually correct.

EFFECTIVE DATE: This amendment shall be effective March 5, 1979, and shall be applicable to assets the construction of which was completed after December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTAL INFORMATION: Pursuant to the authority of sections 18, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 841), sections 2, 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a) and 847) and section 4 of the Administrative Procedures Act, (5 U.S.C. 553); the Federal Maritime Commission, hereinafter referred to as the Commission, is authorized and directed to make rules and regulations affecting Vessel Operating Common Carriers in the Domes-

tic Offshore Commerce of the United States.

Part 512 of the Commission's regulations requires the filing of rate base and income account statements from vessel operating common carriers. These statements aid the Commission in the discharge of its duties by providing data used in evaluating the reasonableness of rates for the carriage of cargo and insure that the level of the rates which produce profits are commensurate with the carrier's cost of capital.

This proceeding was instituted by Notice of Proposed Rulemaking published in the FEDERAL REGISTER on March 24, 1978, to amend section 512.3 of the Commission's General Order 11 (46 CFR Part 512) by adding a new paragraph (j).

The purpose of this amendment is to require domestic offshore vessel operating common carriers to capitalize interest during a period of construction. The capitalization of such interest will result in the inclusion in rate base of a more accurate cost of assets employed and allow a carrier to recover this cost in future rate structures.

Comments were received from six interested parties, one of which merely endorsed the proposed rule. Two commentators advocated the use of interest rates other than the prime rate as proposed. One suggested the utilization of the weighted average of rates paid by the particular carrier on all of its outstanding long-term issues. The other proposed using actual rates for borrowings and prime rate for equity funding.

In its reply, Hearing Counsel recited a number of reasons against adopting either of these proposals. Long-term debt averaging is not totally without merit, but not all financing comes from long-term debt. Loans payable within one year may contribute to funding construction. Furthermore, since such a method would not take into account equity financing, the average could be skewed by rates on funds not used for construction. The use of actual rates is even less attractive. Funding may come from several sources, such as bank borrowings, general purpose bond issues and equity. Identification of a specific amount from a specific source with a special asset may prove impossible. Also, the classification of a borrowing from a related company as debt or equity may prove difficult.

In addition to the foregoing, carriers building identical assets may be charged different rates based on credit rating. Thus, the less efficient carrier in all likelihood would achieve a higher rate base than the more efficient one. The Commission believes that, lacking conclusive arguments in favor of an alternative, the ease of administration of the prime rate makes its adoption appropriate. It may be noted that one commentator specifically endorsed utilization of the prime rate for that reason.

Comments received also recommended broadening application of the rule, both as to cost and period covered. It was suggested that all costs which are capitalized under generally accepted accounting principles should be included within the scope of the rule. It is the Commission's understanding that certain of these costs are significant sums and result in a number of payments over a period of time which are readily identifiable. Others involve smaller amounts, may result in a single payment, and/or present difficulties in verification. Having given due consideration to this matter, the Commission finds that periodic payments to a firm under contract to perform such services as asset design, engineering studies and performance inspections may appropriately be taken into account in computing the cost of funds during construction. However, broadening the application of the rule to include the multitude of items which may be appropriately capitalized would result in administrative complexity without significant benefit to the carrier.

One commentator questioned the nature of the rule, raised several procedural questions and equated treatment under the proposed rule to income tax treatment. The proposed rule will affect the computation of rate base and will impact on all matters which involve rate base, including the evaluation of ratemaking by carriers. The rule is substantive and is intended to provide for a more accurate computation of the value of assets devoted to the domestic offshore trades. Also, the Commission believes that income tax treated should not be an overriding consideration in regulatory ratemaking. It is the Commission's responsibility to develop a proper basis for the evaluation of the propriety of carrier rates, irrespective of how certain items are treated for tax purposes.

Several comments received were considered to have merit. It was suggested that the calculation of capitalized interest be shown only once and be incorporated by reference in subsequent reports. Recommendations were also made to include assets constructed by related companies, and to consider only those strikes which delay construction in computing the 12-month period. Hearing Counsel recommended substitution of the term carrier for company and making capitalization mandatory. These comments have been taken into account in the composition of the final rule.

Therefore, § 512.3 of the Title 46 CFR is amended by adding a new paragraph, designated § 512.3(j), and reading as follows:

§ 512.3 General requirements.

* * * * *

(j) *Interest during construction.* Interest shall be capitalized on all funds, including the carrier's own funds, actually employed in the design, engineering study, performance inspection, construction, reconstruction or reconditioning of a capital asset. Such asset shall be owned in a carrier's own name or in the name of any of its related companies. Should a carrier capitalize such interest on assets of related companies, said companies shall produce any information related to the assets upon request of the Federal Maritime Commission, its employees or agents. Interest during construction shall be eligible for capitalization when all of the following conditions and requirements are met:

(1) The construction period must be 12 months or greater. For the purpose of this part, the construction period begins when construction work commences on the asset and ends when the asset is ready for use by the carrier. Strike periods, during which construction is delayed for eight consecutive days or more, must be eliminated when determining whether or not the 12-month requirement is met.

(2) Payments must be made on a periodic basis during the period of design and construction.

(3) Interest shall be calculated starting with the first payment and on each payment thereafter. The rate employed shall be the average prime rate for the month in which the payment is made as set forth in the Federal Reserve Bulletin.

(4) A detailed description of the interest calculations made, including the name of the construction company employed and firm or firms performing design, engineering, and/or inspection services, shall be set forth on a separate schedule for each capital asset included in a rate base of the carrier, in the first year of such inclusion, for which interest capitalization has been employed. Such capitalized interest shall be included in rate base when the asset is included in rate base in accordance with § 512.7(b) and in the same allocable amounts as the asset. A schedule shall be provided with each rate base statement setting forth the year in which an interest calculation statement was submitted for each asset which includes capitalized construction interest in the rate base. The following is a simplified example of the interest calculation:

ABC COMPANY, INC.—*December 31, 1979*

Description of Asset: *SS Steamship*

Dates of Construction: May 1, 1977 to Apr. 30, 1979

Payment date	Payee	Payments	Prime rate	Months from payment to delivery	Interest
			Percent		
Oct. 31, 1976	J&J	$25,000	7.0	30	$4,375
Apr. 30, 1977	J&J	25,000	8.0	24	4,000
May 31, 1977		Construction Commenced			
Oct. 31, 1977	XYZ	25,000,000	7.0	18	2,625,000
Apr. 30, 1978	XYZ	25,000,000	7.5	12	1,875,000
Oct. 31, 1978	XYZ	25,000,000	8.0	6	1,000,000
Apr. 30, 1979	XYZ	25,000,000	7.0	0	
		100,050,000			5,508,375

Design, engineering and inspection services performed by: Jones and Jones, P.C. (J&J).
Constructed by: XYZ Construction Co. (XYZ).

(5) The effects of the interest during construction provisions shall be calculated on work completed after December 31, 1977.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-3552 Filed 2-1-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21357; RM-2874; RM-2938]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Antigo, Wis. and Hart, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: FCC assigns Class C FM Channel 287 to both Hart, Michigan and Antigo, Wisconsin, almost 180 miles away. In assigning the channel to Antigo, the Commission modified the license of Station WATK-FM to specify operation on Channel 287 in lieu of its present channel, 285A. This action will bring a higher powered facility to Antigo, Wisconsin, and is expected to bring a first FM radio station to Hart, Michigan. The proposed channel assignments resulted from a petition filed by Antigo Broadcasting Company and a counterproposal submitted by John D. DeGroot.

EFFECTIVE DATE: March 7, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: January 22, 1979.

Released: January 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Antigo, Wisconsin and Hart, Michigan), Docket No. 21357. RM-2874, RM-2938. See 42 FR 56346, October 25, 1977.

1. The Commission has before it the *Notice of Proposed Rule Making*, 42 FR 41305, released August 10, 1977, which proposed the substitution of FM Class C Channel 287 for FM Channel 285A at Antigo, Wisconsin. Comments were filed by Antigo Broadcasting Company ("ABC"), licensee of Stations WATK and WATK-FM, Antigo, Wisconsin, the original proponent in this proceeding. John D. DeGroot ("DeGroot") submitted a counterproposal proposing the assignment of Channel 287 to Hart, Michigan.[1]

2. Although the distance between the WATK-FM site at Antigo and the Hart city reference is approximately 271 kilometers (168 miles) and thus approximately 19 kilometers (12 miles) short of the required spacing, it would be possible to assign Channel 287 to both communities if the petitioners are willing to compromise in their site requirements. According to a supplemental pleading filed by both parties, they have accomplished that end. The parties state that the required spacing can be met if the Antigo transmitter is located some 17.7 kilometers (11 miles) north of the city and the transmitter at Hart is located some 4.3 kilometers (2.7 miles) southeast of Hart. However, we note that the distance between the transmitters is actually .88 kilometers (0.55 miles) short of the required separation of 290 kilometers (180 miles). Thus, a slight adjustment (that is about 0.05 miles) in transmitter sites would be necessary to meet Commission spacing requirements. Since we believe this will not create any difficulty for petitioners, the need for a minor adjustment in transmitter locations will not prevent an allocation of Channel 287 to both Antigo[2] and Hart.

3. Since the question of whether it is possible to allocate Channel 287 to both communities has been answered in the affirmative, it is now necessary to consider whether these two relatively small communities warrant the assignment of a Class C channel. We believe that the following description of Antigo and Hart will aid in this evaluation. Antigo with a population of 9,005[3] is located in Langlade County (pop. 19,220) and is 256 kilometers (160 miles) northwest of Milwaukee, Wisconsin. Antigo is served by Stations WATK-FM (Channel 285A) and daytime-only AM Station WATK, both licensed to ABC, the Antigo proponent. According to petitioner, the service area on its present Class A channel (285A) is limited and beyond its pres-

[1] In August of 1978, David C. Schaberg filed a petition for rule making (RM-3191) proposing that Channel 287 be assigned to Big Rapids, Michigan, as its second FM allocation. This proposal is in conflict with the allocation of Channel 287 to Hart, Michigan. However, since the time for filing a counterproposal to the Hart proposal terminated almost a year before the Big Rapids petition was submitted, the Big Rapids proposal is not timely and will not be considered in the instant proceeding.

[2] Since no other party has expressed interest in applying for Channel 287 at Antigo, the proposal for that city only involves modification of ABC's license; whereas, the Hart proposal contemplates a channel allocation subject to applications by all interested parties.

[3] All population figures are taken from the 1970 U.S. Census.

ent primary service lie areas which would be served by petitioner's proposed Class C facility. It points out that parts of this gain area have no FM service and some parts have one FM service. Petitioner notes that Antigo is the only city in Langlade County and has nearly half the county's population. It asserts that the city is the trading center for the area to the north and east where there is a scarcity of service. It adds that Antigo is also the commercial and media center for a wide area and is relied on by residents of surrounding areas for information and entertainment.

4. Hart, with a population of 2,139, is the seat of Oceana County (pop. 17,984) and is 148 kilometers (90 miles) northeast of Milwaukee, Wisconsin. Hart has no AM stations licensed to it or allocated FM channels. According to DeGroot, Hart also is not within the 1 mV/m contour of any FM stations. Furthermore, he states that substantial portions of Oceana County are without any FM service. Therefore, petitioner submits that the assignment of a Class C channel to Hart will for the first time provide Hart and Oceana County with greatly needed primary service. Also, DeGroot states that the assignment of a Class A channel to Hart would not enable a station operating on it to furnish a 1 mV/m signal to the eastern and northeastern portions of the county. The county is primarily an agriculturally oriented area specializing in fruit and vegetable crops with the industry in Hart basically oriented toward the fruit business. Emphasis is also placed, however, on tourism. To the west of Hart is the Lake Michigan shoreline and the Silver Lake sand dunes and state park. Another state park is located at Pentwater about 11 kilometers (7 miles) northwest of Hart. In addition, the Oceana Parks and Recreation Commission operates nine county parks. According to petitioner, these parks attract a tremendous influx of people on "peak" occasions with the population swelling to 57,002 (or a 154.5% increase) at such times. DeGroot also submits that the county receives heavy winter snowfall which frequently closes schools and businesses. Storms blow in without warning from Lake Michigan. A local radio service would enable many of the residents of the county to receive timely information during such emergencies.

5. Upon careful consideration of the comments filed, we believe it would be in the public interest to assign Channel 287 to both Antigo and Hart. The allocation to Antigo would bring first FM and first nighttime aural service to 457 persons and second FM and second nighttime aural service to 3,895 persons. In regard to Hart, although the assignment of Channel 287 would not bring a first or second nighttime aural service, it would bring a first FM service to approximately 400 persons and a second FM service to approximately 15,000 persons.

6. As to the matter of preclusion, we see no difficulty with the proposed assignments. Although allocation of Channel 287 to Antigo would preclude the use of Channels 287 or 288A to twenty-six communities with populations greater than 1,000, fourteen of these communities have AM and FM stations or assignments. Of the remaining twelve only six communities have populations over 2,500. Petitioner has shown that channels are available for assignment to five of these six communities. With respect to Hart, the assignment of Channel 287 would preclude the use of that channel to twelve communities of greater than 1,000 population. Of these twelve, only four communities have neither FM stations or assignments or AM stations. However, none of the four communities have populations of more than 2,500. In view of the limited preclusion caused by the proposed assignments, the *Roanoke Rapids-Anamosa*[4] showings and the apparent need for a Class C assignment to both communities, it is appropriate that Channel 287 be assigned to Antigo and Hart.

7. Since these communities are located within 402 kilometers (250 miles) of the U.S.-Canada border, the assignment of Channel 287 to both communities has been coordinated with the Canadian Government. It interposes no objection to these assignments.

8. The *Notice* stated that if no other person expressed an interest in the proposed assignment of Channel 287 at Antigo, the license of Station WATK-FM could be modified to specify the Class C channel.[5] Since no other party has expressed an interest in the proposed frequency, Channel 287 will be substituted for Channel 285A at Antigo, Wisconsin, and the license of Station WATK-FM will be modified. Station WATK-FM on Channel 287 must be located at a site complying with the minimum distance separation requirements, as indicated in paragraph 2, *supra*.

9. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules: *It is ordered*, That effective March 7, 1979, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the following communities:

City: Hart, Michigan and Antigo, Wisconsin; Channel No. 287.

[4] *Roanoke Rapids, N.C.*, 9 FCC 2d 672 (1967) and *Anamosa and Iowa City, Iowa*, 46 FCC 2d 520 (1974).

[5] This type of procedure was outlined in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

10. *It is further ordered*, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Antigo Broadcasting Company for Station WATK-FM, Antigo, Wisconsin, is modified, effective March 7, 1979, to specify operation on Channel 287 instead of Channel 285A. The licensee shall inform the Commission in writing no later than March 7, 1979, of its acceptance of this modification. Station WATK-FM may continue to operate on Channel 285A for one year from the effective date of this action or until it is ready to operate on Channel 287, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 287 the licensee of Station WATK-FM shall submit to the Commission the technical information normally required of an applicant for Channel 287, including that connected with a change in the transmitter site;

(b) At least 10 days prior to commencing operation on Channel 287, the licensee of Station WATK-FM shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WATK-FM shall not commence operation on Channel 287 without prior Commission authorization.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307.))

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

[FR Doc. 79-3720 Filed 2-1-79; 8:45 am]

[6712-01-M]

[Docket No. 21474; RM-1968; RM-2810; RM-2978; FCC 78-920]

PART 73—RADIO BROADCAST SERVICES

Amending Broadcast Equal Employment Opportunity Rules and FCC Form 395

AGENCY: Federal Communications Commission.

ACTION: First Report and Order.

SUMMARY: The FCC made some changes in its equal employment opportunity (EEO) rules and forms for broadcasting. It changed the instructions on its annual employment report (Form 395) to make them easier for broadcasters to follow. Also, broadcasters will supplement Form 395 by placing with it in their local station

files for public inspection a list ranking station employees in order of salary, but without giving dollar amounts, stating job title, race/ethnic group, sex and Form 395 job category in which the employee is classified. These lists will be filed with the FCC every three years as part of the station's renewal application. The FCC also changed to new terminology for race and ethnic groups to conform with Office of Management and Budget standards. Finally, it consolidated several broadcast EEO rules into one rule, new § 73.2080 (47 CFR 73.2080).

EFFECTIVE DATE: April 1, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

FIRST REPORT AND ORDER

Adopted: December 21, 1978.

Released: January 29, 1979.

By the Commission: Commissioner Quello concurring in the result; Commissioner White concurring and issuing a statement in which Commissioner Washburn joins.

In the matter of amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395, Docket No. 21474, RM-1968, RM-2978, RM-2810. See 43 FR 35356, August 9, 1978.

1. We have before us our *Notice of Proposed Rule Making*, 66 F.C.C. 2d 955 (1977), 42 FR 60168, November 25, 1977, in this proceeding and comments and reply comments [1] concerning our broadcast equal employment opportunity (EEO) rules [2] and our Annual Employment Report, Form 395, as they apply to minorities and women.

2. This *First Report and Order* will not deal with our *Further Notice of Proposed Rule Making* in this proceeding, 43 FR 30078, July 13, 1978, in which we asked for comment on whether we should extend our EEO rules to include the handicapped, and if so, how to go about it. Because of the comments and requests for extension of time to comment on the *Further Notice*, we realize that we should allow parties and ourselves more time for the new issues than is necessary to conclude the original part of the proceeding.

BACKGROUND

3. Our broadcast EEO rules forbid discrimination in employment "because of race, color, religion, national origin, or sex" and affirmatively require all broadcast licensees and permitees to "establish, maintain and carry out, a positive continuing program of specific practices designed to assure equal employment opportunity in every aspect of station employment and practice." Stations with five or more full time employees must file the Form 395 Annual Employment Report, which was modelled after the Equal Employment Opportunity Commission's (EEOC) EEO-1 form, giving a breakdown of employees by several job categories [3] and by specified race and ethnic groups and sex. Such stations must also file a written EEO program, covering the specified race and ethnic groups and women, in applications for new stations and assignment and renewal applications. Stations with 50 or more employees must fill out a section of the written EEO program showing a list of all job titles within each 395 category and showing the number of incumbents in the specified groups and by sex. Stations with five or more but fewer than 50 employees file an updated Form 395 with such applications.

4. We use the data from the 395 forms to issue statistics on employment in the broadcast industry periodically and in reviewing the EEO programs of individual stations, mostly in connection with their triennial renewal applications. Members of the public seeking information on a station's employment practices also consult the forms, which are placed in a station's public file. Thus, they may be used in connection with negotiations between community groups and licensees over employment issues and in petitions to deny or informal objections filed against renewal and other licensing applications.

THE NOTICE

5. We issued the *Notice* in response to numerous formal and informal requests to revise Form 395 as well as requests to require additional information. We noted that the most recurring criticism of the form is that its use results in an inaccurate and misleading picture of minority and female employment because the job categories are too vague. We cited several studies which supported the proposition that upgrading of job titles of minority and female employees into unduly high job categories occurs.[4] This is an important problem since we do rely on percentages of minorities and women in the upper four job categories in renewal cases where licensees' employment practices are at issue.

6. Attached to the Notice were several proposals for redefining the job categories on the form. The proposals fall into two categories—those basically keeping the present categories and refining the instructions, and those proposing entirely new categories more specific to broadcasting or more specifically aimed at finding out who the real decisionmakers at a station are. The Notice also requested comment on whether we should require such additional information as information on hires, reasons for terminations, salaries and organizational charts, all of which would be required to be filed annually with Form 395. The Notice also observed that some of this information is already required to be filed in the recently changed EEO section in renewal and other applications and left open the option that improved employment information might better be considered in conjunction with the EEO programs in the renewal applications. Finally, the Notice proposed changes in the terminology describing race and ethnic categories according to the Office of Management and Budget's (OMB) revised "Race and Ethnic Standards for Federal Statistics and Administrative Reporting." We received a large number of comments both on the proposals to change Form 395 and on the proposals to require other information—on salaries, terminations, organizational charts, etc.

COMMENTS

7. *Form 395.* There was an especially wide range of comments on the proposals to change Form 395; indeed, it

[1] A list of about 144 parties which commented is attached as Appendix A. Also, there were about 115 more informal comments, mostly from broadcast station employees.

[2] The EEO rules for the various broadcast services are §§ 73.125, 73.301, 73.599, 73.680 and 73.793. The rules have identical wording, and as a housekeeping measure, this *Report and Order* will also remove them from the separate broadcast service Subparts of the rules and replace them with one EEO rule in Subpart H, Rules Applicable in Common to Broadcast Stations. The new EEO rule will be § 73.2080.

[3] Form 395's job categories are officials and managers; professionals; technicians; sales; office and clerical; craftsmen; operatives; laborers; and service workers. There are few jobs reported in the last three categories in broadcasting. In discussing employment issues in our renewal cases we examine employment in the upper four (officials and managers through sales) categories as well as overall employment to see if minorities and women are employed in positions of responsibility.

[4] We noted studies submitted by Dr. John Abel and Ms. Judith E. Saxon of Michigan State University; the U.S. Commission on Civil Rights; and a report by the Office of Communication of the United Church of Christ that while the number of women and minorities reported in the upper four job categories at TV stations has been increasing over several years, the number of jobs reported in those categories has also increased, while jobs reported as officer and clerical have decreased. This, it is urged, reflects an artificial upgrading of job classifications since many of these upper positions are little more than clerical in nature.

seemed that each party had different suggestions on how to improve one or more of the several proposals. There was also quite a bit of argument over where specific job titles should fit as well as on how to frame and define job categories.

8. Supporters of the proposals changing the categories substantially were of the view that more precise categories and definitions for broadcasting would eliminate job title upgrading so that the annual reports would give a truly accurate picture of a station's employment profile. The arguments in favor of keeping the present form boil down to not destroying the data base which has been built up over the last seven years and retaining the ability to compare broadcasting with other industries, one of the reasons the Commission gave for adopting the present form, which is similar to the EEOC's Form EEO-1.

9. No only would changing the form drastically impair our ability to see trends in the entire industry, we are told, but we would also not be able to compare a station's current employment with its past employment in analyzing the effect of its EEO program. One party said that the fact that the proposals differ so much from each other, as to which job should be placed where, shows that it is necessary to rely on a licensee's good faith determination. In this regard, some multiple owners supplied us with examples from their own stations, where individuals with the same title at different stations performed different functions; conversely, persons performing the same function at the several stations had different titles. At any rate, we are told, at any individual station, the clasifications would not change over time.

10. Some stations have to file EEO-1, and they oppose changing the form on the grounds that they do not want to have to prepare two sets of records. However, there is a small number of licensees.

11. Some parties suggested that small stations should be exempt from filing the forms. Others stated that all should file, even those with fewer than five employees, since people tend to start in the broadcast industry at the smallest stations and work their way up to larger stations and larger paychecks. Thus, it is urged, it is important to assure equal employment opportunity at the gateway to a career in broadcasting. One party argued that AM-FM conbinations should not be permitted to file a combined report, suggesting that a station with all white employees could purchase another in the same city with all black employees and thus evade the intent of our EEO rules.

12. Specific comments were made on each individual proposal to change the form, and many parties offered additional suggestions and observations. For example, it was asserted that the National Organization for Women (NOW) and the Commission on Civil Rights (CCR) categories (two of the proposals attached to the Notice) are so limited that only a few employees could be reported in each category and many jobs would not fall into any category. Some of the proposals tried to get at the heart of the paper upgrading problem by dividing officials and managers up so as to differentiate true management types from employees who merely supervise one other low level employee. However, it was pointed out that at most stations there are so few employees at the top that there would be only one or two in each category anyway and consequently, a change of one employee could alter percentages drastically. There were quite a number of other individual suggestions aimed at distinguishing the decision makers from other employees at stations.

13. *Salaries, Terminations and Organizational Charts.* The Notice also invited comment on whether we should require annual filing of additional information such as data on salaries, terminations and organizational charts. The theory behind this is that a comparison of salaries and other information requested will show whether two jobs with similar titles, e.g. department head, really are similar in importance and responsibility, and, importantly, salary information will also give a good indication of whether minorities and women are achieving parity in earnings. General arguments against requiring this additional information are that we would be burdening broadcasters with too much additional paperwork—already they spend more time and fill out more pages on employment than on programming, we are told—and that FCC is exceeding its jursidiction. We were advised not to rely on *Bilingual Bicultural Coalition on Mass Media, Inc.* v. *F.C.C.*, 492 F. 2d 656 (1974) (Bilingual I) as a basis for requiring what in essence allegedly would be mass discovery of an entire industry. In any event, we were told, we already obtain much of this information in the model EEO program in renewal and other applications, and we should wait until this requirement has been in effect longer before we decide whether we need more information. It may be necessary to obtain so much information in a specific case, some opponents conceded, but there is no reason to get it routinely from the entire industry. Besides, if a person feels he has been discriminated against, he can always file a complaint, it was alleged.

14. *Salaries.* Many broadcasters argued against having to submit this information both on grounds of their own interest and to protect the privacy of their employees. As one party put it, many persons, whatever their salaries, have reasons not to have the exact amount of their earnings made available to banks, stores, creditors, former spouses, family members, friends, enemies and prospective employers. We received over a hundred letters from broadcast employees protesting the idea of having their salaries made public. While some parties suggested various schemes to avoid individual identification with a specific salary, such as listing employees' titles in salary ranges, listing the high and low salary for each position, etc., there was general agreement that, except at the largest stations, it would be impossible to conceal the salary received by an identifiable individual because there would be so few people in each category. It was argued that requiring this information on a form available to the public would violate the Privacy Act and also the confidentiality of the Form 324, the Annual Financial Report for broadcast stations, since salaries are a large component of expenses. On the other hand, certain parties said that if salaries could not be placed in the public file or released to the public, what good would submitting this information be, since the information could not be used as a basis for a petition to deny or negotiation. Turning to the value of obtaining salary information, we were told that salaries vary for so many reasons, including geography, that they would be useless for any nationwide comparison. Moreover, some broadcasters suggested that salaries are not an infallible guide to status, citing examples of account executives earning more than the general manager and other employees paid according to a union contract who make more than their supervisors.

15. *Organizational Charts.* There was opposition to filing organizational charts by broadcasters, while public interest groups did not feel that the burden of filing an organizational chart would be onerous. Some broadcasters stated that many stations did not regularly prepare such charts and that, in any event, they are meaningless at a small station, where each person may perform several functions, such as announcer, salesperson, etc., and where everyone reports to the same person, the manager.

16. *Terminations.* The weight of the arguments of broadcasters, as well as of other commentators, was against revealing the reasons for terminations to the Commission. Generally, such disclosure was viewed as being against the interests of both employer and

employee. Opponents argued that to make these reasons public would violate the privacy of the employee. Indeed, it was noted that some reasons for termination could be quite embarrassing and consequently an employee's reputation might be ruined and he might have difficulty finding another job. This would be particularly injurious, it was argued, if a person made a mistake early in life, as he could not reform his reputation and get another chance. As a practical impediment, it was pointed out that often civil rights agreements contain specific provisions requiring the employer to expunge the reasons for termination from the complainant's file.

17. Another argument against such disclosure was that the employer would be required to retain adequate documentation to defend the publicly given reason for termination, since it might be open to defamation suits, among other things. But, in any event, we are told, the employer would most likely not give a truthful reason for termination. Some parties inclined to the view that too mild a reason would be given in order to protect the employee's privacy; others, that too strong a reason would be given to protect the employer in case anyone challenged its grounds for the termination.

18. *Public Broadcasters.* There were some special concerns of public broadcasters. Many have people working full time at the station who are paid by some other organization or through some government grant and they wanted to know how to reflect such people on their 395 forms. At least one requested a separate form for public broadcasters. It was also stated that they usually have to file other EEO forms because they have government grants, and it would be helpful if our form continued to resemble EEO-1. One party said we should request data on the composition of the governing bodies of public broadcasters.

19. *OMB Race and Ethnic Categories.* This proposal caused little controversy, although some parties had small quibbles. One party from Hawaii commented that the OMB categories are not particularly relevant to Hawaii since they would lump what are in Hawaii several distinct large groups into one or two categories, while there are few Blacks and Indians there.

CONCLUSION

20. In analyzing the comments to our proposals we must bear in mind the basic problem which we wish to address: upgrading job titles of minorities and women into the upper four job categories where their functions do not warrant it, which results in giving us misleading information in dealing with individual stations and in publishing statistics for the industry. Also we seek a remedy that will cause the least additional burden to broadcasters and avoid adverse impact on individual employees' private interest.

21. *Form 395.* We have decided to adopt the Broadcast Bureau's Policy Analysis Branch proposal changing the Form 395 instructions for broadcasters, modified somewhat in light of comments, as one step in attacking the problem. See Appendix B. We believe that the instructions will be clearer and easier to follow than the present instructions for broadcasters. We do not wish to change the form radically for two reasons. First, we do not wish to destroy the data base which has been built up for the industry and for each individual station over the past several years. This is important because our EEO enforcement would be set back several years if we switched to a new system and could not compare a station's employment profile with that of prior years. It would also be somewhat more burdensome for licensees to switch to a new form, especially those which have to file the EEO-1 form with the EEOC. Second, the great variety of comments has convinced us that it is virtually impossible to define each job category so precisely or to furnish so many examples of job titles and functions as to assure that each employee is placed in the ideal category by that means alone.

22. We recognize that proceeding by way of definitions of functions and job titles is not necessarily the most direct way of arriving at the status of an employee. In fact, a salary-based index may be the most effective way of evaluating an employee's status. Yet, it is clear that we must avoid unwarranted intrusions into the privacy of individual employees and unreasonable public disclosures of confidential business data. We are seeking some method of obtaining verifying information, but the comments which have been filed to date in this proceeding have not provided a full enough record for us to decide. Accordingly, in the very near future we will issue a Further Notice of Proposed Rule Making in this proceeding directed toward finding a verifying method, if possible.

23. *Miscellaneous.* Since our concern is with who is running a station and making programming decisions, not with how much their services are costing the licensee, public broadcasters should list on their 395 forms persons who work at the station as paid employees but who are paid by some source other than the licensee. The suggestion that we require information on the race and sex of governing bodies of public broadcasters is beyond the scope of this present proceeding, which is solely concerned with employment.[5]

[5]This matter will be reviewed further by the Broadcast Bureau to determine if any further action is warranted.

24. Some parties argued that stations with fewer than five full time employees should file our 395 forms and have written EEO programs on the ground that such stations are the gateway to a career in broadcasting. One party even suggested that a broadcaster might evade the intent of our EEO rules by employing four persons full time and dozens, part-time. One reason why we now exempt and will continue to exempt broadcasters with fewer than five full time employees is our administrative convenience. Another is that with so few employees statistics tend to be meaningless, since a change of one employee is a 25% change. As to the idea that licensees might evade our rules through the use of numerous part-time employees, this would be most unusual and unduly burdensome and expensive for the broadcaster.

25. One party argued that we should not permit jointly owned co-located AM and FM stations to file combination reports, theorizing that a radio station with an all white staff could escape our notice by simply buying another station in the same city with an all Black staff. This possibility also seems remote and a complicated and expensive way to evade our rules. In fact, since many AM and FM station combinations, despite decreased amounts of duplicated programming, are jointly operated for some purposes, it makes sense to permit combined reports. Also, since the numbers of employees are larger on combined than on separate reports, the statistics have more meaning.

26. *OMB Race and Ethnic Terminology.* We will change the race and ethnic terminology in our rules, Form 395, and other forms to the following categories: American Indian or Alaska Native; Asian or Pacific Islander; Black, not of Hispanic origin; Hispanic; and white, not of Hispanic origin.

27. Amendments to the rules necessary to carry out the changes which we discussed are set forth in Appendix C. This includes replacing the several existing broadcast EEO rules with one rule and changing the race and ethnic terminology in that rule. Amendments to the instructions for Form 395 are in Appendix B. Changes to the new race and ethnic terminology will also be made in the model EEO program filed with Forms 301, 303, 303R, 309, 311, 314, 315, 340 and 342.

28. The reporting requirement included herein is adopted subject to GAO clearance and unless advised to the contrary will be effective April 1, 1979.

29. *It is ordered,* That effective April 1, 1979, the Commission's rules are amended as set forth in Appendix C; and Form 395 is amended as set forth in Appendix B. Authority for the

adoption and amendment of rules concerning the matters involved in this proceeding is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

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

FEDERAL COMMUNICATIONS COMMISSION,[6]
WILLIAM J. TRICARICO,
Secretary.

APPENDIX A—PARTIES FILING COMMENTS

McKenna, Wilkinson & Kittner on behalf of several licensees
Central California Communications Corporation
Storer Broadcasting Company
Fly, Shuebruk, Blume, Gaguine, Boros and Schulkind on behalf of several licensees
Boston Broadcasters, Inc.
Nationwide Communications, Inc.
Field Communications Corporation
Public Broadcasting Service
Maryland-District of Columbia-Delaware Broadcasters Association, Inc.
Michiana Telecasting Corporation
Southwest Research and Information Center
National Radio Broadcasters Association
WTVY, Inc.
Annapolis Broadcasting Corporation
National Association of Educational Broadcasters
Greater Cleveland Interchurch Council and others ("Cleveland Group")
National Federation of Community Broadcasters
Metromedia, Inc.
Fletcher, Heald, Kenehan & Hildreth on behalf of several licensees
National Association of Broadcasters
Dow, Lohnes & Albertson on behalf of several licensees
Universal Broadcasting Corporation
WJER, Inc.
American Broadcasting Companies, Inc.
KNUI Radio
Anne Cooper
KUFM (University of Montana)
Catherine D. Drayton
Gibson Broadcasting Company
Women in Communications
Task Force on Sex Discrimination, U.S. Department of Justice
Screen Actors Guild, Inc.
Kenebec Broadcasting Co.
KMPL
KSON
WLIL
KQIZ
Springfield Television
KOFO
KWPM
Rahall Communication Corp.
KWGR
Television Muscle Shoals, Inc.
WCLV
WOOD Broadcasting, Inc.
Colorado Broadcasters Association
WIGS Radio
WDCS
WVOB
KGOU
WCEC
KITN
WTAQ
KRSP
WLEW
Shenandoah Valley Broadcasting Co., Inc.
WKDW
KXKZ
KWYO
WBOC
KNBP
KARN
WTAG
National Society of Professional Engineers
WMAR-TV
Maine Association of Broadcasters
Broadcast Financial Management Association
U.S. Commission on Civil Rights
Bari S. Robinson
WIRA
Carthage Broadcasting Company, Inc.
KJEZ
KNFM
KBIZ-KTVO
WLBN
Fairfield Broadcasting Company
Natural Broadcasting System, Ltd.
J. G. Rountree
Los Angeles Women's Coalition for Better Broadcasting
Marin Broadcasting Co., Inc.
KIUA-TV
KWAK
WFMZ
John Charles Perry
WRNO
Jerry Jacob
New Jersey Coalition for Fair Broadcasting
Fisher's Blend Stations, Inc.
WRDX-WSTP
Pennsylvania Association of Broadcasters
National Center for Law and the Deaf
Radio San Juan, Inc.
Forward Communications of Texas, Inc.
St. Louis Broadcast Coalition
Communications Improvement, Inc.
The Chesapeake Broadcasting Corporation
Earldun Broadcasting, Inc.
United Church of Christ
KCLU
WDUZ
KWOR
Steve Vogel
Barbara Jean Wickman
Dawn Orduny
KUEN
Nebraska Broadcasters Association
Oregon Television, Inc.
Smith & Pepper
United Broadcasting Company
Board of Regents, State of Florida
National Commission on Working Women
Pierson, Ball & Dowd on behalf of thirteen licensees
Ann Mitchell
Janet L. Leuning
Elaine Fuhrer
KOLY
WILQ
Irene Bollinger
WLET
WCRN
Lorna J. Simmons
Jim Cameron
Citizens Communications Center, et al.
Corporation for Public Broadcasting
Forward Communications Corporation
Haley, Bader & Potts
Century Broadcasting Corporation
CBS, Inc.
South Dakota Broadcasters Association
Ohio Association of Broadcasters
North Carolina Association of Broadcasters
Committee for Community Access
Stuart Broadcasting Company
Portal Communications, Inc.
American Women in Radio and Television, Inc.
WLVU-WLKK Radio
Herbert A. Terry
National Association for the Advancement of Colored People
In addition, there were about 115 informal comments

APPENDIX B

The Instructions for completion of FCC Form 395 are hereby amended to ready as follows:

* * * * *

6. *Job Categories.*

* * * * *

a. Officials and Managers—* * *

Broadcast Licensees may include in this category the following:

Presidents and other corporate officers, general managers, station managers, controllers, chief accountants, general counsels, chief engineers, facilities managers, sales managers, business managers, promotion directors, research directors, personnel managers, news directors, operators managers, production managers.

b. Professional— * * *

Broadcast Licensees may include in this category the following:

On-air personnel, correspondents, producers, directors, writers, editors, researchers, designers, artists, musicians, dancers, accountants, attorneys, nurses, publicists, film buyers, ratings and research analysts, system analysts and programmers, financial analysts, stage managers, cinema photographers, senior staff assistants, personnel interviewers, continuity directors.

c. Technicians— * * *

Broadcast Licensees may include in this category the following:

All engineers, technicians and engineering aides, including: transmitter, studio, maintenance and master control engineers, and news camera, news sound, film lab and drafting technicians. Also film editors, projectionists, software specialists.

d. Sales— * * *

Broadcast Licensees may include in this category the following:

All sales account executives, sales analysts, account representatives, sales trainees.

e. Office and Clerical— * * *

Broadcast Licensees may include in this category the following:

All secretaries, production assistants, traffic managers,[1] traffic department employees, telephone operators, junior rating and research analysts, assistant camera technicians, news and feature assistants, billing clerks, mail clerks, messengers, cashiers, typists, key punch operators, bookkeepers, photo lab assistants, librarians (music, film or other), readers, administrative assis-

[6]See attached Concurring Statement of Commissioner White in which Commissioner Washburn joins.

[1]The positions of traffic managers and administrative assistants have been included in the office and clerical category because in most instances they are not truly managerial positions. However, those stations that require managerial functions of either position (director of a full department or special phase of the firm's operation) may include it in the officials and managers category.

tants,[1] tab operators, TWX operators, PBX operators, printing and duplicating operators, production coordinators, ledger clerks, operations assistants, pages and guides, stock clerks, office machine operators, including computer console operators.

f. Craftsmen (skilled)— * * *

Broadcast Licensees may include the following:

Electricians, machinists, building construction workers, hair stylists, carpenters, painters, make-up artists, wardrobe mistresses, hearing and air conditioning mechanics.

g. Operatives (semi-skilled)— * * *

Broadcast Licensees may include the following:

Chauffeurs, mobile messengers, drivers, apprentice carpenters and painters, scenic artists, film department assistants, material handlers.

h. Laborers (unskilled)— * * *

Broadcast Licensees may include the following:

Studio grips, property men, laborers performing lifting, pulling, piling, loading, etc., car washers, set-up helpers.

i. Service Workers— * * *

Broadcast Licensees may include the following:

Cooks, counter and fountain workers, elevator operators, guards and watchmen, doorkeepers, stewards, janitors, waiters and waitresses.

8. *Minority Group Identification.*

* * * * *

(d) FCC Form 395 provides for reporting American Indians and Alaska Natives; Asians and Pacific Islanders; Blacks, not of Hispanic Origin; Hispanics; whites, not of Hispanic Origin; wherever such persons are employed. The category which most closely reflects the individual's recognition in his community should be used to report persons of mixed racial and/or ethnic origins.

* * * * *

APPENDIX C

1. Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

§ 73.125 Equal employment opportunities.

See § 73.2080

§ 73.301 Equal employment opportunities.

See § 73.2080

§ 73.599 Equal employment opportunities.

See § 73.2080

§ 73.680 Equal employment opportunities.

See § 73.2080

§ 73.793 Equal employment opportunities.

See § 73.2080

2. New § 73.2080 is added to read as follows:

§ 73.2080 Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin or sex.

(b) *Equal employment opportunity program.* Each station shall establish, maintain, and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its programs, a station shall:

(1) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate the station's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin or sex, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color, religion, national origin or sex, from the station's personnel policies and practices and working conditions.

(5) Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station.

(c) Applicants for a construction permit for a new facility, for assignment of license or construction permit or for transfer of control (other than pro forma or involuntary assignments and transfers), and applicants for renewal of license who have not previously done so, shall file with the FCC programs designed to provide equal employment opportunities for American Indians and Alaska Natives; Asians and Pacific Islanders; Blacks, not of Hispanic Origin; Hispanics; and women, or amendments to such programs. Guidelines for the preparations of such programs are set forth in the Commission's "Report and Order, Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees," 60 F.C.C. 2d 618 (1976). A program need not be filed by any station having less than five full-time employees or with respect to any minority group which is represented in such insignificant numbers in the area that a program would not be meaningful. In the latter situation, a statement of explanation should be filed.

CONCURRING STATEMENT OF COMMISSIONER MARGITA E. WHITE IN WHICH COMMISSIONER ABBOTT M. WASHBURN JOINS

The Commission today has taken a significant step forward in implementing its broadcast equal employment opportunity program. At the same time, the Commission wisely has decided not to require a listing of employees by salary but to explore alternatives for supplementing the information provided by the statistics in Form 395.

I concur in the decision to explore such alternatives only because I believe a good alternative already exists for providing the Commission and public with such information without placing undue burdens on licensees. After reading all the comments in this proceeding, I concluded that the best proposal is to require each station to include in its public file each year, and to submit to the Commission with its renewal application, a list of employees by job title, race, sex, and Form 395 category. The order of listing would be up to the discretion of the station.

One licensee who voluntarily maintains a similar list in its station's public file and submits it with renewal application has done so "without any complaint from any employee or other person * * *." Another party in the proceeding suggested such a list would "give integrity to Form 395 statistics by enabling the Commission and the public to verify and confirm (from the employee, if necessary), whether job responsibility matches job title * * *." While such a simple listing would provide a valuable cross-index of information to the Commission and the public, it would not burden the licensee, and, indeed, could assist the broadcaster who is concerned that even the improved Form 395 job category descriptions may not provide an accurate profile of a station's employment structure.

Leaving the order of employee listing to the broadcaster's discretion would avoid the likely negative consequences of mandating a listing by salary, including the further involvement of the Commission in station management decisions, increased reporting burdens on licensees, the precipitation of employee morale problems, the encouragement of hiring piracy, placing smaller stations at a disadvantage in the recruiting and retaining of qualified employees and the solicitation of more information than the Commission can process or needs.

All interested parties will have an opportunity to comment on various alternatives, including my own, and to suggest other approaches in response to the Commission's further notice. I am hopeful this will be a constructive process and that the Commission's wisdom of rejecting the requirement of salary information will prevail.

[FR Doc. 79-3718 Filed 2-1-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1210, Amdt. No. 9]

PART 1033—CAR SERVICE

Providence and Worcester Co. Authorized to Operate Over Tracks of Consolidated Rail Corp. and Consolidated Rail Corp. Authorized to Operate Over Tracks of Providence and Worcester Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 9 to Revised Service Order No. 1210.

SUMMARY: Abandonments by the former Penn Central have isolated two segments of the Consolidated Rail Corporation's lines in Rhode Island, known as the Slatersville and Wrentham branches, from the remainder of the system. The Providence and Worcester Company has the sole rail connections with these two ConRail branches. Revised Service Order No. 1210 authorizes the Providence and Worcester to operate these branches for the account of ConRail pending the Commission's approval of a joint operating contract. The Order is published in full in FEDERAL REGISTER Volume 40 at page 7452. Amendment No. 9 extends Revised Service Order No. 1210 for six months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7840, Telex 89-2742.

Decided: January 25, 1979.

Upon further consideration of Revised Service Order No. 1210 (40 FR 7452, 19478; 41 FR 4929, 15414, 32430; 42 FR 6817, 39221; 43 FR 4433, and 34147), and good cause appearing therefor:

It is ordered, That § 1033.1210 *Providence and Worcester Company authorized to operate over tracks of Consolidated Rail Corporation and Consolidated Rail Corporation authorized to operate over tracks of Providence and Worcester Company,* Revised Service Order No. 1210, is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3729 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Service Order No. 1262; Amdt. No. 6]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 6 to Service Order No. 1262.

SUMMARY: Service Order No. 1262 authorizes the North Stratford Railroad Corporation to operate a line of railroad between North Stratford, New Hampshire, and Beecher Falls, Vermont, owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 6 to Service Order No. 1262 extends for three months the emergency authority granted to the North Stratford Railroad for operation of this line. Service order No. 1262 is published in full in volume 42 of the FEDERAL REGISTER at page 16780.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840, Telex 89-2742.

Decided: January 25, 1979.

Upon further consideration of Service Order No. 1262 (42 FR 16780, 43637, 57317; 43 FR 19047, 50907 and 56673), and good cause appearing therefor:

It is ordered, that § 1033.1262 North Stratford Railroad Corpration authorized to operate over certain tracks owned by the State of New Hampshire, Service Order No. 1262, is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3730 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Service Order No. 1326; Amdt. No. 2]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co. Authorized To Operate Over Tracks of Detroit, Toledo and Ironton Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. (Amendment No. 2 to Service Order No. 1326.)

SUMMARY: The Tecumseh, Michigan, branch of the Detroit, Toledo and Ironton Railway (DTI) is unserviceable between Malinta, Ohio, and Adrian, Michigan, isolating the remainder of the line from other parts of the DTI. A major industry located at Tecumseh requires uninterrupted rail service to continue its operations. Service Order No. 1326 authorizes the Norfolk and Western Railway to operate over the serviceable portion of the DTI's Tecumseh branch between Adrian, Michigan, and Tecumseh, Michigan, in order to provide continued service to shippers served by that line. The order is published in full in volume 43 at page 20235 in the FEDERAL REGISTER. Amendment No. 2 to Service Order No. 1326 extends the order for one month.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone 202-275-7840, Telex 89-2742.

Decided: January 25, 1979.

Upon further consideration of Service Order No. 1326 (43 FR 20235 and 51023), and good cause appearing therefor:

It is ordered, § 1033.1326 *Norfolk and Western Railway Company Authorized To Operate Over Tracks of Detroit, Toledo and Ironton Railway Company,* Service Order No. 1326, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1979, unless otherwise modified, changed or suspended by order of this Commision.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3731 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Service Order No. 1247; Amdt No. 5]

PART 1033—CAR SERVICE

Bath and Hammondsport Railroad Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission

ACTION: Emergency Order. Amendment No. 5 to Service Order No. 1247.

SUMMARY: As the designated operator for the State of New York the Bath and Hammondsport Railroad operates the Wayland branch of the former Erie-Lakawanna Railroad between Kanona, New York, and Wayland, New York. This line is separated from the Bath and Hammonsport's own line by three miles of Consolidated Rail Corporation trackage. Service Order No. 1247 authorizes the Bath and Hammondsport to operate over this Consolidated Rail Corporation trackage in order to transfer locomotives, cars and crews between its own line and the Wayland branch. Service Order No. 1247 is published in full in FEDERAL REGISTER Volume 41 at page 29819. Amendment No. 5 extends the order for six months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 26 1979.

Upon further consideration of Service Order No. 1247 (41 FR 29819; 42 FR 6370, 39389; 43 FR 4617 and 34148), and good cause appearing therefor:

It is ordered, That § 1033.1247 *Bath and Hammondsport Railroad Company authorized to operate over tracks of Consolidate Rail Corporation,* Service Order No. 1247 is amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3732 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Amendment No. 6 to Service Order No. 1240]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 6 to Service Order No. 1240.

SUMMARY: This amendment extends for five months an emergency order issued April 9, 1976, which authorized the Chicago and North Western Transportation Company (CNW) to operate an unused yard of the Kansas City Southern Railway Company (KCS) at Kansas City, Missouri. Increases in traffic on the CNW in the Kansas City area have resulted in severe congestion and delays to shipments in the Kansas City terminals of that line. The adjoining Hennig Street Yard of the KCS is no longer needed by that line because of changes in operating patterns.

Use of this yard by the CNW enables that line to move traffic through Kansas City without the excessive delays previously encountered. Service Order 1240 is published in full in Volume 41 of the FEDERAL REGISTER at page 15698.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 26, 1979.

Upon further consideration of Service Order No. 1240 (41 FR 15698, 48343; 42 FR 22367, 44546; 43 FR 9282, 43 FR 39795 and 45586), and good cause appearing therefor:

It is ordered, § 1033.1240 *Chicago and North Western Transportation Company Authorized To Operate Over Tracks of the Kansas City Southern Railway Company,* Service Order No. 1240 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and the car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3726 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Amendment No. 1 to Service Order No. 1337]

PART 1033—CAR SERVICE

Western Maryland Railway Co. Authorized To Operate Over Tracks of the Baltimore & Ohio Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 1 to Service Order No. 1337.

SUMMARY: The Western Maryland Railway Company operates over tracks of the National Railroad Passenger Corporation between Fulton Junction, Maryland, and Back River, Maryland, thence over tracks of Consolidated Rail Corporation between Back River and Sparrows Point, Maryland. The high density of traffic results in serious delays to WM trains. Service Order No. 1337 authorizes Western Maryland to operate over tracks of The Baltimore and Ohio Railroad Company between Westport, Maryland, and Sparrows Point, Maryland, in order to expedite train movement. The order is printed in full in volume 43 of the FEDERAL REGISTER at page 41403. Amendment No. 1 to Service Order No. 1337 extends the order for four months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 25, 1979.

Upon further consideration of Service Order No. 1337 (43 FR 41403), and good cause appearing therefor:

It is ordered, That, § 1033.1337 *Western Maryland Railway Company authorized to operate over tracks of the Baltimore and Ohio Railway Company,* Service Order No. 1337 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3727 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Amendment No. 1 to Service Order No. 1346]

PART 1033—CAR SERVICE

Mercersburg Railway Authorized To Operate Over USRA Line No. 206, Former Mercersburg Secondary Track of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 1 to Service Order No. 1346.

SUMMARY: The Mercersburg Railway is authorized by Service Order No. 1346 to operate USRA Line No. 206 between Marion, Pennsylvania, and Mercersburg, Pennsylvania. The operation of this line by the Mercersburg Railway has been authorized by the Commonwealth of Pennsylvania, which is replacing Consolidated Rail Corporation as the designated operator. The order is printed in full in Volume 43 of the FEDERAL REGISTER at page 51403. Amendment No. 1 extends the order for four months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 26, 1979.

Upon further consideration of Service Order No. 1346 (43 FR 51403), and good cause appearing therefor:

It is ordered, That, § 1033.1346 *Mercersburg Railway authorized to operate over USRA Line No. 206, former Mercersburg secondary track of Consolidated Rail Corporation,* Service Order No. 1346 is amended by substi-

tuting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3728 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Amendment No. 14 to Service Order No. 1084]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co., W. M. Gibbons, Trustee, Authorized to Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 14 to Service Order No. 1084.

SUMMARY: Service Order No. 1084 authorizes the Chicago, Rock Island and Pacific to operate over a track abandoned by the Chicago and North Western Transportation Company at McClelland, Iowa, for the purpose of continuing railroad service to a shipper located adjacent to that track. The order is printed in full in FEDERAL REGISTER Volume 36 at page 22063. Amendment No. 14 extends Service Order No. 1084 for six months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 25, 1979.

Upon further consideration of Service Order No. 1084 (36 FR 22063; 37 FR 12726; 28059; 38 FR 20840; 39 FR 3827, 27672; 40 FR 5162, 31939; 41 FR 4929, 31381; 42 FR 6371, 38572; 43 FR 4431 and 34147), and good cause appearing therefor:

It is ordered, That § 1033.1084, *Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, trustee, authorized to operate over tracks of Chicago and North Western Transportation Company,* Service Order No. 1084, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3737 Filed 2-1-79; 8:45 am]

[Amendment No. 8 to Service Order No. 1242]

PART 1033—CAR SERVICE

The Kansas City Southern Railway Co. Authorized to Operate Over Certain Tracks of Southern Pacific Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 8 to Service Order No. 1242.

SUMMARY: Service Order No. 1242 authorizes the Kansas City Southern to operate over tracks of the Southern Pacific Transportation Company at Lake Charles, Louisiana. The Kansas City Southern Railway's drawbridge over the Calcasieu River at Lake Charles is unserviceable because of failure of the machinery used to open and close the span, isolating a major industrial district served by the Kansas City Southern from the remainder of the system. Operation of Kansas City Southern trains over the parallel bridge of the Southern Pacific enables the Kansas City Southern to continue service to shippers served by the tracks disconnected from the remainder of the system by failure of the bridge operating mechanism. Service Order No. 1242 is published in full in FEDERAL REGISTER Volume 41 at page 18053. Amendment No. 8 extends the order for five months.

DATES: Effective 11:59 p.m., January 31, 1979. Expires 11:59 p.m., June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

Decided: January 26, 1979.

Upon further consideration of Service Order No. 1242 (41 FR 18053, 31824, 48344; 42 FR 6584, 39221; 43 FR 4432, 34147 and 39795), and good cause appearing therefor:

It is ordered, That § 1033.1242 *The Kansas City Southern Railway Company, authorized to operate over certain tracks of Southern Pacific Transportation Company,* Service Order No. 1242 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns,

Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3738 Filed 2-1-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

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

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Amendment to Quarterly Quotas; Notice of Fishery Closures and Adjustment of Catch Limitations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulation on quarterly quotas and notice of fishery closures and adjustment of catch limitation.

SUMMARY: This final regulation adjusts the quarterly quotas of cod, haddock, and yellowtail flounder, as set forth in the supplementry information, as an emergency, effective February 4, 1979. The notice closes the cod and haddock fisheries in the Gulf of Maine for the 61-125 gross registered ton (GRT) vessel class, effective February 4, 1979; (2) closes the haddock fishery in the Gulf of Maine for the 0-60 GRT vessel class, effective February 4, 1979; (3) closes the yellowtail flounder fishery west of 69° W. longitude for all vessel classes, effective February 4, 1979; and (4) adjusts catch limitations for three vessel classes, as set forth in the supplementary information, effective February 4, 1979.

DATES: Effective dates: These actions are all effective as of 12:01 AM on the date noted in the summary above. Public comment on the final regulation will be accepted until April 5, 1979.

ADDRESS: Comments should be sent to: Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; Telephone (617) 281-3600.

FOR FURTHER INFORMATION CONTACT:

William G. Gordon (617) 281-3600.

SUPPLEMENTARY INFORMATION: Final regulations governing domestic fishing for Atlantic Groundfish (cod, haddock, and yellowtail flounder) were published on January 3 and 11, 1979 (44 FR 885, 2397). These regulations implement the Fishery Management Plan for Atlantic Groundfish (FMP), as amended, which was prepared by the New England Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* The regulations established quarterly quotas for each fishery by species, area, and vessel class. To spread fishing effort over the quarter, the regulations also established catch limitations on a weekly or per trip basis. The regulations provide for adjustment of weekly or per trip catch limitations to achieve specified purposes, and for closures under certain circumstances.

A. QUOTA ADJUSTMENTS

The quarterly quotas may be adjusted by emergency regulation when the Assistant Administrator determines that the catch during the previous quarter exceeded or failed to reach the quota established for that quarter. Final catch statistics for the first quarter (October—December 1978) show that many of the vessel classes greatly exceeded their groundfish quotas in all areas. The quarterly quota for cod was exceeded by 725 metric tons (mt); the quota for haddock was overharvested by 678 mt; and the quota for yellowtail flounder west of 69° W. longitude was exceeded by 875 mt. For the yellowtail flounder fishery east of 69° W. longitude, the harvest was 378 mt below the quarterly allocation.

The Assistant Administrator, pursuant to § 651.20(d), has adjusted the quarterly quotas by emergency amendment to the regulations for the various groundfish fisheries. The first quarter quotas have been revised to reflect the reported landings during that period. The excess catch (overage) of the first quarter has been deducted from the quotas in subsequent quarters. Where possible, all overages were deducted from the second quarterly allocation. The deduction was not spread over the remaining three quarters. Otherwise the possibility exists of an accumulative excess catch which could result in almost total closure during the fourth quarter.

Because the over 125 GRT vessel class in the Gulf of Maine cod fishery caught most of its annual quota in the first quarter, its overages were deducted from the third and forth quarters, as well as from the second quarter. The over 125 GRT vessel class in the Gulf of Maine haddock fishery caught most of its quota for the first three quarters in the first quarter; therefore, the overage was also deducted from its allocation in the third quarter. Vessels in the fishery for yellowtail flounder east of 69° W. longitude did not catch the first quarter quota; the remainder of this quota was added to the allocation for the second quarter. The actual first quarter catches, by vessel class, species, and area, as compared with the quota follows.

Vessel Class	1st Quarter Quota (MT)	1st Quarter Landings (MT)	Difference − (over quota) + (under quota)
Cod, Gulf of Maine:			
0-60 GRT	581	765	−184
61-125	342	489	−147
Over 125	180	434	−254
Fixed Gear	317	466	−149
Cod, Georges Bank & South:			
0-60 GRT	501	528	−27
61-125	1,777	1,711	+66
Over 125	2,958	3,043	−85
Fixed Gear	404	349	+55
Haddock, Gulf of Maine:			
0-60 GRT	183	200	−17
61-125	261	311	−50
Over 125	178	441	−263
Fixed Gear	106	105	+1
Haddock, Georges Bank & South:			
0-60 GRT	86	92	−6
61-125	650	811	−161
Over 125	1,133	1,337	−204
Fixed Gear	33	11	+22
Yellowtail flounder, East of 69° long	810	432	+378
Yellowtail flounder, West of 61° long	960	1,835	−875

Adjustments to the quarterly quotas were made within the appropriate vessel classes, as required by the regulations. Appendix A to the regulations, which contains the quarterly quotas by vessel class, species and area, has

therefore been revised to conform to this amendment. It is reprinted at the end of this document.

B. FISHERY CLOSURES

The Regional Director, Northeast Region, National Marine Fisheries Service, (Regional Director) has monitored catches and landings of groundfish for the first month of the second quarter. Based on the statistics for landings in the first quarter, and other data, the Regional Director has, pursuant to § 651.24(a), made the following projection: The respective vessel classes will have caught their adjusted quarterly quotas, less an anticipated amount to be taken as an incidental catch during the period of closure, on the listed dates:

Cod—Gulf of Maine:
61-125 GRT—February 4, 1979
Haddock—Gulf of Maine:
0-60 GRT—February 4, 1979
61-125 GRT—February 4, 1979
Yellowtail Flounder—west of 69° W. longitude:
All vessels—February 4, 1979

Therefore, pursuant to § 651.24(b), the Regional Director has recommended that these fisheries be closed on February 4, 1979. The Assistant Administrator has reviewed the findings of the Regional Director and has confirmed that they set forth the appropriate date to close these fisheries in order to prevent the quarterly quotas, as adjusted, from being exceeded. Closures for these fisheries, therefore, will become effective on February 4, 1979.

During the period of closure, which will continue until the beginning of the next quarter of the fishing year (April 1, 1979), the affected vessel classes are limited to an incidental catch of each species under § 651.24(d) as follows:

Cod and Haddock:
0-60 GRT—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip
61-125 GRT—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip
Over 125 GRT—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip
Fixed Gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip
Yellowtail Flounder:
All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip

C. CATCH LIMITATIONS

In some other groundfish fisheries the Assistant Administrator has found, that the quarterly allocation is likely to be taken before the end of the quarter, although not within the next 30 days. Therefore, the Assistant Administrator, pursuant to § 651.23(f), makes the following adjustments in the weekly catch limitations in order to spread effort over the quarter:

Cod—Gulf of Maine:
Fixed Gear—Reduce weekly limit from 5,000 pounds to 2,500 pounds
Haddock—Georges Bank and South:
61-125 GRT—Reduce weekly limit from 7,000 pounds to 3,500 pounds and reduce overruns from 2,500 pounds to 1,500 pounds
Over 125 GRT—Reduce weekly limit from 10,000 pounds to 5,000 pounds and reduce overruns from 2,500 pounds to 1,500 pounds

Catches and landings of groundfish will continue to be monitored. It is possible that some further actions, either to reduce catch limitations or to close fisheries, might be necessary before the end of the quarter.

It is not believed that further yellowtail flounder restrictions will be necessary during this quarter. However, if significant effort is diverted from closed fisheries to those where catch rates during the first month of the quarter were relatively low, this situation can change.

Appendix B to the regulations, which contains the catch limitations by vessel class, species, and area, has been revised to conform with the actions stated in this notice and is reprinted at the end of this document.

These adjustments and closures must be implemented quickly to be effective in order to prevent serious and continued overfishing. One of the actions, the quarterly quota adjustment, required a regulatory amendment. The Assistant Administrator finds that advance notice and opportunity for public comment are unnecessary, impractical, and contrary to the public interest. The Assistant Administrator, Mr. T. L. Leitzell, also finds that an emergency exists under provisions of Executive Order 12044. The emergency arises from the excess catches during the first quarter and the need for immediate actions to protect the stocks from further excess harvest. Public comment on this emergency regulation is invited for a period of 60 days, or until April 5, 1979.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 29th day of January, 1979.

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

Part 651 is amended by revising Appendices A and B to read as follows:

APPENDIX A—*Quarterly Quotas (Revised February 4, 1979)*

	Oct.-Dec. 78[1]	Jan.-Mar. 79	April-June 79	July-Sept. 79	Annual
COD—Gulf of Maine (Commercial)					
Mobile gear:					
1-60 GRT	765	515	798	479	2,557
61-125 GRT	489	130	262	266	1,147
Over 125 GRT	434	0	0	27	461
Fixed gear	466	104	645	620	1,835
Total	2,154	749	1,705	1,392	6,000

APPENDIX A—*Quarterly Quotas (Revised February 4, 1979)*

	Oct.-Dec. 78[1]	Jan.-Mar. 79	April-June 79	July-Sept. 79	Annual
COD—Georges Bank and South (Commercial) Mobile gear:					
1-60 GRT	528	566	648	364	2,106
61-125 GRT	1,711	1,633	2,232	1,361	6,937
Over 125 GRT	3,043	2,044	2,426	2,365	9,878
Fixed gear	349	366	824	1,540	3,079
Total	5,631	4,609	6,130	5,630	22,000
HADDOCK—Gulf of Maine (Commercial) Mobile gear:					
1-60 GRT	200	129	460	200	989
61-125 GRT	311	159	183	160	813
Over 125 GRT	441	0	22	86	549
Fixed gear	105	211	265	198	779
Total	1,057	499	930	644	3,130
HADDOCK—Georges Bank and South (Commercial) Mobile gear:					
1-60 GRT	92	34	150	157	433
61-125 GRT	811	501	1,782	1,023	4,117
Over 125 GRT	1,337	1,189	2,449	1,720	6,695
Fixed Gear	11	94	82	338	525
Total	2,251	1,818	4,463	3,238	11,770
YELLOWTAIL FLOUNDER—East of 69° West (Commercial and Recreational):					
All classes	432	1,878	640	1,450	4,400
YELLOWTAIL FLOUNDER—West of 69° West (Commercial and Recreational):					
All classes	1,835	275	830	760	3,700

[1] Reporting landings.

APPENDIX B—*Catch Limitations (Revised February 4, 1979)*

Vessel Class	Gulf of Maine		Georges Bank and South	
	Limits	Overruns	Limits	Overruns
COD (pounds/week)				
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	Closed Feb. 4		9,800	3,500
COD (pounds/week)				
Over 125 GRT	Closed Jan. 1		14,000	3,500
Fixed gear	2,500	0	13,000	0
HADDOCK (pounds/week)				
0-60 GRT	Closed Feb. 4		3,500	2,500
61-125 GRT	Closed Feb. 4		3,500	1,500
Over 125 GRT	Closed Jan. 1		5,000	1,500
Fixed Gear	8,000	0	8,000	0
YELLOWTAIL FLOUNDER				
	West of 69° West		East of 69° West*	
0-60 GRT	Closed Feb. 4		5,000	
61-125 GRT	All vessel classes		5,000	
Over 125 GRT			5,000	

*Pounds per week or trip, whichever time period is longer. A vessel may land *no more than* 5,000 pounds, even if it fished on both sides of the 69° W. line. No overruns are allowed.

[FR Doc. 79-3772 Filed 2-1-79; 8:45 am]

proposed rules

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

[3410-37-M]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 318 and 381]

SUBSTANCES FOR USE IN MEAT AND POULTRY PRODUCTS

Proposed Rulemaking; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the Department's proposed amendment to the Federal meat inspection regulations and the Federal poultry products inspection regulations appearing at pages 19858-19860 in the FEDERAL REGISTER of May 9, 1978, with respect to the table listing TBHQ (tertiary butylhydroquinone) as an approved antioxidant in the preparation of certain meat food products and poultry food products. Several inadvertent errors are in the original proposed table. The corrections in the table are listed separately in the supplementary information, and the corrected table is herewith republished.

DATE: Comments must be received by April 3, 1979.

ADDRESSES: Written comments to: Annie Johnson, Executive Secretariat, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry regulations to: Mr. Irwin Fried, (202) 447-6042.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Standards and Labels Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to Annie Johnson, Executive Secretariat, Room 3807, South Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring opportunity for oral presentation of views concerning the proposed amendment to the poultry products inspection regulations must make such request to Mr. Fried so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Executive Secretariat during regular hours of business.

BACKGROUND

This document corrects the Department's proposed amendment to the Federal meat inspection regulations and the Federal poultry products inspection regulations appearing at pages 19858-19860 in the FEDERAL REGISTER of May 9, 1978, with respect to the table listing TBHQ (tertiary butylhydroquinone) as an approved antioxidant in the preparation of certain meat food products and poultry food products. Several inadvertent errors are in the original proposed table. The changes in the table appearing at page 19859 are as follows:

1. In the table with respect to § 318.7(c)(4) the following changes are made: Under the "Substance" column, line four of the table, "Propyl" is corrected to read "Propyl gallate."

2. Under the second "Amount" column, line five of the table, for the substance "BHA (butylated hydroxyanisole)," the amount is corrected from "Do" to read "0.02 percent in combination."

3. In the "Substance" column, line 13 of the table, "BTH" is corrected to read "BHT."

4. In the "Substance" column, immediately following the substance "Propyl gallate," at line 15 and before line 16 of the table, the substance "Resin guaiac" is added. This substance had been inadvertently left out of the table.

5. In the "Purpose" column, for the substance "Resin guaiac," immediately following line 15 and before line 16 of the table, the word "do" is inserted.

6. In the "Products" column, for the substance "Resin guaiac," immediately following line 15 and before line 16 of the table, the word "do" is inserted.

7. In the first "Amount" column, for the substance "Resin guaiac," immediately following line 15 and before line 16 of the table, the word "do" is inserted.

8. Wherever the abbreviation "pct" for the word "percent" occurs in the table, the word "pct" is changed to the word "percent."

9. Under the second "Amount" column, line five of the table, for the substance "TBHQ (tertiary butylhydroquinone)," the amount is changed from "0.006 pct in combination" to read "0.006 percent in combination with BHA and/or BHT."

10. Under the second "Amount" column, line 16 of the table, for the substance "TBHQ (tertiary butylhydroquinone)," the amount should be changed from "Do" to read "0.02 percent in combination with BHA and/or BHT."

11. Under the second "Amount" column, line 37 of the table, for the substance "TBHQ (tertiary butylhydroquinone)," the amount should be changed from "Do" to read "0.02 percent in combination with BHA and/or BHT based on fat content."

12. Under the second "Amount" column, line 41 of the table, for the substance "TBHQ (tertiary butylhydroquinone)," the amount should be changed from "Do" to read "0.01 percent in combination with BHA and/or BHT."

13. Under the "Products" column, lines 22-24 of the table, immediately after the words "Fresh pork sausage," delete the words "precooked uncured sausages," and add the words "brown and serve sausage."

14. Under the "Amount" column, line 38 of the table, for the product, "Dried meats," in the second "Amount" column, the present wording, "0.1 pct in combination," is corrected to read "0.01 percent in combination."

In the table with respect to § 381.147(f)(3) the following changes are made:

1. Under the "Amount" column, line one of the table is changed from "0.02 pct combination based on fat content" to read "0.02 percent in combination with any other antioxidant listed in this table based on fat content."

2. Under the substance, "Propyl gallate," line four of the table, the "Amount" column is changed from "Do" to read "0.02 percent in combination with any other antioxidant listed in this table except TBHQ based on fat content."

3. Under the substance, "TBHQ (tertiary butylhydroquinone)," line five of the table, the "Amount" column is changed from "Do" to read "0.02 percent in combination only with BHA and/or BHT on fat content.

4. Under the substance, "Tocopherols," the second "Amount" column, line six of the table, is corrected from "0.02 pct combination with any other antioxidant based on fat content" to read "0.02 percent in combination with any other antioxidant listed in this table except TBHQ based on fat content."

Therefore, the Federal meat inspection regulations would be amended as follows:

§ 318.7 [Amended]

In § 318.7(c)(4), in that portion of the chart dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information is added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products		Amount
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole).	To retard rancidity.	Dry sausage	0.003 percent based on total weight.	0.006 percent in combination.
	BHT (butylated hydroxytoluene).	do	do	do	
	Propyl gallate	do	do	do	
	TBHQ (tertiary butylhydroquinone).	do	do	do	0.006 percent in combination only with BHA and/or BHT.
	BHA (butylated hydroxyanisole).	do	Rendered animal fat or a combination of such fat and vegetable fat.	0.01 percent	0.02 percent in combination.
	BHT (butylated hydroxytoluene).	do	do	do	
	Glycine	do	do	do	
	Propyl gallate	do	do	do	
	Resin guaiac	do	do	do	
	TBHQ (tertiary butylhydroquinone).	do	do	do	0.02 percent in combination only with BHA and/or BHT.
	Tocopherols	do	do	0.03 percent	A 30 percent concentration of tocopherols in vegetable oils shall be used when added as an antioxidant to products designated as "lard" or "rendered pork fat."
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole).	do	Fresh pork sausage, brown and serve sausages, Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork.	0.01 percent based on fat content.	0.02 percent in combination based on fat content.
	BHT (butylated hydroxytoluene).	do	do	do	
	Propyl gallate	do	do	do	
	TBHQ (tertiary butylhydroquinone).	do	do	do	0.02 percent in combination only with BHA and/or BHT based on fat content.
	BHA (butylated hydroxyanisole).	do	Dried meats	0.01 percent based on total weight.	0.01 percent in combination.
	BHT (butylated hydroxytoluene).	do	do	do	
	Propyl gallate	do	do	do	
	TBHQ (tertiary butylhydroquinone).	do	do	do	0.01 percent in combination only with BHA and/or BHT.

§ 381.147 [Amended]

In § 381.147(f)(3), in that portion of the table dealing with the "Class of Substance," "Antioxidants and oxygen interceptors," the following information would be added to the appropriate columns in alphabetical order and the revised table is as shown:

Class of substance	Substance	Purpose	Products		Amount
Antioxidants and oxygen interceptors	BHA (butylated hydroxyanisole.	To retard rancidity.	Various	0.01 percent based on fat content.	0.02 percent in combination with any other antioxidant listed in this table based on fat content.
	BHT (butylated hydroxytoluene).	do	do	do	Do.
	Propyl gallate	do	do	do	0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.
	TBHQ (tertiary butylhydroquinone).	do	do	do	0.02 percent in combination only with BHA and/or BHT based on fat content.
	Tocopherols	do	do	0.03 percent based on fat content.	0.02 percent in combination with any other antioxidant listed in this table, except TBHQ, based on fat content.

(Sec. 21, 34 Stat. 1264, (21 U.S.C. 621); sec. 14, 71 Stat. 447, as amended, (21 U.S.C. 463); 42 FR 35625, 35626, 35631)

These amendments provide for corrections to the proposal of May 9, 1978, for which comments have been received. The proposal would amend the regulations to permit the use TBHQ as an approved antioxidant in the preparation of certain meat food products and poultry food products. The basic proposed changes and the purposes for such changes were previously discussed in the preamble of the notice of the proposal of May 9, 1978. A period of 60 days was provided for public comments. Under the circumstances, it appears that a further comment period of 60 days with respect to the reproposal is necessary to make a final decision in this matter.

Done at Washington, D.C. on January 30, 1979.

D. L. HOUSTON,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 79-3747 Filed 2-1-79; 8:45 am]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 31]

CERTAIN LEVERAGE CONTRACTS

Prohibition on the Offer and Sale

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission is proposing to adopt a rule that would prohibit persons from engaging in the business of offering and selling to the public standardized contracts for delivery of any commodity (other than gold and silver bullion and bulk coins), commonly known to the trade as margin accounts, margin contracts, leverage accounts, or leverage contracts. The proposed rule would also cover any contracts, accounts, arrangements, schemes, or devices that serve the same function or functions or are marketed or managed in substantially the same manner as such standardized contracts. Pending completion of the Commission's rulemaking proceeding on the proposed prohibition, the Commission may determine to impose a temporary suspension on the entry into the leverage transaction business. The Commission also intends to establish a procedure whereby a person might be granted an exemption from any prohibition or suspension that might be imposed.

DATES: Written comments must be received by the Commission at its offices in Washington, D.C., on or before April 3, 1979.

ADDRESS: In order to be considered, written comments must be submitted to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

John P. Connolly, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; telephone (202) 254-5797.

SUPPLEMENTARY INFORMATION: Under Section 2(a)(1) of the Commodity Exchange Act, 7 U.S.C. 2 (1976), and Section 217 of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. § 15a (1976), Congress granted the Commission exclusive jurisdiction over leverage transactions involving gold and silver bullion and bulk coins and broadly empowered the Commission to regulate these transactions. On September 30, 1978, the President signed into law the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865, *et seq.* Section 23 of that Act adds a new Section 19 to the Commodity Exchange Act, which greatly expands the Commission's authority over leverage transactions to encompass all commodities. That new legislation also grants the Commission exclusive jurisdiction over these transactions.[1]

New Section 19 of the Commodity Exchange Act (the "Act") prohibits leverage transactions involving those commodities (essentially domestic agricultural commodities) that were specifically enumerated in Section 2(a) of the Act prior to 1974,[2] incorporates the substantive provisions concerning gold and silver leverage transactions previously embodied in section 217 of the Commodity Futures Trading Commission Act of 1974, and empowers the Commission either to *prohibit or regulate leverge transactions involving all other commodities under terms and conditions that the Commission shall initially prescribe by October 1, 1979.* In addition, Section 19 broadens the Commission's jurisdiction over leverage transactions to include not only a standardized contract commonly known to the trade as a margin account, margin contract, leverage account or leverage contract, but also any contract, account, arrangement, scheme or device that serves the same function or functions, or is marketed or managed in substantially the same manner, as such a standardized contract. Finally, Section 19 provided that if the Commission determines any leverage transaction in gold, silver or any other commodity is a contract for future delivery within the meaning of the Act, such transaction shall be regulated as such.

Specifically, new Section 19 of the Commodity Exchange Act provides:

(a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided,* That such rule, regulation, or order may be made only after notice and opportunity for hearing.

(c) The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided,* That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further,* That the Commission may set different terms and conditions for such transactions involving different commodities.

(d) If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

In response to these legislative developments, the Commission promptly proposed and adopted a modification to its antifraud regulation to encompass leverage transactions in commod-

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[1] See Section 2(a)(1) of the Commodity Exchange Act, 7 U.S.C. 2, as amended by Pub. L. 95-405, §§ 2, 23, 92 Stat. 865, 876-877.

[2] The commodities specifically enumerated in Section 2(a) of the Act prior to 1974 are: Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wooltops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

ities other than gold and silver.[3] However, the Commission believes that additional measures to protect the public may be required at this time regarding those leverage transactions over which it has recently been granted jurisdiction. Specifically, from an examination of the highly speculative nature of leverage transactions other than those involving gold and silver, a careful study of the legislative history of Section 19 in light of the entire Act as amended, and a review of its experience with the marketing in the United States of off-exchange transactions, the Commission has determined to propose a general prohibition against all leverage transactions except those involving gold and silver bullion or bulk coins.

Section 19 originated in the Senate version of S. 2391, the bill that became the Futures Trading Act of 1978. The Senate bill prohibited leverage transactions involving those domestic agricultural commodities enumerated in Section 2(a) of the Act prior to 1974, and empowered the Commission either to prohibit or to regulate leverage transactions involving all other commodities—including gold and silver bullion and bulk coins. The House and Senate conferees modified the Senate bill by deleting the authority of the Commission to prohibit gold and silver leverage transactions and by substituting a provision that continued the Commission's existing authority to regulate those transactions either as contracts for future delivery or in some other way. The conference substitute was enacted into law.[4]

In its report accompanying S. 2391, the Senate Committee on Agriculture, Nutrition, and Forestry stated that, in exercising its authority to regulate or prohibit leverage transactions, the Commission—

> * * * should make a careful evaluation of the public interest served by leverage transactions, if any, and the framework necessary to enable the Commission effectively to regulate these transactions * * *.[5]

The Senate report made it clear that the Commission may prohibit leverage transactions in their entirety or prohibit certain classes of such transactions—

> * * * if the Commission concludes that these transactions or any class thereof are contrary to the public interest or cannot be regulated successfully to ensure the financial solvency of the transactions and prevent manipulation or fraud, * * *.[6]

Economic Purpose

In determining whether a particular activity is contrary to the public interest, the Commission has consistently considered the provisions, purposes and policies of the Commodity Exchange Act taken as a whole.[7] A basic element of the public interest reflected in the Act is the "economic purpose test."

Thus, under Section 5(g) of the Act the Commission may designate a board of trade as a "contract market" for futures trading when and only when—

> * * * such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought *will not be contrary to the public interest* (Emphasis added).

Section 5(g) includes the concept of an "economic purpose test" subject to the final test of the public interest.[8] It is not sufficient under the Act that a proposed contract for future delivery represent an attractive vehicle for speculative activity. As the House Committee on Agriculture observed in 1974 in discussing the economic purpose considerations involved in the designation process (emphasis added):

> * * * [designation could be denied] if the contract or proposed contract is, or can be expected to be, *used entirely or almost entirely for speculation or if the manner in which the board of trade operates or permits trading to be conducted in the contract is or reasonably can be expected to be contrary to the public interest.* H. Rep. No. 93-975, 93d Cong., 2d Sess. 29 (1974).

Furthermore, the House Committee expected that—

> * * * the Commission require each board of trade designated as a contract market and each board of trade seeking such designation to demonstrate economic justification * * * something more than occasional use of the contract for hedging or price basing must be established. *Id.*

The Commission is of the view that a public interest standard similar to that contained in Section 5(g) of the Act is to be applied in its consideration of leverage transactions.[9]

To the extent that the economic purpose of leverage transactions in commodities other than gold and silver is similar to that of futures contracts, the Commission seeks the submission of evidence concerning the commercial use of leverage transactions for hedging or price basing or otherwise to facilitate the production, marketing and processing of commodities in interstate commerce. Further, the Commission seeks evidence concerning any other economic purpose served by such leverage transactions. In this connection, the Commission requests that those persons currently involved in the business of marketing these leverage contracts to the public notify the Commission of their activities, identify the commodities involved and provide information pertaining to the economic purpose served by their enterprises. The Commission further requests indications of interest from the public and commercial enterprises on the possible use of leverage contracts on commodities other than gold and silver for hedging and price basing purposes. The Commission wishes to emphasize that the comments it receives on these issues are of extreme importance. In the absence of any substantial evidence of economic purpose, a prohibition against leverage transactions involving all commodities other than gold and silver would seem to be warranted since there would be no countervailing reasons to permit an activity in which the potential for customer abuses, as discussed below, is so great.

Congress, in differentiating between leverage transactions involving gold and silver bullion or bulk coins and other leverage transactions, may have perceived that the former did, in fact, serve some economic purpose. This may have been because those commodities have historically been viewed as having an intrinsic store of value and may, therefore, be an appropriate method by which protection could be sought from inflationary pressures. However, the same cannot be said with respect to the other commodities.

Of course, even if some leverage transactions in commodities other than gold and silver might be found to serve some economic purpose, it may be that the transactions involved are in fact contracts for future delivery within the meaning of the Act and therefore required to be regulated as such in accordance with Section 19(d) of the Act. Regulation in this manner, would necessarily include the requirement that the transactions be effected on boards of trade designated as con-

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[3] On November 14, 1978, the Commission announced that it was proposing to adopt an expanded version of the Commission's existing antifraud rule concerning gold and silver leverage transactions. 43 FR 52729. On December 11, 1978, the Commission adopted that proposed rule, as Rule 31.03, substantially in the form proposed. 43 FR 58554 (December 15, 1978). The new rule continues to proscribe fraudulent activity in connection with leverage transactions in silver or gold bullion or bulk coins, but also makes it unlawful to engage in fraudulent conduct in connection with leverage transactions involving all other commodities.

Since Section 19 already prohibits leverage transactions involving commodities enumerated in Section 2(a) of the Act prior to 1974, Rule 31.03 does not cover those leverage transactions.

[4] See S. Rep. No. 95-1239, 95th Cong., 2d Sess. 27 (1978).

[5] S. Rep. No. 95-850, 95th Cong., 2d Sess. 27 (1978).

[6] *Id.* at 27.

[7] See *National Association for the Advancement of Colored People* v. *Federal Power Commission*, 425 U.S. 662, 669-670 (1976).

[8] S. Rep. 93-1194, 93d Cong., 2d Sess. 36 (1974).

[9] The economic purpose criterion is also part of the Commission's announced policy with respect to whether and under what circumstances it will permit commodity options to be traded. See, *e.g.*, 42 FR 18248 (April 5, 1977), 42 FR 55545 (October 17, 1977), and 43 FR 16155-56 (April 17, 1978).

tract markets by the Commission. Significantly, the characteristics of leverage transactions, as described by the Senate Committee on Agriculture, Nutrition, and Forestry, are similar, if not identical, to those of contracts for future delivery:

> Generally, the leverage contract currently in use is an agreement for the purchase or sale of a contract for the delivery at a later date of a specified commodity in a standard unit and quality, or the close-out of the contract by an offsetting transaction. The principal characteristics of the contracts include: (1) Standard units, quality, and terms and conditions; (2) payment and maintenance of 'margin'; (3) close-out by an offsetting transaction or by delivery, after payment in full; and (4) no right or interest in a specific lot of the commodity. S. Rep. No. 95-850, 95th Cong., 2d Sess 26 (1978).

The Commission requests comments on whether there are any types of leverage transactions which have different characteristics than those enumerated above.

Customer Protection

As indicated above, the second element of the public interest considerations to be applied by the Commission under Section 19 is whether leverage transactions present an unnecessary risk to the public. In this connection, the Commission appreciates fully that in passing the Futures Trading Act of 1978 Congress was concerned over the recent scandals in commodity options.

Pursuant to sections 4c(b) and 8a(5) of the Act the Commission had attempted to regulate the offer and sale of commodity options in the United States.[10] However, the Commission found that the overwhelming majority of firms engaged in the offer and sale of commodity options employed fraudulent and other illegal practices. Because of the widespread scandals caused by the conduct of these firms, the Commission adopted a regulation generally suspending commodity option sales on or after June 1, 1978. 17 CFR 32.11, 43 FR 16153, 16161 (April 17, 1978). Thereafter, Congress, also prompted by the fraudulent practices with respect to commodity options, amended Section 4c of the Act to prohibit by statute the offer and sale of options with certain narrow exceptions. Section 3 of the Futures Trading Act of 1978, 92 Stat. 867-869. In enacting that prohibition, Congress was expressly concerned with option dealers moving into the leverage transaction field. As the Senate Committee on Agriculture, Nutrition, and Forestry stated:

> The Committee is aware that when the suspension on commodity options trading goes into effect, many of the firms currently merchandising options contracts may shift their efforts to writing leverage contracts. Therefore, the Commission's regulatory authority should not be limited to leverage contracts on gold or silver bullion or bulk coins * * * S. Rep. No. 95-850, 95th Cong., 2d Sess. 27 (1978).

Similarly, Senator Huddleston, the sponsor of S. 2391, observed during the floor debate on the bill, as reported by the Conference Committee:

> The media has recently disclosed the widespread potential for fraud in the marketing of leverage contracts in diamonds. The Commission under new section 19 of the Commodity Exchange Act, will have the authority to regulate or ban leverage transactions in diamonds, emeralds, or other commodities on which leverage transactions are offered. It is my hope that this new authority, coupled with the Commission's acquired experience over the past three years, will insure that the scandals with "London" options will not be repeated with leverage transactions. 124 Cong. Rec. S16530 (daily ed., September 28, 1978).

The danger of former commodity option firms moving into the area of leverage contracts is also a matter of grave concern to the Commission. Indeed, for this reason, among others, the Commission has imposed a temporary moratorium on persons entering into the business of offering and selling leverage transactions for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins who were not in that business on June 1, 1978. 43 FR 56885 (December 5, 1978).

A study conducted by the Commission's Division of Enforcement pertaining to those firms known to be currently marketing leverage contracts to the public identified approximately 73 firms that are selling off-exchange instruments, some of which appear to be leverage contracts. The Commission study indicated that several commodities other than gold and silver were being sold on a leverage basis, including diamonds[11] and other precious gems, copper, and platinum.[12] Customer complaints and preliminary investigations indicate a likelihood that high-pressure "boiler-room" sales techniques, including cold-canvas telephone calls and misrepresentations, are being employed to sell leverage contracts in commodities other than gold and silver. These are the same kinds of fraudulent and abusive practices which characterized the sale of London commodity options. Investigations conducted by the Commission's staff have thus far revealed that a number of these leverage contract firms are former commodity option dealers operating out of the same business address, with some of the same corporate principals and salespersons and using the same sales techniques. It also appears that entry of many of these persons into the leverage transaction business coincided with the June 1, 1978, effective date of the Commission's suspension of the offer and sale of commodity options in the United States.[13]

Leverage customers are entirely dependent upon the continuing financial solvency of their dealer for the creation of a buy-sell market for offsetting contracts, the delivery of the specified commodity and the maintenance, safety and payment of customer funds and profits.[14]

Since the area of leverage transactions has yet to be brought under and may not be susceptible to a system of comprehensive regulatory control, there exists a significant possibility that the increased marketing of these contracts will result in severe financial loss to numerous members of the public. Leverage transactions, like commodity options, are esoteric instruments the intricacies of which are difficult to comprehend by most members of the public, and require a substantial initial investment by the customer, a large percentage of which often goes immediately to the leverage dealer in the form of commissions, mark-ups or other costs or fees. The lack of public understanding concerning leverage transactions together with the lure of large potential profits to be made, make these transactions highly susceptible to overreaching and fraudulent activities. Under these circumstances, and in the absence of any evidence that there is a significant economic purpose associated with leverage transactions in commodities other than gold and silver, the Commission fully intends to implement the prohibition on such transactions.

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[10] 17 CFR 32.1, *et seq.* (1978), 41 FR 51808, 51814-51917 (November 24, 1976).

[11] The Senate Committee Report accompanying S. 2391 made clear that the Commission would have the "authority to regulate or ban leverage contracts on diamonds * * *" S. Rep. No. 95-850, 95th Cong., 2d Sess. 27 (1978).

[12] See, letter and exhibits of September 8, 1978, from Vice Chairman Seevers to Senator Talmadge, copies of which are available for public inspection at the Commission's Washington, D.C. headquarters.

[13] The Commission is also investigating to determine whether some of the contracts offered by these firms and other firms are in fact commodity options, being sold in violation of the statutory and administrative ban against the offer and sale of commodity options.

[14] The Senate Committee Report accompanying S. 2391, observed in connection with leverage transactions: "The leverage dealer is the principal to every transaction and functions as a market maker. The leverage dealer, however, does not guarantee a repurchase market and further reserves the right to cease operating as a market maker or broker for the customer. Most customer commitments are covered or 'hedged' in futures, forwards, or physical inventory; most physical inventory, however, is encumbered through bank loans. Leverage contract bid/ask prices are determined by dealer adjustments to spot and futures market quotations." S. Rep. No. 95-850, 95th Cong., 2d Sess. 26 (1978).

In conjunction with the imposition of a suspension, the Commission is considering adoption of a procedure whereby a person might be granted an exemption if he could demonstrate to the Commission that he had invested substantial resources in the development of a leverage contract business, that this business has been and will continue to be conducted in a manner that may reasonably be expected to insure the financial solvency of the transactions to be offered and to prevent manipulation or fraud, and that the manner in which the business will be conducted would present no substantial risk to the public and would be otherwise consistent with the public interest.

Should commentators believe that the Commission should regulate—rather than prohibit—all or any class of leverage transactions in commodities other than gold and silver, the Commission requests that commentators set forth with particularity which forms of leverage transactions should be permitted, the economic purpose to be served by each, and the form of regulatory safeguards under which the transactions should be permitted. In addition to the comments requested above, the Commission is particularly interested in receiving comments on the following issues:

(1) Are there any alternatives to the proposed prohibition and the temporary suspension which the Commission could implement promptly and which could reasonably be expected to offer meaningful customer protection at this time?

(2) The extent to which leverage contract customers are being offered adequate protection against fraudulent and other unlawful and unsound business practices.

(3) Whether leverage contracts on diamonds and other precious gems should be prohibited since the diverse grade and quality of these items makes their offer and sale on a standardized contract basis inherently fraudulent.

Interested persons are invited to participate in this rulemaking proceeding by submitting their comments and views to the Commission at its office in Washington, D.C., Attn: Secretariat.

The Commission is mailing a copy of this release to the attorneys general and securities administrators of the states and requests that they provide the Commission with their comments and any promotional materials they may have obtained from leverage contract firms. Furthermore, the Commission considers the record developed in connection with its earlier proceeding pertaining to Rule 31.1, which establishes a moratorium on the entry into the business of offering and selling leverage contracts involving the delivery of silver bullion, gold bullion, bulk silver coins and bulk gold coins, to be a part of the record upon which it will consider the present proposal.

Issued in Washington, D.C. on January 29, 1979.

GARY L. SEEVERS,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-3548 Filed 2-1-79; 8:45 am]

[4810-31-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 4, 5, and 7]

[Notice No. 314]

LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a notice of proposed rulemaking to prescribe requirements for partial ingredient labeling of alcoholic beverages. The proposed requirements are intended to assist consumers in identification of ingredients contained in wine, distilled spirits or malt beverages. Regulations issued under the authority of the Federal Alcohol Administration Act did not previously require label disclosure of that information.

DATE: Comments must be submitted on or before April 3, 1979.

ADDRESS: Send comments in duplicate to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044. Attn: Chief, Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT:

R. F. Conrad or T. B. Busey, Research and Regulations Branch, 202-566-7626.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Proposed amendments to Parts 4, 5 and 7, 27 CFR, were previously published in the FEDERAL REGISTER under separate notices of labeling and advertising hearings by Notice No. 271, (40 FR 6349), February 11, 1975; Notice No. 272, (40 FR 6354), February 11, 1975; and Notice No. 149, (39 FR 27812), August 1, 1974, respectively. These proposals would have required virtually full disclosure by order of predominance of all ingredients used in alcoholic beverages. Further, the proposals would have required disclosure of the maximum amount of sodium the alcoholic beverage may contain. Public hearings on all these ingredient labeling proposals were held, beginning with malt beverages on April 15, 1975, distilled spirits on April 16 and 17, 1975, and wine on April 29, 30, and May 1, 1975.

Well over 1,000 comments were received, most relating to ingredient labeling of wine. Generally speaking, these comments were simply for or against ingredient labeling, without touching on the substance of the proposals. Basically, comments received indicated objections to the proposed amendments were primarily based on (1) Apparent excessive cost, (2) The possibility of inadvertently misleading the public as to the nutritional value of alcoholic beverages, (3) The fact that the proposed regulations were seen by other countries as a non-tariff trade barrier, and, (4) The lack of need because ingredient usage was already comprehensively regulated.

As a result of the objections received during the course of the hearings, the Treasury Department, on November 11, 1975, withdrew its notices for ingredient labeling of alcoholic beverages (Notice No. 285, 40 FR 52613).

Approximately three years have now elapsed since the Department's decision to withdraw its ingredient labeling proposals. During this period of time the Treasury Department has continued to review its ingredient labeling position and to discuss its views with other interested agencies.

During these discussions, the Department has considered the following options: (1) Full ingredient labeling with requirements as previously proposed; (2) Partial ingredient labeling allowing the use of generic terms to describe the basic ingredients (such as grains or fruits) but with the requirement to list all additives used; (3) Partial ingredient labeling allowing the bottler to list the range of possible essential components in agriculturally identifiable terms (those necessary to develop the character of the product such as corn or rye for distilled spirits, or grapes for wine, or barley for malt beverages) but with the requirement of listing all additives used; (4) Partial ingredient labeling with the requirement to list only the additives used; and, (5) No ingredient labeling in any form.

After consideration of such alternatives and in view of the record established pursuant to the prior proposals and the statutory authority of the Federal Alcohol Administration Act, the Department proposes to amend its regulations to require partial ingredient labeling by allowing a bottler to list the range of possible essential components with a requirement for the specific listing of all additives remaining in alcoholic beverages domestically produced or imported. We feel that this proposal affords consumer and social benefits that are compatible with the increase in public awareness and desire for information.

By designing regulations in this form, the Department will provide consumers, particularly those allergic to a certain ingredient or type of ingredient, with valuable information while minimizing the cost of the regulations to the industry and ultimately the consumer. The cost saving measures include:

(1) "Shotgun" labeling for essential components will enable producers to take advantage of seasonal price fluctuations for ingredients which are fundamental to the production of the beverage without necessitating an expensive label change because of the substitution. Producers will be able to use the commodity most available but will not be forced to maintain separate records to substantiate each change, or be forced to maintain a label inventory for each essential component which may be used.

(2) Partial ingredient labeling will not require that the maximum amount of sodium contained in the alcoholic beverage be listed. According to comments from industry, the requirement for sodium would have meant separate labels for each batch of alcoholic beverages bottled. Even though there are some reasons for wanting this information readily available, the extra cost burden is not warranted.

(3) The new proposal does not require that ingredients be listed in order of predominance. The industry presented convincing arguments that alcoholic beverages undergo more delicate chemical changes than food and soft drink products. These variations will result in slight changes in the quantity of each ingredient added to a particular batch. Again, while a listing by order of predominance would be information for consumers, to provide it would have required elaborate records be kept for each batch, and labels changed each time the order of predominance varied. This extra cost burden is not warranted.

(4) The new proposal will allow producers, under specific conditions, to make minor adjustments to an essential component without listing the ingredient added. With this provision, we will minimize the costs of ingredient labeling for the industry since it is often necessary for producers to bring the natural elements of an essential component up to the desired and usual standard. This usually occurs because of varying climatic growing conditions, and the regulations will only permit omission of the listing of an additive if the level added, combined with the amount present, falls within an amount normally found in the natural ingredient.

(5) Under our prior proposal, each ingredient needed to be tested for a standard of measurability to determine whether it had to be listed or not. This proposal has been simplified. Expensive equipment to perform standard laboratory tests as prescribed by the latest edition of the "Official Methods of Analysis of the Association of Analytical Chemists" will not be required unless the producer desires to classify an ingredient as an incidental additive and not list it.

(6) The producer is offered the option of placing the ingredient list on an existing brand label, back label, or on a separate strip label attached to the container. The use of a strip label offers a cost saving alternative during implementation of the proposed regulations, since the less expensive label may be used indefinitely, or until existing inventories of the more expensive brand or back labels are depleted.

These changes will minimize costs. However, we still believe that it is important that industry supply us with their specific cost estimates. Once we receive this information we will independently prepare a final regulatory analysis after the close of the comment period and before the making and issuance of a Treasury decision, which will include an analysis of the economic consequences of implementing partial ingredient labeling and the specific gains to society as a whole.

PROPOSED CHANGES

Generally, the proposed amendment requires that, with the exception of incidental additives and incidental adjuncts, ingredients used in producing an alcoholic beverage for domestic consumption be listed on the label unless removed before packaging in the final consumer package. No order of predominance is required.

An ingredient is defined as any essential component, additive or adjunct, and incidental additive or incidental adjunct, used in the production of a finished alcoholic beverage.

An essential component is defined as any agriculturally identified substance, such as grapes for wine, corn for distilled spirits, or barley for malt beverages, or derivatives thereof, used in the production of a basic alcoholic beverage which is fundamental to the production of that alcoholic beverage. Water is included in the definition of an essential component due to its unique property of being fundamental to the production of alcoholic beverages.

An additive or adjunct is defined as any substance, except essential components and incidental additives or incidental adjuncts, added during the production, storage or treatment of the product. For example, yeast will be considered as an additive for listing purposes. We are, however, specifically interested in comments discussing the unique properties of yeast and whether it should be considered as an essential component or as an additive.

The proposed amendments specifically exclude from the listing requirement incidental additives or incidental adjuncts. An incidental additive or incidental adjunct is defined, in general terms as (1) a processing aid used in an intermediate product if it has no technical or functional effect on the finished product (such as sulfur dioxide used to preserve apple juice, which, when the apple juice is added to finish the wine, the sulfur dioxide is not present in the finished wine in sufficient quantity to preserve it), or (2) a processing aid that is added to the product for its mechanical effect only (such as an inert filter aid or clarifying agent) and is then removed or reduced to an amount too small to be significant, or (3) a processing aid which reacts chemically or biologically in the product to remove other substances (as by forming an insoluble compound) and which is then removed or reduced to a level too small to be significant, or (4) a processing aid which is added before or during fermentation to adjust the natural deficiencies of a constituent part present in an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component.

Expert comment and input is requested on points 2 and 3 above relating to the definition of an incidental additive. Is there or should there be a universal standard for determining when an amount is "too small to be significant?" Can a cut-off point be developed to determine a level of significance for all products as it relates to the incidental additive?

Exclusion of incidental additives or incidental adjuncts is based on the Food and Drug Administration practice with food products. The Department believes that any attempt to list every subtance which comes into contact with the product, whether or not it reacts within or remains in it, would result in a long and meaningless list which would be confusing to the consumer and an undue burden to the producer.

The proposed regulations require that a full listing of possible essential components and a specific listing of additives used in the manufacture of the product be placed on a label affixed to or a part of an immediate container holding the alcoholic beverage. Essential components not present in the product may be listed if they are sometimes used to produce the alcoholic beverage. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." In

order to provide more complete information for consumers, derivatives of essential components are required to be identified when used. For example, if grapes and grape concentrate are alternatively used by a wine producer, the label may state "grapes and/or grape concentrate." If corn and corn syrup are alternatively used by a distilled spirits producer or a malt beverage producer, the label may state "corn and/or corn syrup." However, no additives shall be listed unless actually present. Although not required, the bottler may list the exact names of all ingredients present (with or without the listing of incidental additives or incidental adjuncts). As proposed, the list is separate and distinct from all other matters shown on the label to make it readily identifiable by the consumer.

The proposed amendments further provide that an artificial color be identified by its Food, Drug and Cosmetic name (FD&C yellow number 5, for example), but also allow the term "artificially colored" to be used in the list of ingredients to identify artificial or natural materials which primarily contribute color, or to show that the color originates from a source other than the apparent source. However, if no coloring material other than natural flavoring material is added, a truthful statement of the source of the color can be made. If all coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" can be used. If only caramel is added for coloring, the term "colored with caramel" can be used.

Flavoring materials used in alcoholic beverages are required to be identified in the same manner as flavoring materials are identified under FDA regulations.

Identification of ingredients included in the list is also in accordance with FDA practice, or in the case of ingredients not specifically listed by FDA but Generally Recognized as Safe (GRAS), the ingredients must be identified by the common or usual name.

Also in accordance with FDA practice and in the interest of consumer knowledge, use of informational functional statements, such as "to clarify," has been left to the option of the producer. The use of these statements is restricted by prohibitions contained in the regulations regarding misleading statements.

The use, however, of any word or phrase denoting quality in the ingredient list (*e.g.*, "finest" grapes or "best" yeast) is specifically prohibited. Further, the use of negative statements such as "contains no additives" or "contains no preservatives" is prohibited. These provisions are intended to keep the ingredient list as clear and concise as possible by avoiding puffery and other unnecessary verbiage. These prohibitions apply only to the ingredient list.

Preservatives are identified by the term "to preserve" or "as a preservative."

The proposed amendments require that, in addition to current regulatory requirements for label approvals and certificates of origin, age and identity, all imported alcoholic beverages in bottles released from Customs custody be accompanied by a certified list of ingredients, signed by an authorized official of the foreign country in which the alcoholic beverages are produced. The certification must be filed with the application for release and, where the alcoholic beverages have been blended, rectified or treated in more than one foreign country, and appropriate certified list of ingredients would be required of each country. For alcoholic beverages imported in bulk for bottling in the United States, the proposed amendments similarly impose the requirement for submission of a certified list of ingredients by the producing foreign country or a certified list from each foreign country where the alcoholic beverages have been blended, rectified or treated.

The certification must be forwarded to the domestic bottler and maintained at his premises. We are aware, however, that this area is controversial, both from the standpoint of domestic and foreign industry members. Since this is such an important consideration, we especially invite comments or suggestions relating to an alternate procedure for handling the certifications.

The Bureau recognizes that many domestic and imported beverages may be bottled and stored prior to the mandatory compliance date and to require rebottling or relabeling of those alcoholic beverages would impose an unreasonable economic burden on producers. To allow an orderly and satisfactory transition from current regulatory requirements to compliance with regulations reflected by these proposals, foreign bottlers of alcoholic beverages will be allowed to submit a statement signed by an authorized official of the appropriate foreign country, attesting that the alcoholic beverages were bottled or packaged prior to the mandatory compliance date. No such statement is necessary for domestically bottled alcoholic beverages, since information on bottling dates is available in proprietor's records and will be verified by ATF inspectors during the course of on-site inspections.

During the period between the effective date and the mandatory compliance date, producers will be expected to obtain Bureau approval of labels on which the location, size or prominence of mandatory information has been changed by the addition of the ingredient list. However, to minimize the administrative burden for producers, a simplified form will be provided to allow producers to make application for approval of ingredient lists which do not change labels as to location, size or prominence of mandatory information. Further, the proposed rules allow submission of a single form to cover applications for approval of ingredient lists used on more than one label.

While the requirements for partial ingredient labeling may be interpreted as highly technical, they are designed to address the large number of variety of products for these complex industries so that they may know what is required. We do not believe the resulting lists will be either too technical or too complicated. These regulations insure enforcement authority to prevent misleading statements to consumers but offer dollar saving options to minimize the cost of ingredient labeling to both United States and foreign industry members.

Transition Period

Some industry representatives have previously proposed a four to six year transition period during which time adequate recordkeeping systems could be developed. Consumer groups on the other hand have favored a much shorter period. Our position is that a three year transition period between the effective date and mandatory compliance date of these or amended regulations contained in this document will provide ample time to meet the new requirements.

Miscellaneous Amendments

As with TA-ATF-53, dealing with 27 CFR, Part 4, labeling and Advertising of Wine, changes are proposed in type requirements to reflect metric sizes for labeling of distilled spirits and malt beverage products. The change to metric print size is proposed to be made effective January 1, 1980.

The table of sections to Parts 4, 5 and 7 would be amended to reflect the proposed changes. Additional conforming and minor editorial changes would be made to existing sections in Parts 4, 5 and 7 affected by the proposed changes.

Proposed amendments to other regulations affected by these proposals (Parts 201, 231, 240 and 245 of 27 CFR) would be made by a future notice of proposed rulemaking.

Public Participation

ATF requests comments from all interested consumers about the value of such a proposal. Also of particular interest are comments from industry members which present specific data and not general allegations on cost

burdens related to the adoption of these regulations. This data should include costs associated with equipment purchases, manpower, recordkeeping, labels, adhesives, etc. Previous comments for withdrawal of the full ingredient labeling proposal in 1975 (40 FR 52613) do not apply to this notice.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

After consideration of all comments and suggestions, ATF may issue a Treasury decision. The proposals discussed in this notice may be modified due to the comments and suggestions received.

DISCLOSURE OF COMMENTS

Copies of the proposed changes, of the regulatory analysis, and of all written comments will be available for public inspection under authority of 27 CFR 71.41(b) during normal business hours at the following location:

Public Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

ATF will not recognize any designation of material in comments as confidential or not to be disclosed, and any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

DRAFTING INFORMATION

The principal authors of these requlations were Thomas Busey and Raymond Conrad of the Regulations and Procedures Division of the Office of Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau of Alcohol, Tobacco and Firearms and Treasury Department participated in developing the regulations, both on matters of substance and style.

AUTHORITY

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981 (as amended; 27 U.S.C. 205)), 27 CFR Parts 4, 5 and 7 are proposed to be amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The table of sections in 27 CFR Part 4, Subpart D is amended to include an additional section as follows:

Subpart D—Labeling Requirements for Wine

Sec.

* * * * *

§ 4.37a List of ingredients.

* * * * *

Par. 2. Section 4.10 is amended to add, in alphabetical order, the terms "Additive," "Artificial flavor or artificial flavoring," "Essential component," "Incidental additive," "Ingredient," and "Natural flavor or Natural flavoring." The added definitions read as follows:

§ 4.10 Meaning of terms.

* * * * *

Additive. For purposes of this part, an additive is any substance, except essential components and incidental additives, added by any means during the production, storage, or treatment of wine and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color wine that remain in the finished product are considered additives. Agriculturally identified substances (grapes for example) which are essential components in the production of the basic wine are not considered additives.

Artificial flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (grapes, peaches or blackberries for example), or derivative thereof, used in the production of a basic wine which is fundamental to the production of the wine. Water is specifically included as an essential component.

* * * * *

Incidental additive. An incidental additive is, (1) A processing aid used in an intermediate product if it has no technical or functional effect on the finished wine (an example of such an incidental additive is sulfur dioxide used to preserve apple juice, which, when the apple juice is added to the finished wine, the sulfur dioxide is not present in the finished wine in sufficient quantity to preserve it); or (2) A processing aid that is added to a wine for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (3) A processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finish product; or (4) A processing aid which is added before or during fermentation to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, catalyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (3) and (4) of this paragraph, is specifically excluded from this definition of an incidental additive.

* * * * *

Ingredient. For purposes of this part, an ingredient is any essential component, additive or incidental additive used in the production of a finished wine.

* * * * *

Natural flavor or natural flavoring. The term "natural flavor" or "natural flavoring" means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate, or any product of roasting, maceration, heating or enzymolysis, which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products, or fermentation products thereof, whose significant function is flavoring.

* * * * *

Par. 3. Section 4.32 is amended by changing the reference in (a)(4) from "domestic" to "American"; by adding a new paragraph (c); by relettering existing paragraph (c) as (d) and existing paragraph (d) as (e); and by changing the reference in paragraph (a) to (c) and (d). As amended, § 4.32(a), (a)(4), (c) and (d) read as follows:

§ 4.32 Mandatory label information.

(a) Except as otherwise provided in paragraphs (c) and (d) of this section,

there shall be stated on the brand label:

* * * * *

(4) On blends consisting of foreign and American wines, if any reference to the presence of foreign wine is made, the exact percentage by volume of foreign wine.

* * * * *

(c) There shall be stated on the brand label, back label, or on a separate strip label, a list of ingredients required to be listed by § 4.37a.

(d) In the case of imported wine, the name and address of the importer (when required to be shown) need not be stated upon the brand label if it is stated upon any other label affixed to the container. In the case of American wine, bottled or packed for a retailer or other person under a private brand, the name and address of the bottler or packer need not be stated upon the brand label if the name and address of the person for whom bottled or packed appears upon the brand label, and the name and address of the bottler or packer is stated upon any other label affixed to the container.

Par. 4. A new section, 4.37a, has been added, in numerical sequence, to read as follows:

§ 4.37a. List of ingredients. (Not mandatory before January 1, 1983.)

(a) *General.* There shall be shown on the brand label, back label, or on a separate strip label, a list of all ingredients used in the production, rectification or treatment of wine, except incidental additives as defined in § 4.10.

(b) *Form of list.* The list shall be separate and distinct from all other matter shown on the label and shall take substantially the following form: "Ingredients," followed by a full listing of essential components (as defined in § 4.10 of this part) and a specific list of the additives used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the wine. Such essential components shall be idenified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." No additives shall be listed unless actually present. At the option of the bottler, an exact listing of ingredients may appear. Ingredients which are duplicated in the finished wine product need be listed only once.

(c) *Mandatory statements.* Substances used in wine to retard spoilage by oxidation or by microbes (such as sulfur dioxide and sorbic acid) will be identifed in the ingredient list both by the name and by the statement "to preserve" or "as a preservative."

(d) *Prohibited statements.* Statements of the following types may not appear in the ingredient list: (1) negative statements, such as "contains no additives"; (2) statements of substances formed within the product, such as substances formed by storage in wood; (3) statements denoting quality, as provided in § 4.39(a)(10); and (4) statements of grape (or other fruit) varieties used to make a wine.

(e) *Optional statements.* Specific function statements for additives included in the ingredient list may be used at the option of the producer if:

(1) the statement is truthful; and

(2) the statement does not create a misleading impression; and

(3) the statement is made in substantially the following form: "*(additive name)*, to clarify."

(f) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally indentified substances, or their derivatives when used, such as "grapes," "grape concentrate," "cherries," "cherry concentrate," "oranges," or "orange concentrate." Additives, unless they can be identified by common names, will be broken down into their component compounds. As an example, a defoaming agent which contains sorbic acid and carboxymethylcellulose will be listed by the names of the two elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, ingredients which are not authorized for use in Parts 70-82 or Parts 170-189, of 21 CFR, or are not Generally Recognized as Safe (GRAS), may not be used in wine.

(g) *Coloring materials.* Label designations for artificial colors added shall be denoted by the FD&C color and number; for example, FD&C yellow number 5, rather than by a chemical derivative name. In lieu of the individual names, the term "artificially colored" may be used in the list of ingredients to idenitfy artifical or natural materials which primarily contribute color. When a label conveys the impression that he color is derived from a source other than the actual source, the term "artificially colored" may be used. However:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color; or

(2) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" may be used in lieu of the term "artificial color"; or

(3) If no coloring material other than caramel has been added there may be stated in lieu of the words "artificially colored," the words "colored with caramel."

(h) *Flavoring materials.* Natural and/or artificial flavors used in wine shall be identified in the ingredient list in accordance with the labeling of flavors under FDA regulations. Examples are "natural and artificial," "artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the flavor may be made in lieu of the words "natural flavor(s)."

(i) *Distilled spirits.* Distilled spirits used in wine production shall be identified by class and type in accordance with the standards of identity contained in 27 CFR Part 5 except wine spirits as defined in 27 CFR Part 240. Distilled spirits not covered by a standard of identity shall be identified by the term "spirits," preceded by the name of the commodity from which distilled.

(j) *Domestic wine bottled or packed prior to January 1, 1983.* Domestic wine bottled or packed prior to January 1, 1983, shall not be required to bear the list of ingredients required by this section.

(k) *Imported wine removed from Customs custody on or after January 1, 1983.* Labels on imported wine bottled or packed prior to January 1, 1983, and removed from Customs custody on or after January 1, 1983, shall not be required to bear the list of ingredients required by this section, if the shipment is accompanied by the statement required by § 4.40.

Par. 5. Section 4.38 is amended by adding a provision for ingredient lists to paragraph (b), size of type. As amended § 4.38(b) reads as follows:

§ 4.38 General requirements.

(a) *Legibility.* * * *

(b) *Size of type.* Unless otherwise provided in this paragraph, all statements and ingredients lists required on labels by this part shall be in script, type, or printing not smaller than 2 millimeters; (or 8-point gothic until January 1, 1980); except that if contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter. In the case of labels of containers having a capacity of 187 milliliters (or one-half pint until January 1, 1979) or less, such script, type, or printing need not be in 2 millimeter (or 8-point gothic until January 1, 1980) type but shall not be smaller

than 1 millimeter (or 6-point gothic until January 1, 1980). Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 2 millimeters (or 8-point gothic until January 1, 1980) nor less than 1 millimeter (or 6-point gothic until January 1, 1980) on labels of containers having a capacity of 5 liters or less (or one gallon or less until January 1, 1979) and shall not be set off with a border or otherwise accentuated.

* * * * *

Par. 6. Section 4.39 is amended to add reference to a list of ingredients in (a)(7) and add a new paragraph (a)(10). As amended § 4.39(a)(7) and (a)(10) read as follows:

§ 4.39 Prohibited practices.

(a) *Statements on labels.* * * *

(7) Any statement, design, device or representation, (other than a statement of alcoholic content in conformity with § 4.36) which tends to create the impression that a wine is "unfortified" or has "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in these regulations, may include a reference to the type of distilled spirits contained therein. This paragraph shall not apply to the list of ingredients required by § 4.37a.

* * * * *

(10) Any word or statement in the ingredient list denoting quality, such as "finest" grapes or "best" yeast.

* * * * *

Par. 7. Section 4.40 is extensively amended to read as follows:

§ 4.40 Label approval and release.

(a) *Certificate of label approval.* No imported beverage wine in containers shall be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an "Application for and Certification of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on Form 1649, properly filled out and certified to by the importer or transferee in bond.

(b) *List of ingredients.* Each application for a certificate of label approval covering imported wine in containers bottled or packed after December 31, 1982, shall be accompanied by a list of ingredients, certified by an authorized official of the appropriate foreign country, and such list shall contain the information required by § 4.37a. Where the wine has been blended or treated in more than one foreign country, an appropriate list of ingredients must be certified by an authorized official of each such country.

(c) *Approval of ingredients lists.* Where there is no change in the location, size, or prominence of the mandatory information on a label covered by a valid Form 1649, except for the addition of, or change in, the list of ingredients required by § 4.37a, a new Form 1649 need not be filed. An application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with the instructions on the form. If the identical ingredient list is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(d) *Release.* If the original or photostatic copy of Form 1649 bears the signature of the Director, then the brand or lot of imported wine bearing labels identical with those shown thereon (except for the list of ingredients, which may be on Form 1649 Supplemental) may be released from Customs custody. A beverage wine bottled or packed before January 1, 1983, may be released from Customs custody for consumption without the list of ingredients required by § 4.37a only if accompanied by a statement signed by an authorized official of the appropriate foreign country that the wine was bottled or packed prior to January 1, 1983. Wine bottled or packed on or after January 1, 1983, shall not be released from Customs custody unless the Form 1649 on file is accompanied by the certified list of ingredients and the label bears a list of ingredients.

(e) *Relabeling.* Imported wine in Customs custody which is not labeled in conformity with certificates of label approval (including Form 1649 Supplemental on or after January 1, 1983) issued by the Director and which certificates contain all information required by § 4.40 must be relabeled prior to release, under the supervision and direction of Customs officers of the port at which the wine is located.

Par. 8. Section 4.50 is amended by adding two sentences to the end of paragraph (a), by relettering paragraph (b) as (c), by adding a new paragraph (b), by making editorial changes in paragraphs (a) and (c), and by deleting the footnote. As amended, § 4.50 reads as follows:

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in Customs custody, or remove such wine from the plant where bottled or packed, unless upon application to the Director he has obtained and has in his possession an "Application for and Certification Label Approval under the Federal Alcohol Administration Act" (Form 1649), covering such wine. Such certificate of label approval shall be issued by the Director upon application made on Form 1649, properly filled out and certified to by the applicant. Each application for a certificate of label approval covering labels for imported wine shall be accompanied by a list of ingredients, certified by an authorized official of the appropriate foreign country, and such list shall contain the information required by § 4.37a. Where the wine has been blended or treated in more than one foreign country, an appropriate certified list of ingredients must be prepared by an authorized official of each such country.

(b) Where there is no change in the location, size or prominence of the mandatory information on a label covered by a valid Form 1649, except for the addition of the list of ingredients required by § 4.37a, a new Form 1649 need not be filed; in lieu thereof, an application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with the instructions on the form. If the identical ingredient list is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(c) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application he shows to the satisfaction of the Director that the wine to be bottled or packed by him is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. A "Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1650) shall be issued by the Director upon application upon the form designated "Application for Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1648), properly filled out and certified to by the applicant.

Par. 9. Section 4.64 is amended by adding a provision for a list of ingredients to paragraph (a)(8). As amended, § 4.64(a)(8) reads as follows:

§ 4.64 Prohibited statements.

(a) *Restrictions.* * * *

(8) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as a designation of a product not defined in these regulations, may include a reference to the type of distilled

spirits employed. This paragraph shall not apply to the list of ingredients required by § 4.37a.

* * * * *

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 10. The table of sections in 27 CFR Part 5, Subpart D is amended to include an additional section as follows:

Subpart D—Labeling Requirements for Distilled Spirits

Sec.

* * * * *

§ 5.39a List of ingredients.

* * * * *

Par. 11. Section 5.11 is amended by adding in alphabetical order, new definitions of "Additive," "Essential components," "Incidental additive," "Ingredient" and "Natural flavor." The added definitions read as follows:

§ 5.11 Meaning of terms.

* * * * *

Additive. For purposes of this part, an additive is any substance, except essential components and incidental additives, added by any means during the production, storage, or treatment of distilled spirits and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color distilled spirits that remain in the finished product are considered additives. Agriculturally identified substances (corn or wheat or rye for example) which are essential components in the production of the basic distilled spirits are not considered additives.

* * * * *

Artificial flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (corn, wheat or rye for example), or derivative thereof, used in the production of a basic distilled spirits product which is fundamental to the production of the distilled spirits. Water is specifically included as an essential component.

* * * * *

Incidental additive. An incidental additive is, (1) a processing aid used in an intermediate product but which has no technical or functional effect on the finished distilled spirits product (an example of such an incidental additive is sulfur dioxide used to preserve apple juice, which, when the apple juice is added to the beverage, the sulfur dioxide is not present in the final product in sufficient quantity to preserve it); or (2) a processing aid that is added to a distilled spirits product for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (3) a processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product; or (4) a processing aid which is added before or during fermentation to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, catalyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (3) and (4) of this paragraph, is specifically excluded from the definition of an incidental additive.

* * * * *

Ingredient. For purposes of this part, an ingredient is any essential component, additive or incidental additive used in the production of a distilled spirits product.

* * * * *

Natural flavor. The term "natural flavor" or "natural flavoring," except as otherwise provided in this part, means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate or any product of roasting, maceration, heating or enzymolysis, which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products or fermentation products thereof, whose significant function is flavoring.

* * * * *

Par. 12. Section 5.22 is amended by adding a parenthetical explanation to the last sentence of paragraph (i). As amended § 5.22(i) reads as follows:

§ 5.22 The standards of identity.

* * * * *

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka,* and *flavored whisky.* "Flavored brandy," "flavored gin," "flavored rum," "flavored vodka," and "flavored whisky" are brandy, gin, rum, vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 70° proof. The name of the predominant flavor shall appear as a part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure (except in the list of ingredients required by § 5.39a), if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

* * * * *

Par. 13. Section 5.32 is amended by (1) deleting paragraph (b)(4); (2) renumbering paragraphs (b) (5), (6), and (7) as (b) (4), (5) and (6); (3) reletering paragraph (c) as (d); and (4) adding a new paragraph (c). As amended § 5.32(b) (4), (5) and (6), § 5.32 (c) and (d) read as follows:

§ 5.32 Mandatory label information.

* * * * *

(b) * * *

(4) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin, the name of the commodity only, in accordance with § 5.40.

(5) A statement of age or age and percentage, when required, in accordance with § 5.40.

(6) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with § 5.36.

(c) There shall be stated on the brand label, back label, or on a separate strip label a list of ingredients required to be listed by § 5.39a.

(d) In the case of a container which has been excepted by the Director under the provisions of § 5.48(a), the information required to appear on the "brand label," as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

Par.14. Section 5.33 is amended by (1) making clarifying changes in para-

graphs (a), (b), (c) and (f); (2) adding a new paragraph (b)(5) providing type size requirements for ingredients listed on the label; and (3) renumbering existing paragraph (b)(5) as (b)(6). As amended, § 5.33 reads as follows:

§ 5.33 Additional requirements.

(a) *Contrasting background.* Labels shall be so designed that the statements required by this subpart are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) *Location of statements and size of type.* (1) Statements required by this subpart (except brand names) shall appear generally parallel to the base on which the container rests as it is designed to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by this subpart (except brand names) shall be separate and apart from any other descriptive or explanatory matter.

(3) Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(4) When net contents are stated in U.S. fluid measure only, statements required by this subpart (except brand names) shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1980), except that, in the case of labels on bottles of less that 200 milliliter capacity, (or one-half pint until January 1, 1980) such script, type or printing need not be in 2 millimeter (or 8-point gothic until January 1, 1980) type but not smaller than 1 millimeter (or 6-point gothic until January 1, 1980).

(5) The list of ingredients required by this subpart shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic caps until January 1, 1980) except that, in the case of labels on bottles of less than 187 milliliters (or one-half pint until January 1, 1980), the script, type, or printing need not be in 2 millimeter (or 8-point gothic until January 1, 1980) type but shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1980).

(6) When net contents are stated either in metric measure or in both metric and U.S. fluid measures, statements required by this subpart (except brand names) shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic caps until January 1, 1980) except that, in the case of labels on bottles of less than 200 milliliter capacity (or one-half pint until January 1, 1980), such script, type, or printing need not be in 2 millimeter (or 8-point gothic until January 1, 1980) type but not smaller than 1 millimeter (or 6-point gothic until January 1, 1980).

(c) *English language.* The requirements of this subpart shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are also stated in the English language.

(d) Location of label. Labels shall not obscure government stamps or be obscured therby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other U.S. Treasury Department regulations.

(e) *Labels firmly affixed.* Labels which are not an integral part of the bottle shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by this subpart if the information does not conflict with, or in any manner qualify, statements required by this part.

* * * * *

Par. 15. Section 5.39 is amended to delete paragraphs (b), (b)(1), (b)(2) and (b)(3) and the remaining paragraph is relettered (b). Section 5.39 reads as follows:

§ 5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

* * * * *

(b) *Treatment with wood.* The words "colored and flavored with wood ——— (insert chips, slabs, etc., as appropriate)" shall be stated as a part of the class and type designation for whiskey and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation, rectification, or storage (other than through contact with the oak container).

Par. 16. A new section, 5.39a, is added immediately following § 5.39, to read as follows:

§ 5.39a List of ingredients. (Not mandatory before January 1, 1983.)

(a) *General.* There shall be shown on the brand label, back label, or on a separate strip label, a list of all ingredients used in the production, rectification or treatment of distilled spirits, except incidental additives as defined in § 5.11.

(b) *Form of list.* The list shall be separate and distinct from all other matter shown on the label and shall take substantially the following form: "Ingredients," followed by a full listing of essential components (as defined in § 5.11 of this part) and a specific list of the additives used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the distilled spirits product. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." No additives shall be listed unless actually present. At the option of the bottler, an exact listing of ingredients may appear. Ingredients which are duplicated in the finished distilled spirits product need be listed only once.

(c) *Mandatory statements.* Substances used in distilled spirits products to retard spoilage by oxidation or by microbes (such as sulfur dioxide and sorbic acid) will be identified in the ingredient list both by name and by the statement "to preserve" or "as a preservative."

(d) *Prohibited statements.* Statements of the following types may not appear in the ingredient list: (1) negative statements, such as "contains no additives"; (2) statements of substances formed within the product, such as lactones formed by storage in wood; and (3) statements denoting quality, as provided in § 5.42(b)(6).

(e) *Optional statements.* Specific function statements for additives included in the ingredient list may be used at the option of the producer if:

(1) the statement is truthful; and

(2) the statement does not create a misleading impression; and

(3) the statement is made in substantially the following form: "(*additive name*), to clarify."

(f) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally identified substances, or their derivatives when used, such as "corn," "corn and/or corn syrup," "wheat," "orange," "orange and/or orange concentrate." Additives, unless they can be identified by common names, will be broken down into their component compounds. As an example, a cloud emulsion which contains d-limonen, citric acid, and neobee will be listed by the names of the three elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, ingredients which are not authorized for use in Parts 70–82 or Parts 170–189, of 21 CFR, or are not Generally Recognized as Safe (GRAS) may not be used in distilled spirits products.

(g) *Coloring materials.* Label designations for artificial colors added shall

be denoted by the FD&C color and number; for example, FD&C yellow number 5, rather than by a chemical derivative name. In lieu of the individual names, the term "artificially colored" may be used in the list of ingredients to identify artificial or natural materials which primarily contribute color. When a label conveys the impression that the color is derived from a source other than the actual source, the term "artificially colored" may be used. However:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color; or

(2) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" may be used in lieu of the term "artificial color"; or

(3) If no coloring material other than caramel has been added there many be stated in lieu of the words "artificially colored," the words "colored with caramel."

(h) *Flavoring materials.* Natural and/or artificial flavors used in distilled spirits shall be identified in the ingredient list in accordance with labeling of flavors under FDA regulations. Examples are "natural and artificial," "Artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the favor may be made in lieu of the words "natural flavor(s)."

(i) *Approval of ingredient lists.* Where there is no change in the location, size or prominence of the mandatory information on a label covered by an "Application for and Certification of Label Approval under the Federal Alcohol Administration Act" (Form 1649), except for the addition of the list of ingredients, required by § 5.391, a new Form 1649 need not be filed. An application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with instructions on the form. If an identical list is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all the approved labels.

(j) *Domestic distilled spirits bottled or packed prior to January 1, 1983.* Domestic distilled spirits bottled or packed prior to January 1, 1983, shall not be required to bear the list of ingredients required by this section.

(k) *Imported distilled spirits bottled or packed prior to January 1, 1983.* Labels on imported distilled spirits bottled or packed prior to January 1, 1983, and removed from Customs custody on or after January 1, 1983, shall not be required to bear the list of ingredients required by this section, if the shipment is accompanied by the statement required by § 5.51a.

Par. 17. Section 5.42 is amended by (1) adding a new paragraph (b)(6); and (2) redesignating paragraphs (b)(6) through (b)(8) as paragraphs (b)(7) through (b)(9). As amended, paragraphs 5.42 (b)(6), (b)(7), (b)(8), and (b)(9) read as follows:

§ 5.42 Prohibited practices.

* * * * *

(b) Miscellaneous * * *

(6) The ingredient list required by § 5.39a of this part shall not contain any words or statements denoting the quality of any ingredient listed. Examples of prohibited words are "finest" corn, "best" yeast.

(7) Distilled spirits shall not be labeled as "double distilled" or "triple distilled," or any similar term.

(8) Labels shall not contain any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with that flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(9) Labels shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects if the statement is untrue in any particular or tends to create a misleading impression.

Par. 18. Section 5.51 is completely revised to read as follows:

§ 5.51 Label approval and release.

(a) *Certificate of label approval.* No imported distilled spirits in containers shall be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an "Application for and Certification of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on Form 1649, properly filled out and certified to by the importer or transferee in bond.

(b) *Lists of ingredients.* Each application for a certificate of label approval covering imported distilled spirits in containers bottled or packed after December 31, 1982, shall be accompanied by a list of ingredients, certified by an authorized official of the appropriate foreign country, and such list shall contain the information required by § 5.39a. Where the distilled spirits have been blended or treated in more than one foreign country, an appropriate list of ingredients must be certified by an authorized official of each such country.

(c) *Release.* If the original or photostatic copy of Form 1649 bears the signature of the Director, then the brand or lot of imported distilled spirits bearing labels identical with those shown thereon (except for the list of ingredients, which may be on Form 1649 Supplemental) may be released from Customs custody. Distilled spirits bottled or packed before January 1, 1983, may be released from customs custody for consumption without the list of ingredients required by § 5.39a only if accompanied by a statement signed by an authorized official of the appropriate foreign country that the distilled spirits were bottled or packed prior to January 1, 1983. Distilled spirits bottled or packed on or after January 1, 1983, shall not be released from Customs custody unless the Form 1649 on file is accompanied by the certified list of ingredients and the label bears a list of ingredients.

(d) *Relabeling.* Imported distilled spirits in Customs custody which are not labeled in conformity with certificates of label approval issued by the Director (including Form 1649 Supplemental) and containing all information required by this section must be relabeled, prior to release, under the supervision of the Customs officers of the port at which the spirits are located.

(e) *Statements of process.* Forms 1649 covering labels for gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

(f) *Approval of ingredient lists.* Where there is no change in the location, size or prominence of the mandatory information on a label covered by a valid Form 1649, except for the addition of, or a change in, the list of ingredients required by § 5.39a, a new Form 1649 need not be filed. An application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with the instructions on the form. If the identical ingredient list is to be used with more than one approved label, a single

Form 1649 Supplemental may be filed covering all such labels.

Par. 19. Section 5.55 is amended by (1) adding two sentences at the end of paragraph (a); (2) adding a new paragraph (b); and (3) redesignating paragraphs (b) and (c) as (c) and (d). As amended § 5.55 reads as follows:

§ 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (c) of this section, unless the proprietor possesses a certificate of label approval, Form 1649, covering the labels on the bottle, issued by the Director pursuant to application on such form. Applications for certificates of approval covering labels for imported gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement, prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process. Each application for a certificate of label approval after December 31, 1982, covering labels for imported spirits shall be accompanied by a list of ingredients, certified by an authorized official of the appropriate foreign country, and such list shall contain the information required by § 5.39a. Where the spirits have been blended, rectified, or treated in more than one foreign country, an appropriate certified list of ingredients must be prepared by an authorized official of each such country.

(b) *Approval of ingredient lists.* Where there is no change in the location, size or prominence of the mandatory information on a label covered by a valid Form 1649, except for the addition of, or a change in, the list of ingredients required by § 5.39a, a new Form 1649 need not be filed; in lieu thereof an application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with the instructions on the form. If the identical ingredient list is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(c) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements of paragraphs (a) and (b) of this section and § 5.56 if he possesses a certificate of exemption from label approval, Form 1650, issued by the Director pursuant to application on Form 1648 showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

(d) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval, or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the Director) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to an authorized officer of the U.S. Government.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 20. The table of sections in 27 CFR Part 7, Subparts C and E is amended to include additional sections as follows:

Subpart C—Labeling Requirements for Malt Beverages

Sec.

* * * * *

§ 7.27a List of ingredients.

* * * * *

Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

* * * * *

§ 7.43 Certificates covering malt beverages produced from imported wort.

Par. 21. Section 7.10 is amended to add in alphabetical order the terms "Additive (Adjunct)," "Essential component," "Incidental Additive (Incidental Adjunct)," "Ingredient," "Natural flavor or Natural flavoring" and "Wort." The added definitions read as follows:

§ 7.10 Meaning of terms.

* * * * *

Additive (Adjunct). For purposes of this part, an additive (adjunct) is any substance, except essential components and incidental additives (incidental adjuncts), added by any means during the production, storage, or treatment of malt beverages and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color a malt beverage that remain in the finished product are considered additives. Agriculturally identified substances (hops for example) which are essential components in the production of the basic malt beverage are not considered additives (adjuncts).

* * * * *

Artifical flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (barley, hops, rice for example), or derivative thereof, used in the production of a basic malt beverage which is fundamental to the production of the malt beverage. Water is specifically included as an essential component.

* * * * *

Incidental additive (Incidental adjunct). An incidental additive (incidental adjunct) is, (1) a processing aid used in an intermediate product but which has no technical or functional effect on the finished malt beverage (an example of such an incidental additive or incidental adjunct is citric acid used to preserve a flavor, which, when the flavor is added to the malt beverage, the citric acid is not present in the final product in sufficient quantity to preserve it); or (2) a processing aid that is added to a malt beverage for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (3) a processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product; or (4) a processing aid which is added before or during fermentation to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, catalyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (3) and (4) of this paragraph, is specifically excluded from this definition of an incidental additive or incidental adjunct.

Ingredient. For purposes of this part, an ingredient is any essential component, additive (adjunct), or incidental additive (incidental adjunct) used in the production of a finished malt beverage.

* * * * *

Natural flavor or natural flavoring. The term "natural flavor" or "natural flavoring" means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate, or any product of roasting, maceration, heating or enzymolysis which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud,

root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products or fermentation products thereof, whose significant function is flavoring.

* * * * *

Wort. For purposes of this part, "wort" means the nonalcoholic infusion which is fermented to produce a malt beverage.

Par. 22. Section 7.20 is amended by making editorial changes in paragraphs (a), (b) and (c)(2). As amended, § 7.20 (a), (b) and (c)(1) read as follows:

§ 7.20 General.

(a) *Application.* This subpart shall apply to malt beverages sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

(b) *Marking, branding, and labeling.* No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from Customs custody any malt beverages in containers unless the malt beverages are packaged, and the packages are marked, branded, and labeled in conformity with this subpart.

(c) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law. The regional regulatory administrator may, upon written application, permit additional labeling or relabeling of malt beverages in containers if, in his judgment, the facts show that the additional labeling or relabeling is for the purpose of compliance with the requirements of this subpart or of State law.

* * * * *

Par. 23. Section 7.22 is amended by adding a new paragraph (b)(1), and by redesignating subparagraphs (b)(1), (2), and (3) as (b)(2), (3), and (4). As amended, § 7.22(b) reads as follows:

§ 7.22 Mandatory label information.

* * * * *

(b) On the brand label or on a separate label (back or front):

(1) A list of ingredients, in accordance with § 7.27a.

(2) In the case of imported malt beverages, name and address of importer in accordance with § 7.25.

(3) In the case of malt beverages bottled or packed for the holder of a permit or a retailer, the name and address of the bottler or packer, in accordance with § 7.25.

(4) Alcoholic content, when required by State law, in accordnce with § 7.26.

Par. 24. A new section, 7.27a, is added immediately following § 7.27, to read as follows:

§ 7.27a. List of ingredients. (Not mandatory before January 1, 1983.)

(a) *General.* There shall be shown on the brand label or any other label affixed to or part of the container, a list of all ingredients used in the production or treatment of malt beverages, except incidental additives (incidental adjuncts) as defined in § 7.10.

(b) *Form of list.* The list shall be separate and distinct from all other matter shown on the label and shall take the following form: "Ingredients," followed by a full listing of essential components (as defined in § 7.10 of this part) and a specific list of the additives (adjuncts) used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the malt beverage. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." No additives (adjuncts) shall be listed unless actually present. At the option of the bottler, an exact listing of ingredients may appear. Ingredients which are duplicated in the finished malt beverage product need be listed only once.

(c) *Mandatory statements.* Substances used in malt beverage products to retard spoilage by oxidation or by microbes will be identified in the ingredient list both by name and by the statement "to preserve" or "as a preservative."

(d) *Prohibited statements.* Statements of the following types may not appear in the ingredient list: (1) negative statements, such as "contains no additives"; (2) statements of ingredients formed within the product; and (3) statements denoting quality, as provided in § 7.29(a)(7).

(e) *Optional statements.* Specific function statements for additives (adjuncts) included in the ingredient list may be used at the option of the producer if:

(1) The statement is truthful; and

(2) The statement does not create a misleading impression; and

(3) The statement is made in substantially the following form: "*(additive/adjunct name)*, to clarify."

(f) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally identified substances, or their derivatives when used, such as "hops," "barley," "rice," "corn," "corn and/or corn syrup." Additives (adjuncts), unless they can be identified by common names, will be broken down into their component compounds. As an example, a foam stabilizer which contains propylene glycol alginate and agar shall be listed by the names of the two elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, ingredients which are not authorized for use in Parts 70-82 or Parts 170-189, of 21 CFR, or are not Generally Recognized as Safe (GRAS), may not be used in malt beverages.

(g) *Coloring materials.* Label designations for artificial colors added shall be denoted by the FD&C color and number; for example, FD&C yellow number 5, rather than by a chemical derivative name. In lieu of the individual names, the term "artificially colored" may be used in the list of ingredients, however, to identify artificial or natural materials which primarily contribute color. When a label conveys the impression that the color is derived from a source other than the actual source, the term "artificially colored" may be used. However:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artifically colored" a truthful and adequate statement of the source of the color; or

(2) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" may be used in lieu of the term "artificial color"; or

(3) If no coloring material other than caramel has been added there may be stated in lieu of the words "artificially colored," the words "colored with caramel."

(h) *Flavoring materials.* Natural and/or artificial flavors used in malt beverages shall be identified in the ingredient list in accordance with the labeling of flavors under FDA regulations. Examples are "natural and artificial," "artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the flavor may be made in lieu of the words "natural flavor(s)."

Par. 25. Section 7.28 is amended by making editorial changes in paragraphs (a), (b), (c), and (e), and by adding a typesize requirement for ingredient lists to paragraph (b). As amended, § 7.28 reads as follows:

§ 7.28 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all statements required by this subpart are readily legible under ordinary conditions, and all the statements are on a contrasting background.

(b) *Size of type.* Except for statements of alcoholic content, containers of less than one-half pint, and lists of ingredients, all statements required on labels by this subpart shall be in readily legible script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1980). If contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than the other descriptive or explanatory reading matter. All portions of any statement of alcoholic content shall be of the same size and kind of lettering and of equally conspicuous color, and the lettering shall not be larger than 2 millimeters (or 8-point gothic until January 1, 1980), except when otherwise required by State law. Containers of less than one-half pint and lists of ingredients required by this part shall be in readily legible script, type, or printing not smaller than one millimeter (or 6-point gothic until January 1, 1980).

(c) *English language.* All information, other than the brand name, required by this subpart to be stated on labels shall be in the English language. Additional statements in foreign languages may be made, if the statements do not conflict with, or are contradictory to, the requirements of this subpart. Labels on containers of malt beverages packaged for consumption within Puerto Rico may, if desired, state the information required by this subpart solely in the Spanish language, in lieu of the English language, except that the net contents shall also be stated in the English language.

(d) *Labels firmly affixed.* All labels shall be affixed to containers of malt beverages in such manner that they cannot be removed without thorough application of water or other solvents.

(e) *Additional information.* Labels may contain information other than the mandatory label information required by this subpart if the information complies with the requirements of this subpart and does not conflict with, or in any manner qualify, statements required by this part.

Par. 26. Section 7.29 is amended by removing the footnote and adding it to paragraph (a)(5), and by adding a new paragraph (a)(7), in numerical order. As amended, § 7.29(a)(5) and (a)(7) read as follows:

§ 7.29 Prohibited practices.

(a) *Statements on labels.* * * *

(5) Any statement, design, device, or representation of or pertaining to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Statements in substantially the following form are not considered misleading: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(Name of the permittee making statement)

* * * * *

(7) Any word or statement in the ingredient list which denotes quality, such as "best" corn or "finest" hops.

* * * * *

Par. 27. Section 7.31 is completely revised, to read as follows:

§ 7.31 Label approval and release.

(a) *Certificate of label approval.* No imported malt beverages in containers shall be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an "Application for an Certification of Label Approval under the Federal Alcohol Administration Act" (Form 1649). This certificate shall be issued by the Director upon application made on Form 1649, properly filled out and certified to by the importer or transferee in bond.

(b) *List of ingredients.* Each application for a certificate of label approval covering imported malt beverages in containers bottled or packed after December 31, 1982, shall be accompanied by a list of ingredients, certified by an authorized official of the appropriate foreign country, and such list shall contain the information required by § 7.27a. Where the malt beverage has been blended or treated in more than one foreign country, an appropriate list of ingredients must be certified by an authorized official of each country.

(c) *Release.* If the original or photostatic copy of Form 1649 bears the signature of the Director, then the brand or lot of imported malt beverages bearing labels identical with those shown thereon (except for the list of ingredients, which may be on Form 1649 Supplemental) may be released from Customs custody. A malt beverage bottled or packed before January 1, 1983, may be released from Customs custody for consumption without the list of ingredients required by this section only if accompanied by a statement signed by an authorized official of the appropriate foreign country that the malt beverage was bottled or packed prior to Janauray 1, 1983. Malt beverages bottled or packed on or after January 1, 1983, shall not be released from Customs custody unless the Form 1649 on file is accompanied by the certified list of ingredients and the label bears a list of ingredients.

(d) *Relabeling.* Imported malt beverages in Customs custody which are not labeled in conformity with certificates of label approval (including Form 1649 Supplemental) issued by the Director and containing all information required by this section must be relabeled prior to release, under the supervision and direction of the Customs officers of the port at which the malt beverages are located.

(e) *Approval of ingredients lists.* Where there is no change in the location, size, or prominence of the mandatory information on a label covered by a valid Form 1649, except for the addition of, or a change in, the list of ingredients required by § 7.27a, a new Form 1649 need not be filed. An application for approval of the ingredient list may be filed on Form 1649 Supplemental, in accordance with the instructions on the form. If the identical ingredient list is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

Par. 28. Section 7.41 is amended by making editorial changes. As amended, § 7.41 reads as follows:

§ 7.41 Certificates of label approval.

No person shall bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed, unless, upon application to the Director, he has obtained, and has in his possession, and "Application for and Certification of Label Approval under the Federal Alcohol Administration Act" (Form 1649) covering the malt beverages. This certificate of label approval shall be issued by the Director upon application made on Form 1649 properly filled out and certified to by the applicant.

Par. 29. A new section 7.43, is added in numerical sequence, to read as follows:

§ 7.43 Certificates covering malt beverages produced from imported wort. (Not mandatory before January 1, 1983.)

Applications for certificates of label approval covering malt beverages produced from imported wort or wort concentrate shall be accompanied by a list of ingredients certified to by an authorized official of the appropriate

foreign country, This certified list of ingredients shall be made a part of any application for a certificate of label approval covering the bottling or packaging of any malt beverage produced from such wort, and shall contain the information required by § 7.27a.

Par. 30. Section 7.50 is amended by making editorial changes. As amended, section 7.50 reads as follows:

§ 7.50 Application.

No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall publish or disseminate, or cause to be published or disseminated, by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of malt beverages if the advertisement is in, or is calculated to induce sales in interstate or foreign commerce, or is disseminated by mail, unless the advertisement is in conformity with this subpart. This subpart shall apply to advertisements of malt beverages intended to be sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the laws of the State impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the State. This subpart shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless the publisher or radio broadcaster is engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, directly or indirectly, or through an affiliate.

* * * * *

Signed: December 13, 1978.

JOHN G. KROGMAN,
Acting Director.

Approved: December 29, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury (Enforcement and Operations).

FR Doc. 79-3302 Filed 2-1-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

[28 CFR Part 47]

[Order No. 815-79]

RIGHT TO FINANCIAL PRIVACY ACT

Proposed Implementation Regulations

AGENCY: Department of Justice.

ACTION: Proposed regulation.

SUMMARY: These proposed regulations would authorize Department of Justice units to request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978, 92 Stat. 3697, 12 U.S.C. 3401 *et seq.*, and would set forth the conditions under which such requests may be made. Section 1108(2) of the Right to Financial Privacy Act of 1978 requires that the formal written request be authorized by regulations promulgated by the head of the agency or department. These proposed regulations would thus, once implemented, enable Department of Justice units to utilize the formal written request procedure to obtain financial records.

DATES: Interested persons should comment on these proposed regulations on or before March 2, 1979. This abbreviated comment period is necessitated by the fact that the Right to Financial Privacy Act becomes effective on March 10, 1979, and the proposed regulations must also take effect on that date if Department of Justice units are to be able to use the formal written request procedure established by that Act.

ADDRESSES: Written comments should be submitted in triplicate to Abbe D. Lowell, Special Assistant to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Abbe D. Lowell, Special Assistant to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530; 202-633-4238.

Dated: January 30, 1979.

BENJAMIN R. CIVILETTI,
Acting Attorney General.

It is proposed that a new Part 47 be added to Chapter I of Title 28 of the Code of Federal Regulations as follows:

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

Sec.
47.1 Definitions.
47.2 Purpose.
47.3 Authorization.
47.4 Written request.
47.5 Certification.

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; Right to Financial Privacy Act of 1978, 92 Stat. 3697, 12 U.S.C. 3401 *et seq.*

§ 47.1 Definitions.

The terms used in this part shall have the same meaning as similar terms used in the Right to Financial Privacy Act of 1978. "Departmental unit" means any office, division, board, bureau, or other component of the Department of Justice which is authorized to conduct law enforcement inquiries. "Act" means the Right to Financial Privacy Act of 1978.

§ 47.2 Purpose.

The purpose of these regulations is to authorize Departmental units to request financial records from a financial institution pursuant to the formal written request procedure authorized by section 1108 of the Act, and to set forth the conditions under which such requests may be made.

§ 47.3 Authorization.

Departmental units are authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

(a) No administrative summons or subpoena authority reasonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;

(b) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(c) The request is issued by a supervisory official of a rank designated by the head of the requesting Departmental unit;

(d) The request adheres to the requirements set forth in § 47.4; and

(e) The notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of notice in section 1109 of the Act, are satisfied, except in situations (e.g., section 1113(g)) where no notice is required.

§ 47.4 Written request.

(a) The formal written request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by the issuing official, and shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(1) The identity of the customer or customers to whom the records pertain;

(2) A reasonable description of the records sought; and

(3) Such additional information as may be appropriate—e.g., the date on which the opportunity for the customer to challenge the formal written request will expire, the date on which the requesting Departmental unit expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(b) In cases where customer notice is delayed by court order, a copy of the court order shall be attached to the formal written request.

§ 47.5 Certification.

Prior to obtaining the requested records pursuant to a formal written request, an official of a rank designated by the head of the requesting Departmental unit shall certify in writing to the financial institution that the Departmental unit has complied with the applicable provisions of the Act.

[FR Doc. 79-3777 Filed 2-1-79; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 14]

RIGHT TO FINANCIAL PRIVACY

Formal Written Request for Financial Records

AGENCY: Department of the Treasury.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would authorize Department of Treasury personnel to request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978, 92 Stat. 3697, *et seq.*, 12 U.S.C. 3401 *et seq.*, and would set forth the conditions under which such requests may be made. Section 1108(2) of the Right to Financial Privacy Act of 1978 requires that the formal written request be authorized by regulations promulgated by the head of the agency or Department. These proposed regulations would thus, once implemented, enable appropriately designated Department of Treasury personnel to utilize the formal written request procedure to obtain financial records.

DATE: Comments must be received on or before March 5, 1979. This abbreviated comment period is mandated by the fact that the Right to Financial Privacy Act becomes effective on March 10, 1979, and the proposed regulations must be issued by that date if Department of Treasury personnel are to be able to use the formal written request procedure established by the Act.

ADDRESS: Written comments should be submitted to R. Richard Newcomb, Enforcement Policy Advisor, Office of Assistant Secretary (Enforcement and Operations), Department of Treasury, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT:

R. Richard Newcomb, Enforcement Policy Advisor, Office of Assistant Secretary (Enforcement and Operations), Department of Treasury, Washington, DC 20220; (202-566-2872).

It is proposed that a new Part 14 be added to Subtitle A of Title 31 of the Code of Federal Regulations as follows:

PART 14—RIGHT TO FINANCIAL PRIVACY

Sec.
14.1 Definitions.
14.2 Purpose.
14.3 Authorization.
14.4 Contents of request.

AUTHORITY: Pub. L. 95-630, Title XI, Right to Financial Privacy Act of 1978, 92 Stat. 3697, *et seq.*, (November 10, 1978), 12 U.S.C. 3401, *et seq.*; 5 U.S.C. 301; and Reorganization Plan No. 26 of 1950.

§ 14.1 Definitions.

For purposes of this regulation, the terms:

(a) "Financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) "Financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(c) "Person" means an individual or a partnership of five or fewer individuals.

(d) "Customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name.

(e) "Departmental unit" means those offices, divisions, bureaus, or other components of Department of Treasury authorized to make law enforcement inquiries.

(f) "Act" means the Right to Financial Privacy Act of 1978.

§ 14.2 *Purpose.*

The purpose of these regulations is to authorize Department of Treasury personnel to request financial records from a financial institution pursuant to the formal written request procedure established by the Act, and to set forth the conditions under which such requests may be made.

§ 14.3 Authorization.

Department of Treasury personnel are hereby authorized to request financial records from a financial institution pursuant to a formal written request under the Act only if:

(a) No administrative summons or subpoena authority resonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;

(b) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(c) The request is issued by a supervisory official of a rank designated by the head of the requesting Departmental unit;

(d) The request adheres to the requirements set forth in § 14.4; and

(e) The notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of notice in section 1109 of the Act, or the exceptions of the notice requirements in sections 1113 and 1114 of the Act, are satisfied.

§ 14.4 Contents of request.

The formal written request shall be in the form of a letter or memorandum to the appropriate official of the financial institution from which financial records are requested. The request shall be signed by an offical of the requesting Departmental unit who is of the designated rank. It shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(a) The identity of the customer whose records are sought;

(b) The name and title of the official to whom disclosure is to be made;

(c) A reasonable description of the records sought;

(d) the approximate date by which production is requested;

(e) A statement that no records should be released prior to receipt of the certification of compliance required by section 1103(b) of the Act; and

(f) Any other information that the issuing official deems appropriate.

Dated: January 30, 1979.

RICHARD J. DAVIS,
Assistant Secretary
(Enforcement and Operations).

FR Doc. 79-3783 Filed 2-1-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1050-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued By the Virginia State Air Pollution Control Board To the Solite Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board to the Solite Corporation. The order requires the company to bring air emissions from its lightweight aggregate plant in Cascade, Virginia into compliance with certain regulations contained in the federally-approved Virginia State Implementation Plan (SIP) by March 31, 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 EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before March 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, 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 215/597-8907.

SUPPLEMENTARY INFORMATION: Solite Corporation operates a lightweight aggregate plant at Cascade, Virginia. The order under consideration addresses emissions from five rotary kilns at the facility, which are subject to Sections 4.20 and 4.40 of the Virginia SIP. The regulation limits the emissions of visible emissions and particulate matter, and is part of the Federally approved Virginia State Implementation Plan. The Order requires final compliance with the regulation by March 1, 1979 through installation of wet multicyclones. The State order is based upon a compliance program developed by Solite. 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 subsection.

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.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 12, 1979.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 79-3743 Filed 2-1-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1050-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued By the Virginia State Air Pollution Control Board To Dan River, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board ("SAPCB") to Dan River, Incorporated. The order requires the company to bring air emissions from its Riverside Division Power House in Danville, Virginia into compliance with certain regulations contained in the federally-approved Virginia State Implementation Plan (SIP) by July 1, 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 EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before March 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, 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) 597-8907.

SUPPLEMENTARY INFORMATION: Dan River, Inc. operates a fabric mill at Danville, Virginia. The order under consideration addresses emissions from four coal-fired boilers at the Compnay's Riverside Division, which are subject to Sections 4.20 and 4.30 of the Virginia Regulations for the Control and Abatement of Air Pollution. The regulations limit the emissions of particulate and visible emissions, and are part of the Federally approved Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of high efficiency electrostatic precipitators. The Company has consented to the terms of the order.

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 ap-

prove the order only if it satisfies the appropriate requirements of this subsection.

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. At the present time, EPA believes that all applicable requirements of Section 113(d) have been satisfied. 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.

(Authority: 42 U.S.C. 7413, 7601)

Dated: January 12, 1979.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 79-3744 Filed 2-1-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 21351; FCC 79-30]

SAFETY AND SPECIAL RADIO SERVICES

Waiting Period for Filing Applications After a Dismissal With Prejudice or After a Revocation

AGENCY: Federal Communications Commission.

ACTION: Order terminating Rule Making Proceeding, Docket 21351.

SUMMARY: This action terminates the rule making proceedings. It had been proposed to extend to 3 years from 1 year the waiting period for filing applications in the Safety and Special Radio Services (currently designated the Private Radio Services) after a dismissal with prejudice or after revocation. However, upon further consideration, the Commission has decided to not change its rules in this respect, the reason being that the proposed change would have imposed a sanction and it is not the Commission's intent that the waiting period be a sanction.

EFFECTIVE DATE: Non-Applicable

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

FOR FURTHER INFORMATION CONTACT:

Newton B. Jaslow, Safety and Special Radio Services Bureau, (202) 632-7511.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 1.916 of the Commission's Rules with respect to the waiting period for filing applications in the Safety and Special Radio Services after a dismissal with prejudice or after a revocation; (Docket NO. 21351), (43 FR 24560); Report and order (Proceeding Terminated).

Adopted: January 22, 1979.

Released: January 25, 1979.

By the Commission:

1. A Notice of Proposed Rule Making in this proceeding was released on August 5, 1977, (FCC 77-524, 42 FR 40715, August 11, 1977). In it we proposed a rule to extend to three years from one year the waiting period in the Safety and Special Radio Services for filing an application for a like or new station following a denial, a dismissal with prejudice of an application or a license revocation. Its purpose was to bolster the relevant Commission sanction of denial, prejudicial dismissal, or revocation by allowing the Commission to dismiss as defective, without a hearing, subsequent applications filed within a three year waiting period. Comments were requested by September 14, 1977. Only the Aircraft Owners and Pilots Association (AOPA) filed a comment. It contends that the three year wait should not be applied to those cases in which a license application was denied, "particularly when a denial has no implication of impropriety attached to it." No reply comments were filed.

2. § 1.916 of the Rules provides that in the Safety and Special Radio Services, when an application has been denied or dismissed with prejudice, or a license revoked, an application of substantially the same kind by substantially the same applicant or licensee will not be considered for a period of one year. The Notice proposed to extend that time period to three years. However, it is now clear that the proposed amendment would be inappropriate. Section 1.916 is intended to prohibit repetitious applications. That section is not intended to be in the nature of a sanction such as a license revocation or the imposition of a forfeiture. Therefore, § 1.916 should not be utilized to strengthen a sanction by increasing the waiting period before an application can be filed to three years. Moreover, the rules pertaining to applicants in other services only require a one year waiting period, and there is no compelling reason why applicants in the Safety and Special Radio Services should have a longer waiting period.

3. Accordingly, *it is ordered*, That no rule change is made in this proceeding, and that this proceeding is hereby terminated.

4. For further information, contact Newton B. Jaslow, Federal Communications Commission, Washington, D.C. 20554. Phone: (202) 632-7511.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-3717 Filed 2-1-79; 8:45 am]

[6712-01-M]

[47 CFR Part 25]

[CC Docket No. 78-374; FCC 78-829]

REGULATION OF DOMESTIC RECEIVE-ONLY SATELLITE EARTH STATIONS

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The F.C.C. is soliciting the public for comments on the current regulatory scheme of licensing domestic satellite receive-only earth stations and specific proposals for ways in which this program might be improved.

DATES: Comments must be received on or before February 23, 1979. Reply comments may be filed on or before March 23, 1979.

ADDRESSES: Federal Communications Commission, 1919 M St. NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

William V. Lombardi or Ron Lepkowski, Common Carrier Bureau, (202) 632-5930.

SUPPLEMENTARY INFORMATION: In the matter of Regulation of Domestic Receive-Only Satellite Earth Stations; (CC Docket No. 78-374), Notice of inquiry.

Adopted: November 30, 1978.

Released: January 26, 1979.

By the Commission: [1]

1. The Commission has received informal comments suggesting deregulation of domestic satellite receive-only earth stations or recommending regulatory schemes different than the one which now exists. Through this inquiry we hope to obtain the public's views on the need for the effectiveness of our current regulatory program for these earth stations, and specific pro-

[1] Commissioner Lee absent.

posals for ways in which this program might be improved.

2. Our regulatory policies for receive-only domestic satellite earth stations were devised to assure that the benefits of satellite communications are made available to the residents of the United States efficiently and economically, and in a manner consistent with our statutory and international obligations. Since the launching of the first domestic communications satellite in 1974, receive-only stations have proliferated, with over 1,300 presently licensed by the Commission. Receive-only earth stations have proven to be an effective and economical way of fulfilling a variety of domestic communications needs.[1a]

3. Current authorization procedures require the receive-only station applicant to successfully complete several steps: frequency coordination, the filing of a completed application for either a simultaneous construction permit and license or separate applications for a construction permit and license. These processing procedures are described in the Commission's public Notice of August 5, 1975, (FCC 75-932) "Processing Procedures for Domestic Satellite Earth Station Applications" as revised in Public Notice of August 10, 1978 (Memo 6044) "Revised Procedures for Filing Domestic Satellite Earth Station Applications" and *American Broadcasting Companies, Inc.*, 62 F.C.C. 2d 901 (1977).

FREQUENCY COORDINATION

4. The domestic and international satellites operating in the 3700-4200 MHz band share those frequencies on a co-equal basis with point-to-point terrestrial microwave stations. Before applying for a license in either service, an applicant must successfully complete a frequency coordination procedure to show that his proposed station will neither cause nor receive harmful interference to or from any other licensed stations. This procedure is described in Parts 21 and 25 of the Commission's Rules. Since receive-only earth stations cannot cause interference, the analysis required in such applications considers the received interference, only.

5. In performing frequency coordination, an applicant for a domestic satellite receive-only station permit first notifies by letter the licensees of all radio facilities that potentially would cause harmful interference into the new facility. The applicant specifies the performance objective of the station, and then tests them against the predicted interference from all existing facilities. Recipients of the prior coordination letters have 30 days to indicate their agreement with the analysis. Once agreement is reached on the levels of interference expected at the receiving earth station, an application for the construction permit can be filed. Frequency coordination appears to be the most time consuming, and perhaps most expensive, aspect of our application procedures.

CONSTRUCTION PERMIT

6. No standard application form has been adopted for the earth station construction permit. These matters are covered by the *Public Notices* cited earlier. Specifically, the application for a construction permit must contain showings as to the legal, financial and technical qualifications of the applicant, technical particulars of the proposed operation, the frequency coordination report, and a statement of why these operations are in the public interest. In addition, a special technical showing is required for earth stations having an antenna diameter of less than 9 meters.[2] Upon receipt of the application by the Commission, the application is placed on public notice which provides a minimum 30-day pleading period. Routine, uncontested receive-only applications now are being granted within 45 days of the public notice date.

LICENSES

7. Upon completion of construction, but prior to the commencement of operations, application is made for the license.[3] The license is issued for three years, prior to the elapse of which the applicant must file for renewal. Changes in operating parameters (e.g., frequencies, emissions, points of communications, equipment and shared use) after the license is issued must currently be filed with the Commission as a request for modification of license. The Commission also must approve any change in earth station ownership, by assignment of the license or transfer of control.

DISCUSSION

8. These procedures have resulted in important benefits: (a) interference protection to the licensee from both satellite and terrestrial transmitters; (b) maintenance of high technical quality (e.g., signal to noise standards); (c) effective Commission regulation of inter-satellite spacing; (d) flexibility of earth station design and operations; and (e) conformity with international Radio Regulations.[4] Generally, our regulatory program for receive-only earth stations has resulted in an orderly and efficient development of the spectrum and orbit by all users.

9. Critics of the current regulatory program argue that unnecessary costs and delays are incurred in preparing applications to the Commission for receive-only earth stations. Modifications to these procedures that reduce the burden and costs to the applicant, without reducing the effectiveness of this program, are of course desirable and we encourage proposals in this regard.

10. More generally, alternative forms of regulation or deregulation to reduce or eliminate the costs of this program to the applicant may also be desirable, even though some of the benefits may be lost. For example, if frequency coordination is eliminated, then no protection from interference can be enforced by the Commission and the receive-only earth stations operator must bear the risk that the station may become unusable as a result of interference. At least some potential receive-only earth station operators may, however, believe that the costs and delays resulting from our present regulatory program outweigh the risks they would bear if the frequency coordination requirement were relaxed or eliminated. Some parties also may hold that the earth station operator should be given the option to decide for itself whether or not to seek protection of its operating frequencies by obtaining an FCC license. In addition to protecting receive-only earth stations against interference, our current procedures are designed to insure that stations deliver adequate signal quality and have sufficient operational flexibility. We wish to explore whether continued Commission action in these areas is needed. Can judgments about the necessary level of signal quality be left to some or all applicants? Other earth station applicants

[1a] Receive-only earth stations are used primarily by CATV systems, broadcasters, and MDS operators to receive video programming for further distribution to their audiences. The substantial economies achieved by the use of satellites for domestic program distribution has resulted in a new market for video programming. Specialty programs, e.g., foreign language and religious, as well as premium entertainment and sports specials are transmitted routinely via domestic satellites. In addition, the Dow Jones Company operates receive-only earth stations in publishing the Wall Street Journal. Currently pending before us are applications by the Mutual Broadcasting System and National Public Radio for receive-only stations to be used for reception of audio programming.

[2] This showing follows the procedures given in *American Broadcasting Companies, Inc., supra.*

[3] The applicant has the option to file an application for a simultaneous construction permit and license if construction can be completed within 180 days.

[4] Protection from interference caused by radio stations operated by other countries is provided only through the coordination procedures of Article 9A of the international Radio Regulations (Geneva, 1976), annexed to the Convention of the International Telecommunications Union. Such international coordination procedures are undertaken by the Commission independently of the application and licensing procedures described above.

(such as broadcasters and cable operators) use their terminals to supply a regulated service. Regulation of the technical quality of that service may obviate the need for separate regulations on the quality of receive only earth stations. In the absence of special showings, applicants are required to have stations capable of potentially receiving a signal from a satellite at any location in the usable orbital arc and on any frequency in the band. This operational flexibility is needed because changes may be made at a later date in either frequency or orbital arc assignment. Here again it may be beneficial to allow licensees to balance the costs of this flexibility against the risks of the facility becoming unusable because of later shifts in assignments.

11. Accordingly, we also encourage interested parties to submit proposals for alternative forms of regulation or deregulation of receive-only earth stations. In making such proposals, we request parties to identify particularly the costs and delays reduced or eliminated, the benefits to be achieved, and the risks to be assumed by the earth station operator.

12. It should be noted that the satellites transmitting to the receive-only earth stations under consideration here are classified as fixed-satellite under the international Radio Regulations and the Commission's Rules. That is, these domestic satellites are to provide services between any number of "specified fixed points." They are not broadcasting satellites whose signals "are intended for direct reception by the general public" and such broadcasting satellites can not be operated in the 3700-4200 MHz band in question. As a result, Section 605 of the Communications Act of 1934 applies to these signals and prohibits the unauthorized reception and use or divulgence of such transmissions.[5] Parties should keep this distinction in mind in preparing their comments.

13. Without intending to limit the nature or breadth of such comments, we specifically seek views on the following matters:

(a) What are the benefits and detriments to cable television operators, MDS, broadcasters and other present or potential licensees and to the end users which result from the present Commission policies on licensing receive-only stations?

(b) What changes can be made to retain these same benefits while eliminating or reducing the detriments?

(c) What alterative forms of regulation or deregulation are desirable to eliminate or reduce the detriments from our current policies, even though they also reduce or eliminate the benefits of these policies and increase the risks to be borne by the earth station operator?

(d) Should the regulatory scheme distinguish between receive-only earth stations operated: By common carriers; by non-carriers who use the facilities as part of their programming opertions to the public; by individuals or other entities for private benefit not involving the public; or for developmental or demonstrational purposes?

(e) Should this regulatory scheme, or any portions of it, be made optional at the discretion of the receive-only earth station operator?

(f) To what extent does Title III of the Communications Act or any other statutory provision require regulation by the Commission of receive-only earth stations? What alternative regulatory schemes would increase benefits and/or reduce detriments while still complying with all applicable statutory requirements?

(g) In what way does the Commission's obligation to enforce Section 605 of the Communications Act dealing with unauthorized reception and use of radio signals influence the regulatory scheme?

(h) To what extent do the international Radio Regulations limit the Commission's flexibility to deregulate receive-only earth stations?

The Commission invites the comments of all interested parties and in particular licensees of receive-only earth stations, and of the common carriers offering domestic satellite services. Those filing comments also may provide any additional pertinent information they believe will be useful to the Commission.

14. This action is taken pursuant to Section 403 of the Communications Act of 1934, as amended. Interested parties may file comments on or before February 23, 1979. Reply comments may be filed on or before March 23, 1979. An original and eleven copies of each formal response must be filed in accordance with the provisions of §§ 1.49 and 1.51 of the Commission's Rules. However, in an effort to obtain the widest possible response in the proceeding from licensees and members of the public, informal comments without extra copies will be accepted. Copies of all pleadings filed in this matter will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-3719 Filed 2-1-79; 8:45 am]

[5] Corresponding secrecy provisions are contained in Article 22 of the ITU Convention and Article 17 of the international Radio Regulations.

[6712-01-M]

[47 CFR Part 73]

[Docket No. 20576; RM-2467; RM-2468; RM-2578; RM-3192; RM-3300; RM-3301]

FM BROADCAST STATIONS

Franklin and Keene, New Hampshire, etc.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein grants additional time for the filing of reply comments in this proceeding involving FM channel assignments to various communities in New Hampshire, Maine, and Vermont. Also, a request to extend the deadline for initial comments herein is denied.

DATE: Reply comments must be filed on or before February 12, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Franklin and Keene, New Hampshire, and Bennington and Brattleboro, Vermont. Also Conway, Littleton, Meredith, Plymouth, Rochester and Wolfeboro, New Hampshire, and Skowhegan, Maine) (Docket Nos. 20576, RM-2467, RM-2468, RM-2578, RM-3192[1], RM-3300, RM-3301, (44 FR 4744); *Order denying extension of time for filing comments and Order granting further extension of time for filing reply comments.*

Adopted: January 22, 1979.

Released: January 25, 1979.

By the Chief, Broadcast Bureau:

1. On October 27, 1978, the Commission adopted a *Further Notice of Proposed Rule Making and Orders to Show Cause*, 43 FR 51652, specifying a comment deadline of December 27, 1978. On December 26, 1978, the Commission received from Lakes Region Broadcasting Corporation, a Motion for Extension of Time. An opposition to the extension request was filed by

[1] This counterproposal for the assignment of Channel 285A to Hinsdale, New Hampshire, was inadvertently omitted from the *Further Notice* issued in this proceeding. Since we did not include it, there is additional reason to provide a further extension of the reply date so that the parties can respond. Two other proposals have been accepted subsequently, as described in footnote 4.

Radio Wolfeboro, Inc. Lakes Region Broadcasting, submitted on January 11, 1979, a reply to that opposition in addition to a motion for the Commission to accept its late filed request for extension of time.

2. Lakes Region Broadcasting Corp., explains, in some detail, that due to recent events, it is no longer represented by counsel and that prior commitments plus the intervening holiday period necessitated additional time for it to file comments. These events, we are told, also occurred too late to enable Lakes Region to comply with § 1.46(b), which requires that motions for extension of time must be filed at least 7 days before the filing date.[2]

3. Due to a combination of factors including administrative problems, the request was not routed to the proper office for disposition until January 5, 1979. Previously, several parties had filed their comments within the specified deadline of December 27, 1978. With that fact in mind and also due to the unsatisfactory explanation of Lakes Region[3] for the lateness of extension request, the Broadcast Bureau denied an extended deadline for comments. However, the Bureau has now discovered that the *Order* denying an extension was not released to the public. Rather than release that document now, we will act on that request here. As a result, some parties became aware of the denial and acted accordingly, while others may not have known of that action. In a separate *Order* the Commission extended the reply comment date from January 16, 1979, to January 25, 1979.[4] The announcement of that extension was first given by Public Notice of January 10, 1979, Report No. 1159. A separate *Order* extending the time for filing reply comments was not issued by January 16, 1979, with the result that again some parties may not be aware of the extension for reply comments.[5]

4. The Commission regrets any inconvenience that may have resulted from the confusing events. We believe that the only fair course of action to take at this point, is to provide a further extension of time for filing reply comments to permit all parties to fully participate in this stage of the rule making proceeding.

5. Accordingly, *it is ordered*, That the date for filing reply comments in Docket 20576 is extended to and including February 12, 1979.

6. *It is further ordered*, That the motion for extension of time to submit comments, filed by Lakes Region Broadcasting Corporation, is denied.

7. *It is further ordered*, That the "Motion to Accept Late Filed Motion for Extension of Time" is denied.

8. This action is taken pursuant to authority found in Sections 4(i), 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,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-3714 Filed 2-1-79; 8:45 am]

[2]This Section also provides for late-filed motions in emergency situations.

[3]Lakes Region indicates that about December 7, 1978, it terminated its relationship with counsel and that during the week of December 11, it was preparing the request for additional time to submit its comments. No further reasons are given for the subsequent delay.

[4]The reply comment date was extended to enable parties to comment on two counterproposals for FM assignments at other communities not previously mentioned in this proceeding and which were announced by the Public Notice of January 10, 1979.

[5]A preliminary check revealed that no reply comments have been recorded as submitted by January 16, 1979.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-335; RM-2709]

COMMERCIAL BROADCAST STATIONS

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 and reply comments in a proceeding inquiring into whether a new program category, called "Community Service," should be added to the program definitions for commercial broadcast stations. Petitioner, the Communications Committee of the United States Catholic Conference and others, states that the additional time is needed so that it can submit a comprehensive study of programming trends during a ten year period.

DATES: Comments must be filed on or before February 28, 1979, and reply comments on or before March 28, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION: In the matter of Amendment of Commission Rules Concerning Program Definitions for Commercial Broadcast Stations by Adding a New Program Type, "Community Service" Program, and Expanding the "Public Affairs" Program Category and Other Related Matters; BC Docket No. 78-335, RM-2709), (43 FR 57624); Order extending time for filing comments and reply comments.

Adopted: January 26, 1979.

Released: January 30, 1979.

By the Chief, Broadcast Bureau:

1. On October 5, 1978, the Commission adopted a *Memorandum Opinion and Order and Notice of Inquiry*, 43 FR 50002, concerning the above-entitled proceeding. The dates for filing comments and reply comments were to be December 26, 1978, and January 25, 1979, respectively.

2. Pursuant to a request by the National Organization for Women, the comment and reply comment dates were extended to January 27, and February 28, 1979. A Motion for Extension of Time has now been submitted by counsel for petitioners, the Communications Committee of the United States Catholic Conference, the Communication Commission of the National Council of Churches of Christ in the U.S.A., the Office of Communication of the United Church of Christ, UNDA-USA and 70 individual church communicators. Counsel states that additional time is needed for completion of a survey of programming trends in 35 markets during a 10 year period which petitioners wish to make a part of the record for the Commission's consideration.

3. We believe that admission of the above-mentioned survey will assist in the development of a sound and comprehensive record on which to base a final decision in this proceeding. Consequently, we are extending the time for the filing of comments by 30 days. Since interested parties may wish to respond to petitioner's comments, we shall also extend the reply comment date by 30 days.

4. Accordingly, *It is ordered*, That the request for extension of time submitted by petitioners, is granted and the dates for filing comments and reply comments are extended to and including February 28, and March 28, 1979.

5. This action is taken pursuant to authority contained in Sections 4(i), 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,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-3716 Filed 2-1-79; 8:45 am]

[6712-01-M]

[47 CFR Parts 95 and 97]

[SS Docket No. 78-352]

RADIO ASTRONOMY OPERATIONS

Establishing Procedures To Minimize Potential Interference; Order Extending Time for Filing Comments and Replies

AGENCY: Federal Communications Commission.

ACTION: Order Extending Time to File Comments.

SUMMARY: The Commission proposed to make the National Radio Quiet Zone coordination procedures applicable to amateur repeater operations and base and fixed stations in the General Mobile Radio Service. The comment period was due to end February, 1979. To give interested parties additional time to comment, the comment period is being extended.

DATES: The comment period is being extended to March 5, 1979. The reply comment period is being extended to April 3, 1979.

ADDRESSES: Comments should be sent to: Secretary, FCC, 1919 "M" St., NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Cassler, Personal Radio Division, Safety and Special Radio Services Bureau (202-634-6620).

SUPPLEMENTARY INFORMATION: In the matter of Amendment of the General Mobile Radio Service (Part 95) and Amateur Radio Service (Part 97) Rules to establish procedures to minimize potential interference to Radio Astronomy Operations; SS Docket No. 78-352), (43 FR 51048); Order extending time to file comments.

Adopted: January 26, 1979.

Released: January 29, 1979.

1. On October 31, 1978, the Commission released a Notice of Proposed Rulemaking in SS Docket 78-352. The Commission proposed rules to require coordination with the National Radio Astronomy Observatory by Amateur Radio Service stations in repeater operation, and base and fixed stations in the General Mobile Radio Service. Comments were due no later than February 1, 1979. Reply comments were due no later than March 1, 1979.

2. A petition to extend the comment period to March 5, 1979, and the reply comment period to April 3, 1979 has been filed jointly by the American Radio Relay League (ARRL) and the National Radio Astronomy Observatory (NRAO). Petitioners state that informal discussions have been held regarding the proposal, and, seeing a need for better public understanding of the issues, a conference has been scheduled for February 1, 1979, between the ARRL, the NRAO, and other interested parties. The ARRL and the NRAO have asked that the comment period be extended in Docket 78-352 to afford those persons who will be attending the February 1 conference a chance to file comments after the conference. We agree with the petitioners that an extension of thirty days will not unduly delay final action by the Commission and that the extension is justified.

3. Accordingly, the Commission, by the Chief, Safety and Special Radio Services Bureau, pursuant to authority delegated to him by § 0.331 of the Commission's Rules orders that the comment period and the reply comment period in SS Docket No. 78-352 are extended to March 5, 1979 and April 3, 1979, respectively.

CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 79-3715 Filed 2-1-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1003, 1132]

[Ex Parte No. MC-111]

TRANSFER OF MOTOR CARRIER OPERATING RIGHTS

Proposed Revision and Simplification of Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This rulemaking has been instituted by the Commission on its own motion. The rules proposed in this notice revise and simplify the motor carrier transfer rules. Substantive changes in Commission policy have made some provisions of the rules obsolete. Others require applicants and the Commission to undergo a more tedious adjudication than necessary, since transfers seldom involve issues of major public consequence.

DATES: Written comments should be filed with the Commission on or before March 5, 1979.

ADDRESS: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Judy Holyfield (202) 275-7864/7863/7792.

SUPPLEMENTARY INFORMATION: We instituted this proceeding to revise the regulations at 49 CFR Part 1132. These regulations spell out the procedures which enable small motor carriers to merge, transfer, or lease their certificates and permits in financial transactions not subject to § 11343, formerly Section 5, of the Interstate Commerce Act. They also cover the transfer of operating rights to a person who is not already a carrier subject to the Act.

As provided in § 1132.3 of the present rules, the Commission may grant the application if it finds that (1) the transaction is not subject to Section 11343 of the Act, and (2) that the transferee is fit, willing, and able to perform the service authorized by the operating rights involved, and to conform with the provisions of the Act and the requirements and regulations of the Commission. The Commission also must find that the transaction does not conflict with the explicit bases for denial which are embraced in § 1132.5 of the rules. These provisions include unacceptable divisions of operating authorities, speculation, the creation of duplicating operating rights between affiliated companies, dual operations, and dormancy.

Once the Commission has approved a transfer, interested persons have 20 days to appeal. Petitions for reconsideration, if timely filed, suspend the transfer approval pending further adjudication. The total time to process transfer proceedings now generally takes from 3 to 6 months in an uncontested case and 6 months or more in a contested case. The revised rules will facilitate the Commissions decision-making process and will at the same time minimize the paperwork burden on the small entrepreneur.

The new transfer rules contain a number of changes. Among them are: (a) A shortened application form; (b) clarified definitions; (c) elimination of obsolete provisions; and (d) alteration of protest and public notice procedures.

Interested persons are invited to submit written comments concerning the proposed revisions.

It is proposed that 49 CFR be amended by striking existing Part 1132 and substituting a revised Part 1132 described below, and that form OP-FC-1 be superseded by form OP-FC-1 (revised) as set forth below.

This notice of proposed rulemaking is promulgated under 49 U.S.C. 10926 and 5 U.S.C. 552(b).

Dated: January 16, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Christian,

Commissioners Brown, Stafford, Gresham and Clapp.

H. G. HOMME, Jr.,
Secretary.

PART 1132—TRANSFERS OF OPERATING RIGHTS

Sec.
1132.0 Purpose and scope.
1132.1 Definitions.
1132.2 Applications.
1132.3 Criteria for approval.
1132.4 Petitions for reconsideration.
1132.5 Operations by fiduciaries.

AUTHORITY: 49 U.S.C. 10926, 5 U.S.C. 552(b).

§ 1132.0 Purpose and scope.

These rules spell out the procedures which enable motor carriers to obtain approval from the Interstate Commerce Commission to merge, transfer, or lease their operating rights in financial transactions not subject to Section 11343 of the Interstate Commerce Act.

§ 1132.1 Definitions.

For the purposes of this part, the following definitions shall apply—

(a) *Transfer.* The sale or lease of interstate motor carrier operating rights[1] or the merger of two or more carriers or a carrier and a non-carrier, when the transactions are not subject to section 11343 of the Act.

(b) *Operating Rights.* Authority to perform transportation as a motor carrier as authorized by a certificate of public convenience and necessity, a permit, or a certificate of registration issued by this Commission. The term includes authority held by virtue of the gateway elimination regulations published in the FEDERAL REGISTER as letter-notices.

(c) *Certificate of Registration.* The evidence of a motor carrier's rights to engage in interstate or foreign commerce within a single State as established by a corresponding State certificate.

(d) *Duplicating Service Rights.* Operating rights authorizing the transportation of passengers, or of the same commodities, from and to, or between, the same points in substantially competitive or duplicative service.

(e) *Person.* An individual, partnership, corporation, company, association or other form of business, or a trustee, receiver, assignee, or personal representative of any of these.

(f) *Record Holder.* The person shown on the records of the Commission as the legal owner of the operating rights.

(g) *Control.* A relationship between persons, including actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding or investment company, or any other means.

§ 1132.2 Applications.

(a) *Form.* Transfers shall be requested in writing on the specific form prescribed by the Commission. They also may be requested by letter if all required facts are presented.

(b) *Filing.* The original and two copies shall be filed with the Secretary of the Commission, Washington, D.C. 20423. The original must show that an additional copy has been furnished to the Commission's District Supervisor for the district(s) in which the applicants' headquarters are located.

(c) *Content.* Particular facts to be included depend on the type of transaction presented:

(1) *Category 1 Transfers.* Transactions in which the person to whom the operating rights would be transferred is not an ICC motor carrier and is not affiliated with any ICC motor carrier.

(2) *Category 2 Transfers.* Transactions in which the person to whom the operating rights would be transferred *is* an ICC motor carrier and/or is affiliated with an ICC motor carrier.

(i) In Category 1 and Category 2 transfers, applicants shall furnish the following:

(*a*) Full name, address, and signature of the transferee;

(*b*) Full name, address, and signature of the transferor;

(*c*) A copy of the complete ICC operating authority of transferor, which shall be clearly marked to show the rights being transferred and those being retained;

(*d*) A copy of each written agreement covering the proposed transfer of the ICC operating rights, State authorities, real estate, equipment, and other property involved in the transaction;

(*e*) The status of the proceedings for the transfer of the State certificate(s) corresponding to the certificate of registration being transferred;

(*f*) A certified copy of any court order issued to accomplish the transfer or to establish the authority of an executor, trustee, receiver, or the like; and

(*g*) A statement on whether the proposed transfer (will) (will not) significantly affect the quality of the human environment.

(ii) Category 2 applicants also must submit the following:

(*a*) A copy of the complete ICC operating authority of the transferee and its ICC motor carrier affiliate(s);

(*b*) Condensed income statements for applicants and their ICC affiliates for the preceding and current calendar years;

(*c*) Current balance sheet and *pro forma* balance sheet for the transferee, the latter of which shall be adjusted to reflect consummation of the proposed transfer; and

(*d*) A statement indicating whether (*1*) the operating rights to be transferred can or will be joined with any irregular route operating rights of transferee, and (2) a gateway elimination application is being filed concurrently.

(d) *Notice to the public.* The Commission will furnish public notice of transfer applications *only* if they are approved. Notice shall be given by publishing a summary of the transaction in the FEDERAL REGISTER. Protests received prior to the notice will be rejected.

§ 1132.3 Criteria for approval.

(a) A transfer shall be approved if:

(1) The transaction is exempt from Section 11343 (formerly Section 5) of the Act;

(2) Transferee is fit to receive authority; and

(3) No public harm will result.

(b) Proposed divisions of operating rights *along clearly defined lines* generally may be approved when they do not unduly fragment the operating rights of the transferor, improperly divide them, or result in substantially competitive or duplicative services. The Commission usually will *not* approve applications which propose:

(1) The separation of a commodity or commodities from a class of substantially related commodities or from general commodity authority; or

(2) The transfer of an alternate route or intermediate or off-route point from the route to which it is appurtenant.

(c) The Commission will not approve a transfer or lease of operating rights to a person who controls, is controlled by, or is under common control with another person who is the record holder of operating rights which materially duplicate those to be transferred.

(d) The Commission will not approve a proposed lease of operating rights for more than one year, unless there are unusual or compelling circumstances.

(e) The Commission will not approve a transfer of operating rights if it finds that transferor obtained the rights for speculation or that transferee does not intend to engage in bona fide motor carrier operations.

§ 1132.4 Petitions for reconsideration.

Petitions seeking reconsideration must be filed within 20 days following

[1] The execution of a chattel mortage, deed of trust, or other similar document does not constitute a transfer or require the Commission's approval. However, a foreclosure for the purpose of transferring an operating right to satisfy a judgment or claim against the record holder or to settle an estate shall not be effectuated without approval of the Commission.

(a) service of denial decisions or (b) publication of affirmative decisions in the FEDERAL REGISTER. Within 20 days after the final date for filing, any interested person may file and serve a reply upon the parties to the proceeding. Petitions shall be filed with the Secretary of the Commission and shall:

(1) Detail alleged specific errors in the decision;

(2) Include concise arguments in support of each allegation; and

(3) Indicate service upon the parties to the proceeding.

If oral hearing is requested, petitioner shall explain why the testimony and evidence it seeks to present cannot be readily developed with affidavits and adjudicated without a hearing.

§ 1132.5 Operations by fiduciaries.

(a) Persons authorized by law to collect and preserve property of incapacitated, financially disabled bankrupt, or deceased holders of operating rights, and assignees of operating rights, may continue the operations without approval of a transfer. Within 30 days after assuming control, such persons shall give notice to the Secretary of the Commission. This shall consist of a certified copy of the court order appointing the fiduciary, a statement describing the operations and the particular operating rights affected, the full name and address of the person(s) continuing the operations, and the circumstances and date when control of the operations was assumed. If a court order has not been issued, the fiducicary must submit the best evidence of his/her authority.

(b) Operations by fiduciaries may be continued in the name of the record holder of the operating right, followed by the name of the person conducting operations. For example: John Jones, Richard Smith, administrator.

(c) All tariffs, schedules, reports or other documents required to be filed by record holders under the provisions of the Act and the Commission's rules shall be made by the fiduciary and shall constitute compliance for the record holder.

SMALL CARRIER TRANSFER APPLICATION FORM

NO. MC-FC-00000 (FOR COMMISSION USE ONLY)

Through the filing of this original application, two copies and a $100 filing fee (check or money order) with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, the applicants named below request transfer approval under Section 10931, 10932, or 10926 of the Interstate Commerce Act.

EXHIBIT I. IDENTIFICATION OF APPLICANTS

(Name of Transferee)

(Business Form: Corporation, Partnership, Individual)

(Trade Name)

(Business Address and ZIP Code)

DECLARATIONS

1. Transferee (is) (is not) an ICC motor carrier.

2. Transferee (is) (is not) a rail carrier, water carrier, express company, freight forwarder, or broker regulated by the ICC.

3. Transferee (is) (is not) affiliated with a motor, rail, or water carrier, express company, freight forwarder, or broker.

4. The name(s) of the rail or water carrier, freight forwarder, express company, or broker which transferee owns, or is affiliated with, is: ———

(Name of Transferor)

(Business Form: Corporation, Partnership, Individual)

(Trade Name)

(Business Address and ZIP Code)

EXHIBIT II. IDENTIFICATION OF ICC RIGHTS BEING TRANSFERRED

We seek to (transfer) (lease) (a portion of) (the entire) ICC operating rights under:

Certificate No. MC-
Permit No. MC-
Certificate of Registration No. MC-

We have attached true copies of the ICC certificates and permits of transferor and have marked the portions to be transferred, retained, or canceled.

Transferor owes ——— to owner-operators for services rendered. (If applicable) Transferor plans to settle these debts in the following manner:

EXHIBIT III. TERMS OF THE TRANSACTION

We (have) (do not have) written agreements covering the ICC rights, State authorities, real estate, equipment, and other property involved in the transaction. We have attached copies of those agreements or, if not, have submitted a statement explaining the terms of the transaction.

If our application involves a lease, we have specified the monthly rental fee, conditions, and time limits of the lease.

EXHIBIT IV. CERTIFICATE OF REGISTRATION TRANSFER

Our application (does) (does not) involve the transfer of a Certificate of Registration. If it does, we have attached a copy of the State order approving the transfer of the corresponding State rights or will furnish it when it is available.

EXHIBIT V. CERTIFICATIONS

A. We certify that on ——— —, 19—, we mailed a complete copy of this application to the ICC field office located at ——— (city and State).

B. We certify that this transaction (will) (will not) significantly affect the quality of the human environment.

C. We understand that knowing and willful omissions of material facts constitute Federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense. (18 U.S.C. 1001).

(Signature of Transferee)

(Signature of Transferor)

EXHIBIT VI. APPLICANTS' REPRESENTATIVE

(Name and Business Telephone)

(Capacity)

(Business Address and ZIP Code)

IF TRANSFEREE IS AN ICC CARRIER AND/OR IS AFFILIATED WITH AN ICC CARRIER, COMPLETE THIS PART

EXHIBIT VII. SUPPLEMENT

Since transferee is an ICC motor carrier and/or is affiliated with an ICC carrier, we have submitted the following supplemental information:

A. Name(s) of ICC motor carrier affiliate of transferee and a statement describing the extent of this affiliation.

B. True copies of the ICC operating rights of transferee and its affiliates.

B. Condensed income statements of transferee, transferor, and their ICC affiliates for the previous calendar year and the current calendar year to the latest available date.

D. Current balance sheet and pro forma balance sheet for transferee; the pro forma statement has been adjusted to show the effects of the transaction.

E. A statement indicating if (1) the rights to be transferred can or will be joined with any irregular-route rights of transferee, and (2) a directly-related gateway elimination application has been filed.

[FR Doc. 79-3567 Filed 2-1-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FOREIGN FISHING

Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed Regulation.

SUMMARY: This proposed amendment to the regulations governing foreign fishing activities within the United States fishery conservation zone (FCZ) would prohibit foreign fishing vessels from fishing within two nautical miles of reported gear areas. This action is taken in an effort to

protect the gear of fishermen and to minimize gear conflict.

DATE: Comments are invited until February 16, 1979.

ADDRESS: Send comments to Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: The 1978 foreign fishing regulations restricted the operator of each foreign fishing vessel operating in an authorized fishing area in the Atlantic from fishing within two nautical miles of reported gear areas (see *Fixed gear avoidance*, 50 CFR 611.50(e), 42 FR 60694, November 28, 1977). This two nautical mile protection zone is known as the "buffer" zone. Neither the proposed foreign fishing regulations for 1979 (43 FR 51053, November 2, 1978) nor the final 1979 regulations (43 FR 59292, December 19, 1978) provided for that buffer zone. However, a "Notice of Extension of Comment Period" was published in the FEDERAL REGISTER on December 12, 1978 (43 FR 58104) extending the period for comments until December 18, 1978, so that more public comments could be received on the two-mile buffer zone issue. The preamble to the final regulations stated: "The gear conflict/fixed-gear avoidance issue in the Atlantic Ocean was of major concern to all foreign commenters, and the other Federal agencies. It is clear that the issue of the 2-mile 'buffer' radius around reported fixed gear needs additional public comment and study".

The agency has received many comments on the proposed and final 1979 foreign fishing regulations. Foreign nations claim that the two-mile buffer zone prevented them from harvesting their allocations of fish. They believe gear conflicts could be minimized by proper marking and reporting of domestic fixed gear. The State Department and the Coast Guard believe that the buffer zone is unnecessary. The Atlantic Offshore Fish and Lobster Association feels the buffer zone is essential to protect fixed gear until regulations requiring fixed gear to be marked and reported are implemented.

Based on these comments, the Assistant Administrator for Fisheries has decided to propose amendment of the foreign fishing regulations to prohibit foreign fishing in two-mile buffer zones around reported fixed gear.

A 15-day comment period on the proposed amendment is provided. A longer comment period would be impractical, because it would defeat the purpose of the amendment, which is to minimize gear conflicts during the season when foreign vessels are allowed to bottom trawl in the Atlantic (January 1-March 31).

The Assistant Administrator has made an initial determination that this proposed regulation is not a significant regulation under Executive Order 12044. An environmental impact statement for the preliminary fishery management plan concerned is on file with the Environmental Protection Agency.

Signed at Washington, D.C., this 30th day of January, 1979.

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

Section 611.50(d)(1) is proposed to be amended by deleting paragraph (d)(1)(i) and replacing it with the following new paragraph (d)(1)(i):

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(d) * * *
(1) * * *
(i) In, or within two nautical miles of, any fixed-gear area (as broadcast by the Coast Guard; see § 611.11 and paragraph (d)(2) of this section);

* * * * *

[FR Doc. 79-3746 Filed 2-1-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP WORKFARE DEMONSTRATION PROJECT

Extension of Due Date for Applications

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of due date for application.

SUMMARY: On November 28, 1978, 43 FR 55334, the Department published in the FEDERAL REGISTER final rulemaking and a Notice of Intent for the Food Stamp Workfare Demonstration Project which is mandated by Subsection 17(b)(2) of the Food Stamp Act of 1977. Originally published in FEDERAL REGISTER docket number 78-33376. Under this project, food stamp work registrants will be required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled. The Notice of Intent announced the intention of the Departments of Agriculture and Labor to jointly conduct the project and sought proposals for project operation from eligible political subdivisions or groupings thereof wishing to take part in the project. We are hereby extending the due date for applications from 45 days of the date for final rulemaking to February 12, 1979. This action has been judged to be necessary by the Departments in order to permit applicants the necessary amount of time to obtain the assurances of cooperating State and local agencies as required in the Notice of Intent.

DATE: The due date for applications is extended from 45 days of the date for final rulemaking to February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Mrs. Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250 (202-447-8982).

Dated: January 24, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary of Agriculture.

Dated: January 26, 1979.

ERNEST G. GREEN,
Assistant Secretary of Labor.

[FR Doc. 79-3801 Filed 2-1-79; 8:45 am]

[3410-11-M]

Forest Service

OCHOCO NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., March 2, 1979 in the Forest Supervisor's Office, Federal Building, Prineville, Oregon.

The purpose of this meeting is to select officers, discuss by-laws, rules for public participation, and subjects concerning the development of allotment management plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Persons who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; Phone (503) 447-6247. Written statements may be filed with the committee before or after the meeting.

BERNIE CARTER,
Acting Forest Supervisor.

JANUARY 26, 1979.

[FR Doc. 79-3550 Filed 2-1-79; 8:45 am]

[3410-11-M]

ROUTT NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Routt National Forest Grazing Advisory Board will meet March 8, 1979 at 10:00 a.m. at the Yampa Valley Electric Association building, Steamboat Springs, Colorado. The Board is being established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) election of officers: (2) a discussion of the function of the Board: (3) establishment of by-laws: (4) recommendation concerning the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Les Clark, Routt National Forest (303-879-1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

JACK WEISSLING,
Forest Supervisor.

JANUARY 26, 1979.

[FR Doc. 79-3633 Filed 2-1-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

CAJUN ELECTRIC POWER COOPERATIVE, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has issued a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Cajun Electric Power Cooperative, Inc., P.O. Box 578, New Roads, Louisiana 70760.

The anticipated financing assistance would provide Cajun with the financing required to construct a third unit at the cooperative's Big Cajun No. 2 plant. The 540 MW (net) coal-fired steam electric generating unit would be similar to the two units presently under construction at that plant, located at New Roads, Louisiana.

Additional information may be secured on request, submitted to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examained during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C. Room 4313 or at the headquar-

ters of Cajun Electric Power Cooperative, Highway 1, New Roads, Louisiana, telephone (504) 638-6326. Final action may be taken with respect to this matter after thirty (30) days.

Any financing assistance by REA pursuant to these applications will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969, and by other environmentally related statutes, regulations, and Executive Orders.

Dated at Washington, D.C., this 24th day of January 1979.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-3206 Filed 2-1-79; 8:45 am]

[3410-15-M]

COLORADO-UTE ELECTRIC ASSOCIATION, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with the proposed use of REA financing by Colorado-Ute Electric Association, Inc., to finance the construction of transmission facilities to deliver additional power and energy to Creede and the San Luis Valley in the State of Colorado. This statement describes the impacts of the originally proposed Lake City to Creede 115 kV transmission line as well as the now proposed project, the Poncha to San Luis Valley 230 kV transmission line. The proposal is to construct and maintain approximately 65 miles of 230 kV transmission line in an existing utility corridor between a USBR Poncha substation near Poncha Springs (Chaffee County) and a new San Luis Valley substation near Center (Alamosa County).

Additional information may be secured on request, submitted to Mr. Joseph S. Zoller, Acting Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. This Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 1268, South Building or at the borrower's address indicated above.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 24th day of January 1979.

ROBERT W. FERAGEN,
Administrator, Rural Electrification Administration.

[FR Doc. 79-3484 Filed 2-1-79; 8:45 am]

[3410-05-M]

Office of the Secretary

1979 UPLAND COTTON PROGRAM

Determinations Regarding Proclamation of the 1979-Crop National Program Acreage and Voluntary Reduction Percentage for Upland Cotton

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determination of the 1979-Crop National Program Acreage and Voluntary Reduction Percentage for Upland Cotton.

SUMMARY: The purpose of this notice is to determine and proclaim with respect to the 1979-crop of upland cotton (referred to as "cotton"): (1) No set-aside requirement; (2) no voluntary diversion program; and, (3) no limitation on planted acreage. These determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Act of May 15, 1978, (referred to as the "Act"). This notice is needed to satisfy statutory requirements.

EFFECTIVE DATE: February 1, 1979.

ADDRESS: Production Adjustment Division, ASCS-USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS) (202) 447-7873.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39117), in accordance with 5 U.S.C. 553. A total of 61 comments were received, 34 from individual producers, 4 from multiproducer petitions, 5 from cotton farm organizations, 7 from general farm organizations, 5 from the nonfarm public and 6 from ASC county committees. Thrity-one comments were received concerning set-aside. Six recommended no set-aside. Of the 25 comments recommending a set-aside, 8 recommended a 10 percent requirement; four recommended 15 percent; six recommended 20 percent; five recommended 25 percent; and two did not specify a percentage. Three stated that, if there was a feed grain set-aside, then there should be an equal cotton set-aside. Two comments recommended that the target price be adjusted as compensation for participating in the set-aside. Twenty-six comments were received concerning voluntary diversion. Seven comments opposed and 19 favored voluntary paid diversion, one comment recommended a 10 percent diversion requirement, four recommended 15 percent, four recommended 20 percent, one stated it should be between 10 and 25 percent, one recommended 30 to 50 percent, and eight did not specify a percentage. Three comments favored a 10-10 combination of set-aside and paid diversion, and one favored a 10-15 combination. One comment recommended a diversion payment rate of 3 to 4 cents per pound on planted plus diverted acres. One comment suggested a payment rate of 10 cent per pound on the 10 percent required set-aside and 5 cents per pound on the voluntary diversion. Three comments opposed the bid system for setting the diversion payment rate. Two comments recommended that the diversion program operate exactly as in 1978. Five comments recommended that there be no limitation on planted acreage. All comments were duly considered by the Secretary within the statutory authority.

It is essential that these decisions be made effective immediately since farmers need to know these provisions as soon as possible so that they can make their farming plans accordingly. Therefore, the Secretary has made the following determinations:

DETERMINATIONS

1. *Set-Aside Requirements.* It is hereby determined that there will be no set-aside requirements under the 1979-crop cotton program.

The decision not to have a set-aside was based on the following factors:

a. The big increase in cotton stocks that resulted from the large 1977 crop is being reduced this year as a result of smaller production and larger exports. Stocks on August 1, the beginning of the 1978-79 marketing year, totaled 5.3 million bales, up form 2.9 million a year earlier. Taking into account the uncertainties over the final 1978-crop estimate and domestic use and exports for the balance of this marketing year, stocks on August 1, 1979 could be as low as 3.4 million or as high as 4.6 million bales. A stock

level of about 4.5 million bales is generally considered desirable.

b. U.S. mill use has improved in recent months and for the marketing year could range from 6.0 million to 6.5 million bales.

c. Export demand for U.S. cotton continues strong as the projected foreing production to consumption deficit has increased substantially this year. Exports for the year could range from 5.1 million to 6.5 million bales. A recent reduction in the production estimate for the USSR, coupled with the current ban on exports on new crop cotton by Pakistan, could result in U.S. exports somewhat higher than the 5.8 million bales now forecast.

d. Export demand is expected to continue strong during the 1979-80 season as foreign cotton stocks are expected to be at relatively low levels next August 1.

e. A set-aside program, coupled with another bad weather year, could result in very tight supplies and a further reduction in cotton stocks next year. The resultant higher prices would, in the longer term, reduce both domestic use and exports as U.S. cotton would be less competitive with synthetic fibers and foreign grown cotton. The higher prices would also increase consumers costs and contribute to further inflation.

3. *Voluntary Diversion Program.* It is hereby determined that there will be no voluntary diversion program under the 1979-crop cotton program for the same reasons there will be no set-aside program.

4. *Limitation on Planted Acreage.* It is hereby determined that there will be no limitation on acreage planted to upland cotton in 1979. Since there is no set-aside requirement, there can be no planting limitation.

NOTE: An approved Final Impact Analysis is available from Charles V. Cunningham (ASCS), (202) 447-7873.

Signed at Washington, D.C., on January 26, 1979.

BOB BERGLAND,
Secretary.

[FR Doc. 79-3207 Filed 2-1-79; 8:45 am]

[3510-25-M]
[4510-28-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

DEPARTMENT OF LABOR

Office of the Secretary

STEEL TRIPARTITE ADVISORY COMMITTEE

Notice of Establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce and the Secretary of Labor have determined that the establishment of the Steel Tripartite Advisory Committee is in the public interest in connection with the performance of duties imposed on the Departments.

The Committee will advise the Secretary of Commerce and the Secretary of Labor on such international and domestic issues as trade and trade adjustment questions, taxes, environmental protection and controls, occupational safety and health regulations, and structural readjustments with respect to plant and labor. It will review data relating to those issues, propose potential remedies, and review other proposals and their impacts.

The Committee will consist of members appointed by the Secretary of Commerce and the Secretary of Labor with representation from companies and labor organizations in the basic steel industry and the U.S. Government.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, February 20, 1979.

Interested persons are invited to submit comments regarding the establishment of the Steel Tripartite Advisory Committee. Such comments, as well as any inquiries, may be addressed to Mr. A. M. Brueckmann, Director, Iron & Steel Div., Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4412, or Mr. David Mallino, Labor-Management Services Administration, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-9549.

Dated: November 14, 1978.

ELSA A. PORTER,
Assistant Secretary of Commerce for Administration.

Dated: November 22, 1978.

FRANCIS X. BURKHARDT,
Assistant Secretary of Labor for Labor-Management relations.

[FR Doc. 79-3937 Filed 2-1-79; 10:16 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF RETAIL SALES AND INVENTORIES

Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due notice of consideration having been published November 30, 1978 (43 FR 56086), I have determined that certain 1978 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides on a comparable classification basis data covering 1977 and 1978 year-end inventories, and 1978 annual sales. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be require only from a selected sample of retail firms operating retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample or stores with probability of selection based on their sales size.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 29, 1979.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 79-3628 Filed 2-1-79; 8:45 am]

[1505-01-M]

National Bureau of Standards

ROTATING MASS STORAGE SUBSYSTEMS

Proposed Federal Information Processing Standards

Correction

In FR Doc. 79-2275, appearing at page 4751 in the issue for Tuesday, January 23, 1979, on page 4751 in the second column, the first sentence in the *"Implementation"* paragraph should be corrected to read "The provisions of this standard are effected 120 days after date of publication of the approved standard in the FEDERAL REGISTER."

[3510-22-M]

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL, SURF CLAM ADVISORY SUBPANEL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atantic Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Council has established the Surf Clam Advisory Subpanel that will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan.

DATE: The meeting will convene on Friday, March 9, 1979, at 10:00 a.m. and adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton, Route 13, Dover, Delaware (302) 678-8500.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: January 30, 1979.

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

[FR Doc. 79-3630 Filed 2-1-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 2, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 13, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (43 FR 52510) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

CLASS 1730

Chock Assembly, Wheel
1730-00-163-8317
Painted
Unpainted
Codit Reflective
Reflective Tape

The above for all requirements for facilities located west of the Mississippi River and any requirements for facilities located east of the Mississippi River which are not furnished by Federal Prison Industries.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-3626 Filed 2-1-79; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

ARMY SCIENCE BOARD

Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: Army Science Board.
Dates of meeting: February 6-7, 1979.
Place: Pentagon, Washington, DC (exact location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0800 to 1700 hours, February 6-7, 1979 (Closed.)
Proposed agenda: The ASB Ballistic Missile Defense Standing Committee will hold classified discussions of briefings they have received on the threat and other issues and programs which relate to the defensive posture of the U.S. This meeting will be closed to the public in accordance with Section 552B(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

This notice is being published in less than the 15 day requirement prior to the committee meeting date as required by the Federal Advisory Committee Act. The reason the 15 day requirement was not met is a result of an oversight in the administrative processing of the notice within departmental headquarters.

Date: January 31, 1979.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Mandgement, TAGCEN.

[FR Doc. 79-3827 Filed 2-1-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

CONSERVATION AND SOLAR APPLICATIONS, FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Food Industry Advisory Committee will meet on Wednesday, February 21, 1979, from 9:00 a.m., until approximately 4:30 p.m., in the Regency Room, Sheraton-Palace Hotel, 639 Market Street, San Francisco, California.

The Committee was established to provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

The tentative agenda is an follows:

9:00 am—Proposed UDSA Rulemaking on Essential Uses of Natural Gas, Dr. Weldon Barton.
9:45—Rechartering of the Food Industry Advisory Committee, Larry R. Kelso, DOE.
10:30—Presentations of Ongoing and Proposed DOE Development and Demonstration Projects in Food and Agriculture:
- 10:30—Agrimod/ALINET, Alex Levis, Systems Control Corp.
- 10:50—Energy Conservation in Canning, Paul Singh, University of California.
- 11:10—Sugar Beet Preliming: Alfalfa Dehydration, Art Morgan, USDA Western Regional Reseach Center.

12:00 Noon—Lunch Break.
1:00 pm—Energy Efficiency in Irrigation, Dr. Bruce Cone, Battelle.
2:00—Waste Water Recovery, Richard Farrow, National Food Processor's Assn.
2:20—Old Committee Business.
2:45—New Committee Business.
3:30—Public Comment.

The meeting is open to the public. the Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his/her judg-

ment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202/252-5187, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between the hours of 8:00 am, and 4:30 pm. Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter. An Executive Summary of the meeting may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C., on January 30, 1979.

GEORGIA HILDRETH,
Director, Advisory Committee Management.

[FR Doc. 79-3930 Filed 2-1-79; 9:59 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP—00087; FRL 1051-3]

STATE FIFRA ISSUES RESEARCH AND EVALUATION GROUP (SFIREG)

Working Committee on Certification; Open Meeting

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

ACTION: Notice of Open Meeting.

SUMMARY: There will be a three-day meeting of the Working Committee on Certification of the State FIFRA Issues Research and Evaluation Group (SFIREG) on Monday through Wednesday, February 12-14, 1979, beginning at 8:30 a.m.

The meeting will be held at the Dunfey Dallas Hotel, Dallas, Texas, telephone (toll free): 800/228-2121. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. Ron Johnson, Maryland Department of Agriculture, Annapolis, Maryland, telephone: 301/269-2325 or Mr. Andrew Caraker, Office of Pesticide Programs (TS-770), Room M-2709, EPA, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 755-0356.

SUPPLEMENTARY INFORMATION: This is the second meeting of the Working Committee on Certification. The primary purpose of the meeting will be to develop program details for a national certification and training workshop to be held in Dallas in April. Representatives from the State Cooperative Extension Services are expected to participate in these discussions.

Other topics scheduled for discussion are:

1. Evaluation of funding guidance for State Lead Agencies;

2. Record keeping for recertification;

3. Additional items as appropriate.

Dated: January 30, 1979.

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

[FR Doc. 79-3770 Filed 2-1-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1161]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

JANUARY 23, 1979.

Docket or RM No.	Rule No.	Subject	Date Rec'd
21402		American Telephone and Telegraph Company (Long Lines Department) Wide Area Telecommunications Service (WATS).	
		Filed by Edwin B. Spievack and James H. Johnson, Attorneys for Republic Distributors, Inc.	Jan. 12, 1979
		Filed by Jeremiah Courtney and Philips B. Patton, Attorneys for Ad Hoc Telecommunications Users Committee.	Jan. 12, 1979
		Filed by Arthur Scheiner and Richard H. Waysdorf, Attorneys for Aerospace Industries Association of America, Inc.	Jan. 12, 1979
		Filed by Richard M. Cahill and Richard McKenna for GTE Service Corporation and its affiliated domestic telephone companies.	Jan. 12, 1979
		Filed by Spence W. Perry and William H. Smith, Jr., Attorneys for the Administrator of General Services on Behalf of the Executive Agencies of the United States.	Jan. 16, 1979
		Filed by Michael D. Hess, Attorney for Committee Of Corporate Telephone Users.	Jan. 17, 1979
		Filed by Charles R. Cutler, John L. Bartlett and Donald R. Bustion, II, Attorneys for Aeronautical Radio, Inc., and by James E. Landry, Attorney for Air Transport Association of America.	Jan. 17, 1979
		Filed by Joseph M. Kittner and Lawrence J. Movshin, Attorneys for Tele-Communications Association.	Jan. 17, 1979
		Filed by George M. Shea, Vice President and Corporate Counsel and Ralph W. Christy and Emily M. Williams, Attorneys for National Data Corporation.	Jan. 17, 1979
		Filed by Wayne V. Black, Larry S. Solomon and Christine A. Meagher Attorneys, for Central Committee On Telecommunications Of The American Petroleum Institute.	Jan. 17, 1979

NOTE: Oppositions to Petitions for reconsideration must be filed on or before February 20, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-3703 Filed 2-1-31-79; 8:45 am]

[6712-01-M]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: January 24, 1979.

Released: January 26, 1979.

Notice is hereby given, pursuant to § 1.572(c) of the Commission's rules, that on March 20, 1979, the TV broadcast applications listed in the attached Appendix below will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 19, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on March 19, 1979.

Any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the rules which specifies the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO, *Secretary.*

BPCT-781006KE (NEW), Bloomington, Illinois, Grace Communications Corporation, Channel 43, ERP: Vis. 2095.2kW; HAAT: 1026.2 ft.

BPCT-781011KE (NEW), Bridgeport, Connecticut, Hi Ho Television Corporation, Channel 43, ERP: Vis. 1082kW(Max); HAAT: 702 ft.

BPCT-781016KE (NEW), Bridgeport, Connecticut, Bridgeways Communications Corporation, Channel 43, ERP: Vis. 794kW(Max); HAAT: 570 ft.

BPCT-781116KE (NEW), Macon, Georgia, Russell-Rowe Communications, Inc., Channel 24, ERP: Vis. 1280kW: HAAT: 802 ft.

BPCT-781206KE (NEW), Denver, Colorado, American Television and Communications Corporation, Channel 20, ERP: Vis. 902kW: HAAT: 1099 ft.

[FR Doc. 79-3702 Filed 2-1-79; 8:45 am]

[6712-01-M]

[SS Docket No. 79-5; File Nos. 3465/6/7-IB-109TV]

WHITMAN WHOLESALE NURSERIES, INC.

Memorandum Opinion and Order

Adopted: January 24, 1979.

Released: January 26, 1979.

In re applications of Whitman Wholesale Nurseries, Inc., 565 North Service Road, Dix Hills, New York 11746, for authorizations for new facilities in the Business Radio Service, SS Docket No. 79-5, File Nos. 3465/6/7-IB-109TV.

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned applications of Whitman Wholesale Nurseries, Inc. (Whitman) for authorization of new facilities in the Business Radio Service. Whitman's applications, filed October 13, 1978, propose operation on the frequency pair 472.1375/475.1375 MHz and would use a mobile relay station located at 270 Grand Central Parkway in the Borough of Queens, New York City.

2. Information before the Bureau indicates that Whitman has been operating unlicensed Business Radio Service facilities for a period of approximately two years. The unlicensed facilities discovered by the staff of the Commission's Field Operations Bureau on November 30, 1978, evidently had commenced operation about two weeks earlier using the frequency pair and the mobile relay station proposed in Whitman's applications. That mobile relay facility was provided to Whitman by Robert Nopper d/b/a Norcom, who also prepared and certified the accuracy of the technical portions of Whitman's applications. However, it appears that for approximately two years prior to use of the Nopper mobile relay station Whitman had operated without a license using a mobile relay station located elsewhere.

3. The information before the Bureau concerning Whitman's unlicensed operation raises serious questions as to whether Whitman possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. *Accordingly, it is ordered,* That in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309 (e)), the above-captioned applications of Whitman Wholesale Nurseries, Inc., File Nos. 3465/6/7-IB-109TV, for authorization of new facilities in the Business Radio Service are, pursuant to authority delegated in §§ 0.131(a) and 0.331 of the Commission's rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Whitman Wholesale Nurseries, Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether any unlicensed operation by Whitman Wholesale Nurseries, Inc. was knowing or willful.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Whitman Wholesale Nurseries, Inc. possesses the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Whitman Wholesale Nurseries, Inc. has exhibitied such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorizations which it is here seeking.

(e) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Whitman Wholesale Nurseries, Inc. will best serve the public interest, convenience and necessity.

5. *It is further ordered,* That Whitman Wholesale Nurseries, Inc. and the Chief, Safety and Special Radio Services Bureau are made parties in this proceeding.

6. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and §§ 1.254 and 1.973(e) of the Commission's rules, upon Whitman Wholesale Nurseries, Inc. with respect to the issues set forth in paragraph 4 hereinabove.

7. *It is further ordered,* That each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this

Order, as prescribed in § 1.221 of the Commission's rules.

8. *It is further ordered*, That the Secretary of Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Whitman Wholesale Nurseries, Inc. at the address furnished in its applications.

FEDERAL COMMUNICATIONS COMMISSION
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 79-3704 Filed 2-1-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggreived by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 23, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (commercial lending and leasing activities; New Jersey): To engage, through its subsidiary, Citicorp (USA), Inc., in commercial lending activities for its own account (with the intention that Citibank, N.A., Citibank (New York State), N.A., and other commercial banks may participate in the loans); and leasing personal or real property or acting as agent, broker, or advisor in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Iselin, New Jersey, and the geographic area to be served is New Jersey.

B. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

CENTRAN CORPORATION, Cleveland, Ohio (consumer finance and insurance activities; Virginia): To engage, through its subsidiaries, Major Finance Corporation of Alexandria and Major Mortgage Corporation, in making and acquiring consumer finance loans (including loans to individuals secured by second mortgages or deeds of trust on residential property); purchasing installment sales contracts; servicing loans; and selling as agent life, accident and health, fire, inland marine, and extended coverage insurance directly related to its extensions of credit. These activities would be conducted from an office in Norfolk, Virginia, and the geographic area to be served is within a radius of approximately 25 miles from that office.

C. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1. BANKS OF IOWA, INC., Cedar Rapids, Iowa (data processing activities; Iowa): To engage, through its subsidiary, Banks of Iowa Computer Services, Inc., in providing bookkeeping or data processing services for the internal operations of its subsidiaries and other banking institutions, and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or payable, or billing services for other businesses. These activities would be conducted from an office in Davenport, Iowa, and the geographic area to be served is within a radius of 100 miles from that office.

2. CONTINENTAL ILLINOIS CORPORATION, Chicago, Illinois (financing and investment advisory activities national): To engage, through its subsidiary, Continental Illinois Equity Corporation, in making or acquiring secured and unsecured loans and other extensions of credit to or for business, governmental and other customers (excluding direct consumer lending), entities or projects; purchasing or acquiring receivables or chattel paper (including consumer receivables and paper); issuing letters of credit and accepting drafts; servicing loans and other extensions of credit; and providing portfolio investment and financial advice to others. These activities would be conducted from an office in Chicago, Illinois, and the geographic area to be served is national.

3. SJV CORPORATION, Elkhart, Indiana (finance and insurance activities; Indinia): To engage, through its subsidiary, St. Joseph Valley Finance Corp., in making or acquiring loans and other extensions of credit, including secured and unsecured consumer loans, such as would be made by a mortgage or finance company; and selling as agent life and accident and health insurance directly related to its extensions of credit. These activities would be conducted from an office in Merrillville, Indiana, and the geographic area to be served is Merriville, Indiana.

D. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

1. NEW MEXICO BANCORPORATION, INC., Santa Fe, New Mexico (insurance activities; New Mexico): To act as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to extensions of credit by it or its subsidiary banks, and acting as agent or broker in the sale of any insurance for its subsidiary banks. These activities would be conducted from the main offices of Applicant's subsidiary banks in Santa Fe, Albuquerque, and Taos, New Mexico, and the geographic areas to be served are the Santa Fe, Albuquerque, and Taos, New Mexico Metropolitan areas.

2. SURVCO BANCORP., INC., Sugar Creek, Missouri (insurance activities; Missouri): To act as agent for the sale of property insurance directly related to extensions of credit by its subsidiary bank. These activities would be conducted from the subsidiary bank's office in Sugar Creek, Missouri, and the geographic areas to be served are Sugar Creek, Independence, and eastern Kansas City, Missouri.

E. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

1. BANKAMERICA CORPORATION, San Francisco, California (insurance activities; national): To act, through its subsidiary, BA Insurance Agency, Inc., as agent or broker for the sale of credit-related property and casualty insurance, including insurance protecting 1-4 family residences securing loans made or acquired by, and personal property securing extensions of credit made by, Applicant's subsidiaries, from physical damage or loss, and liability and other insurance sold in conjunction therewith as a matter of general practice; insurance

protecting collateral (both real and personal) securing construction loans made by Applicant's subsidiaries, from physical damage or loss, and related surety and liability insurance sold in conjunction therewith as a matter of general practice; insurance protecting property leased to customers of Applicant's subsidiaries; insurance protecting Bank of America NT&SA and its subsidiaries from any type of loss or liability; and insurance protecting properties held in trust from physical damage or loss, and liability insurance sold in conjunction therewith as a matter of general practice. These activities would be conducted from offices in Allentown, Pennsylvania; Dallas, Texas; San Francisco, California; and Minneapolis, Minnesota, and the geographic area to be served is national.

2. WELLS FARGO & COMPANY, San Francisco, California (financing, leasing, investment advisory, and data processing activities; Minnesota, North and South Dakota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Michigan): To engage, through its subsidiary, Wells Fargo Realty Advisors, in making, acquiring, and servicing real estate related loans and other extensions of credit; acting as investment advisor to Wells Fargo Mortgage and Equity Trust, other affiliates of Applicant, and other investors with respect to real estate investment portfolios; providing full payout leasing of real property and acting as agent, broker, or advisor in arranging such leases in accordance with the Board's Regulation Y; and providing bookkeeping or data processing services related to real estate investments of Applicant or its affiliates. These activities would be conducted from an office located in Minneapolis, Minnesota, and the geographic areas to be served are Minnesota, North Dakota, South Dakota, Iowa, Missouri, Wisconsin, Illinois, Indiana, and Michigan.

F. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 26, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

FR Doc. 79-3625 Filed 2-1-79; 8:45 am]

[6210-01-M]

[Docket No. R-0197]

FINANCIAL PRIVACY ACT

Proposed Statement of Customer Rights

AGENCY: The Board of Governors of the Federal Reserve System.

ACTION: Proposed Statement of Customer Rights under the "Right to Financial Privacy Act of 1978".

SUMMARY: This Proposed Statement sets forth rights that customers of financial institutions have under the "Right to Financial Privacy Act of 1978." (Public Law 95-630.) This proposal is being issued in implementation of section 1104(d) of the Act, which requires the Board to prepare a model Statement of customer's financial privacy rights. The Act also requires financial institutions to notify customers of their financial privacy rights, and if these institutions use the Board's Statement for that purpose they will be deemed to be in compliance with the Act's requirement.

The Board is not required to publish notice or to solicit public comments about this proposal, but has chosen to do so because it believes that public comments will aid the Board in its consideration of the Proposed Statement. Interested persons are therefore invited to submit relevant data, views or comments. Any such materials should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received by February 16, 1979. All material submitted should include the Docket No. R-0197. All materials received will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a).)

DATE: Comments must be received by February 16, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R-0197.

FOR FURTHER INFORMATION CONTACT:

Anne J. Geary, (202-452-2761), Division of Consumer Affairs, or Mary-Ellen A. Brown, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Publication of this Proposed Statement was delayed pending further action on legislative initiatives to limit the applicability of section 1104(d) of the Right to Financial Privacy Act, Pub. L. 95-630. First, on January 10, 1979, the Board acting on a resolution from its Consumer Advisory Council, voted to transmit to the Congress a recommended amendment to section 1104(d) that would require financial institutions to give a customer the statement of financial privacy rights at the time a Federal agency sought to have access to the customer's records. Following the Board's action, members and staff of Congressional committees stated publicly an intention to limit applicability of section 1104(d) by means of amendment or amendments that would be introduced in the 96th Congress. Then, on January 16, 1979, Senator Proxmire introduced S. 37 which would repeal section 1104(d). Other amendments to section 1104(d) may also be forthcoming, but none have been introduced as yet, and there has been no further action in Congress.

The Board's Proposed Statement follows:

PROPOSED STATEMENT OF CUSTOMER RIGHTS UNDER THE FINANCIAL PRIVACY ACT

Federal law protects the privacy of your financial records. Before banks, credit unions, credit card issuers or other financial institutions may give financial information about you to a Federal agency, certain procedures must be followed.

CONSENT TO RELEASE OF FINANCIAL RECORDS

You may be asked to consent to make your financial records available to the Government. You may withhold your consent, and your consent is not required as a condition of doing business with any financial institution.

WITHOUT YOUR CONSENT

Without your consent, a Federal agency that wants to see your financial records may do so ordinarily only by means of a lawful subpoena, summons, formal written request, or search warrant for that purpose.

Generally, the Federal agency must give you advance notice, explaining why the information is being sought and telling you how to object in court. The Federal agency must also send you copies of court documents to be prepared by you with instructions for filling them out.

EXCEPTIONS

In some circumstances, a Federal agency may obtain financial information about you without advance notice or your consent. For example, information may be released: When authorized by the Internal Revenue Code; when required by law to be reported; when there has been a possible violation of Federal law; when required by a Federal loan program (however, you have the right to ask which agency(ies) obtained this loan information about you and when).

TRANSFER OF INFORMATION

Generally, a Federal agency must tell you if any records obtained from a financial institution are transferred to another Federal agency.

PENALTIES

If a Federal agency or financial institution violates the Financial Privacy Act, you may sue for damages or to seek compliance with the law. If you win, you may be repaid your attorney's fees and costs.

ADDITIONAL INFORMATION

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call (*phone number of financial institution's office that answers customer privacy questions.*)

Board of Governors of the Federal Reserve System, January 26, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-3623 Filed 2-1-79; 8:45 am]

[6210-01-M]

IMPROVING GOVERNMENT REGULATIONS

Notice of Semi-Annual Agenda of Regulations

The Board of Governors of the Federal Reserve System anticipates having under consideration the following regulatory matters during the period from February 1 through August 1, 1979. Supplements to the agenda may be published if necessary.

A. REGULATORY ACTIONS RESULTING FROM RECENT LEGISLATION, OR FROM REGULATORY DECISIONS OF OTHER FEDERAL AGENCIES.

1. REGULATION: REGULATIONS D (RESERVES OF MEMBER BANKS) AND M (FOREIGN ACTIVITIES OF NATIONAL BANKS)

ANTICIPATED ACTION: New legislation provides for the imposition of reserve requirements on the liabilities of U.S. branches and agencies of foreign banks. U.S. branches and agencies of foreign banks have been growing very rapidly in the United States, extending an increasing proportion of bank credit in U.S. financial markets. The Board will be considering the applicability of Regulations D and M to these institutions and plans to publish for public comment amendments to these regulations.

AUTHORITY: International Banking Act, 12 U.S.C. 3105.

STAFF CONTACT: Edward C. Ettin, Deputy Staff Director, Office of Staff Director for Monetary and Financial Policy (202-452-3762).

2. REGULATION: E (ELECTRONIC FUND TRANSFERS)*

ANTICIPATED ACTION: In December 1978, the Board issued for public comment proposed regulations to implement two sections of the Electronic Fund Transfer Act. These sections, which become effective on February 3, 1979, establish limits on the consumer's liability for unauthorized transfers which occur after loss, theft or unauthorized use of an EFT card, and provide a partial ban on the unsolicited issuance of EFT access devices (43 FR 60933, December 29, 1978). The Board will review the comments received on the draft regulations and take final action on the proposal.

Proposed regulations as required for other sections of the Act that go into effect in May 1980 will be issued later.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, Title XX, Section 904.

STAFF CONTACT: Anne J. Geary, Assistant Director, Division of Consumer Affairs, (202-452-2761); Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412).

3. REGULATION: F (SECURITIES OF MEMBER STATE BANKS)

ANTICIPATED ACTION: The Board will consider issuing for public comment proposed amendments to certain portions of Regulation F concerning:

(a) confidential treatment for preliminary proxy materials;

(b) proposals by securities holders;

(c) dissemination of proxy materials to beneficial owners of registered securities;

(d) tender offer statements;

(e) consolidation and revision of several items, including current quarterly and annual reports;

(f) stock appreciation rights.

These changes are required to make the Board's Regulation F substantially similar to regulations of the Securities and Exchange Commission.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78(i).

STAFF CONTACT: Richard M. Whiting, Attorney, Legal Division, (202-452-3786); Thomas A. Sidman, Assistant Director, Division of Banking Supervision and Regulation (202-452-3503).

4. REGULATION: H (MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM)

ANTICIPATED ACTION: The Board will consider issuing for public comment an amendment to Regulation H to implement section 28(e) of the Securities Exchange Act of 1934 which requires any person (including a bank) which exercises investment discretion with respect to an account to disclose his policies and practices with respect to commissions that will be paid for effecting securities transactions. The amendment would prescribe the manner and frequency of making such disclosures by State member banks. Similar regulations are expected to be considered by the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Securities and exchange Commission.

AUTHORITY: Securities Exchange Act of 1934, 15 U.S.C. 78bh(e)(2).

STAFF CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, (202-452-2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, (202-452-2717).

5. REGULATION: O (LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS)

ANTICIPATED ACTION: In December 1978, the Board published for comment proposed amendments to regulation O, which governs loans by a member bank to its executive officers, to implement certain additional requirments imposed on loans by member banks to certain persons under the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (44 FR 893, January 3, 1979). The additional requirements relate to loans by a member bank to executive officers, directors and principal shareholders of the member bank and of its holding company affiliates. The requirements are also applicable to companies and political or campaign committees controlled by such insiders. The Board will review the comments received on the draft amendments and take final action on the proposal.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Coantrol Act of 1978, Public Law 95-630, Title I, Section 104.

STAFF CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation (202-452-2782); Michael Bleier, Senior Attorney, Legal Division (202-452-3721).

6. REGULATION: Y (BANK HOLDING COMPANIES)

ANTICIPATED ACTION: The Board has adopted a policy statement and regulations, effective March 10, 1979, to implement recent legislation which gives the Federal banking agencies authority to disapprove changes in control of insured banks and bank holding companies. The Change in Bank Control Act requires any person seeking to acquire control of any insured bank or bank holding company to provide 60 days' prior written notice to the appropriate Federal banking agency and provides criteria under which the agencies may disapprove the transaction. The policy statement describes the Act's requirements, outlines several procedures for compliance, and clarifies the most significant points of difficulty in the Act. Amendments to Regulation Y clarify which persons need to file notice. The Regulation has also been amended to modify the information requirements that are set forth in the Act. Normally such proposals would be issued for public comment prior to being adopted, but in this case the March 10, 1979 effective date of the Act does not permit sufficient time to do so. The Board has, however, invited public comment on the final regulation and is prepared to alter it if necessary.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, Title VI, Section 602.

STAFF CONTACT: James McAfee, Senior Attorney, Legal Division (202-452-3707); Jack M. Egertson, Assistant Director, Division of Banking Supervision and Regulation (202-452-3408).

*The original Regulation E, Purchase of Warrants, has been rescinded.

7. REGULATION: AA (UNFAIR OR DECEPTIVE ACTS AND PRACTICES)

ANTICIPATED ACTION: The Board is required by the Federal Trade Commission Act to adopt substantially similar trade regulation rules applicable to banks to those adopted by the FTC with regard to other creditors. The Board will consider issuing for public comment a new proposal to adopt a rule governing the preservation of consumers' claims and defenses (commonly known as the "creditor holder in due course rule"). The rule was originally proposed by the Board on February 17, 1976 (41 FR 7110, February 17, 1976) before Regulation AA was adopted; the Board will consider the revised proposal as an amendment to Regulation AA. This proposal would require the insertion in certain credit contracts of a notice preserving a consumer's claims and defenses against a seller of goods or services against all holders of the contract. It is expected that the FTC will adopt its creditor rule in final form on or about March 1, 1979.

AUTHORITY: Federal Trade Commission Act, 15 U.S.C. 18f.

STAFF CONTACT: Lynne B. Barr, Senior Attorney, Division of Consumer Affairs (202-452-2412).

8. REGULATION: LL (MANAGEMENT OFFICIAL INTERLOCKS)

ANTICIPATED ACTION: The Board, with the other Federal financial regulatory agencies, has issued jointly for public comment proposed regulations to implement recent legislation that prohibits a management official of a depository institution from serving at the same time as a management official of any other depository institution. The Financial Institutions Regulatory and Interest Rate Control Act provides for regulations to implement the Act, as well as for exceptions by regulation for certain interlocking relationships that would otherwise be prohibited under the Act. The Board will review any comments received on the proposed amendments and take final action on the proposal.

AUTHORITY: Financial Insitutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, Title II, Section 209.

STAFF CONTACT: Paul Allan Schott, Senior Attorney, Legal Division (202-452-3779); John L. Walker, Attorney, Legal Division (202-452-2418).

9. REGULATION: PROPOSAL TO BE MADE PART OF A NEW BOARD REGULATION TO COVER INTERNATIONAL BANKING OPERATIONS (SEE ENTRY C. 10 BELOW)

ANTICIPATED ACTION: Under the International Banking Act (IBA), the Board will issue for public comment proposals relating to (a) activities of foreign bank holding companies and (b) criteria for selection of "home State" by foreign banks with U.S. offices. The IBA subjects foreign banks with U.S. banking offices to the Bank Holding Company Act. Provisions of the Act provide an exemption from the nonbanking prohibitions of the Bank Holding Company Act for certain qualifying foreign banks. The scope of that exemption will be determined by Board regulation. The IBA also provides for the determination of a foreign bank's "home State." Criteria for determining a foreign bank's home State and procedures for changing the home State once it is determined require a Board regulation.

AUTHORITY: International Banking Act, 12 U.S.C. 611a, 3106, and 3108. Bank Holding Company Act, 12 U.S.C. 1844.

STAFF CONTACT: C. K. Hurley, Jr., Senior Attorney, Legal Division, (202-452-3269).

10. REGULATION: INITIATIVES REQUIRED UNDER TITLES VIII (CORRESPONDENT ACCOUNTS) AND IX (DISCLOSURE OF MATERIAL FACTS) OF THE FINANCIAL INSTITUTIONS REGULATORY AND INTEREST RATE CONTROL ACT

ANTICIPATED ACTION: The Board will issue for public comment a policy statement which will provide information on implementing procedures in connection with the prohibitions pertaining to insider loans involving correspondent banking relationships under Title VIII, and reporting requirements contained in Title IX which relate to loans of insiders at their own banks. There are no plans for a new regulation.

STAFF CONTACT: N. Edwin Demoney, Jr., Section Manager, Division of Banking Supervision and Regulation, (202-452-2434).

11. REGULATION: STATEMENT OF CUSTOMER RIGHTS REQUIRED UNDER TITLE XI (RIGHT TO FINANCIAL PRIVACY) OF THE FINANCIAL INSTITUTIONS REGULATORY AND INTEREST RATE CONTROL ACT

ANTICIPATED ACTION: The Board has issued for public comment a Statement of Customer's Rights as provided for in the right to Financial Privacy Act. All financial institutions, as that term is defined by the Act, are required to notify all customers of their new financial privacy rights, and if these institutions use the Board's statement for that purpose, they will be "deemed to be in compliance" with the new law. The Board will review the comments received on the draft Statement and will take final action on the proposal.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, Title XI, Section 1104(d).

STAFF CONTACT: MaryEllen A. Brown, Senior Attorney, Legal Division, (202-452-3608).

12. REGULATION: RULE WRITING REQUIRED UNDER TITLE XI (RIGHT TO FINANCIAL PRIVACY) OF THE FINANCIAL INSTITUTIONS REGULATORY AND INTEREST RATE CONTROL ACT

ANTICIPATED ACTION: The Board will issue for public comment proposed new regulations to implement Title XI which provides for reimbursement to financial institutions for reasonably necessary and direct costs incurred in providing customers' financial records to Federal agencies. The regulation will establish the rates and conditions for reimbursement to financial institutions including banks, savings banks, credit card issuers, industrial loan companies, trust companies, savings and loan associations, building and loan associations, homestead associations, cooperative banks, credit unions, and consumer finance companies.

AUTHORITY: Financial Institutions Regulatory and Interest Rate Control Act, Public Law 95-630, Title XI, Section 1115.

STAFF CONTACT: MaryEllen A. Brown, Senior Attorney, Legal Division, (202-452-3608).

B. ACTIONS INTENDED TO REDUCE REGULATORY BURDEN OR TO CLARIFY EXISTING REGULATIONS

1. REGULATION: B (EQUAL CREDIT OPPORTUNITY)

ANTICIPATED ACTION: In July 1978, the five Federal financial regulatory agencies—Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Federal Reserve Board—issued for public comment proposed uniform guidelines for enforcement of the Equal Credit Opportunity and Fair Housing Acts (43 FR 29256, July 6, 1978). The guidelines specify the kind of corrective action a creditor will be required to take for violations of the more substantive provisions of Equal Credit Opportunity Act (Regulation B), and the Fair Housing Act. Each of the agencies has authority to require correction of violations, both prospectively and retrospectively. The agencies will review the comments received on the draft guidelines and take final action on the proposals.

AUTHORITY: Equal Credit Opportunity Act, 15 U.S.C. 1691. *et seq.* Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

STAFF CONTACT: Jerauld C. Kluckman, Associate Director, Divi-

sion of Consumer Affairs, (202-452-3401).

2. REGULATION: Z (TRUTH IN LENDING)

ANTICIPATED ACTION: In January 1979, the Board issued for public comment a wide range of questions bearing on disclosure to borrowers of the annual percentage rate (APR) required by the Truth in Lending Act and its implementing Regulation Z (44 FR 1103, January 4, 1979). The Board is reviewing the existing provisions in order to ascertain what changes, if any, may be necessary to provide greater uniformity and simplicity in the determination of the APR. Specific regulatory changes resulting from this review will be proposed for comment at a later date.

AUTHORITY: Truth in Lending Act, 15 U.S.C. 1604 and 1606.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412).

3. REGULATION: Z (TRUTH IN LENDING)

ANTICIPATED ACTION: In August 1978, the Board issued for public comment a proposed interpretation of Regulation Z regarding an interest reduction on a time deposit used to secure a loan (43 FR 38849, August 31, 1978). Under Regulation Q, Interest on Deposits, the interest rate on a loan secured by a deposit must be at least 1% above the interest rate paid on the deposit. Where a state usury ceiling makes it necessary for a creditor to lower the interest on the deposit in order to maintain the rate differential required by Regulation Q, the proposed interpretation will require disclosure of the reduction, but the amount need not be included as part of the "finance charge." The Board will review the comments received on the draft interpretation and take final action on the proposals.

AUTHORITY: Truth in Lending Act, 15 U.S.C. 1064.

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs, (202-452-2412).

4. REGULATION: RULES OF PRACTICE FOR FORMAL HEARINGS

ANTICIPATED ACTION: The Board will consider revising its Rules of Procedure for Formal Hearings to simplify and clarify the rules applicable to formal administrative hearings conducted pursuant to section 554 of the Administrative Procedure Act. The proposed revision of the Rules will also expand the coverage of the Rules to cover administrative proceedings required by certain provisions of the Financial Institutions Regulatory and interest Rate Control Act of 1978 (FIRA). In particular, procedures will be established governing the imposition of civil money penalties authorized by FIRA for violations of provisions of the Federal Reserve Act, Bank Holding Company Act, and certain other statutes administered by the Board. Procedures will also be established governing cease and desist, removal, and suspension actions under the amendments made by FIRA to the Financial Institution Supervisory Act, 12 U.S.C. 1818(b) *et seq.* Pursuant to the authority of 5 U.S.C. 553, it is not anticipated that these proposals will be issued for public comment.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248(i).

STAFF CONTACT: J. Virgil Mattingly, Jr., Senior Attorney, Legal Division, (202-452-3430); Mary E. Curtin, Senior Attorney, Division of Banking Supervision and Regulation, (202-452-2600).

5. REGULATORY IMPROVEMENT PROJECT

ANTICIPATED ACTION: The Board's Regulatory Improvement Project involves, among other things, a substantive, zero-base review of all Federal Reserve regulations that affect the public to determine (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation. Work on all of the Federal Reserve regulations with letter designations is under way—with the exception of Regulation C (Home Mortgage Disclosure) and E (Purchase of Warrants) for which reviews are complete. Over the next six months, proposals likely to be considered by the Board will include, but are not necessarily limited to: Regulation F (Securities of Member State Banks), H (Membership of State Banking Institutions in the Federal Reserve System), I (Issue and Cancellation of Capital Stock of Federal Reserve Banks), J (Collection of Checks and Other Items by Federal Reserve Banks), K (Corporations Engaged in Foreign Banking and Financing Under the Federal Reserve Act), L (Interlocking Bank Relationships Under the Clayton Act), M (Foreign Activities of National Banks), N (Relations with Foreign Banks and Bankers), O (Loans to Executive Officers of Member Banks), P (Minimum Security Device and Procedures for Federal Reserve Banks and State Member Banks), R (Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933), S (Bank Service Arrangements), V (Loan Guarantees for Defense Production), and Y (Bank Holding Companies). Requests for public comment on proposals concerning many of these regulations will be made over the coming six months.

STAFF CONTACT: Richard H. Puckett, Manager, Regulatory Improvement Project, (202-452-3743).

C. OTHER REGULATORY ACTIVITY

1. REGULATION: B (EQUAL CREDIT OPPORTUNITY)

ANTICIPATED ACTION: In October 1978, the Board issued for public comment three amendments to broaden the scope of Regulation B: (1) arrangers of credit would be covered by the regulation; (2) certain commercial credit transactions would be subject to record keeping and notification requirements; and (3) the general bar against asking an applicant's marital status would be made applicable to business credit transactions (43 FR 49987, October 26, 1978). These proposals are made in response to recommendations from the staff of the Federal Trade Commission and the President's Task Force on Women Business Owners. The Board will review the comments received on the draft amendments and take final action on the proposals.

AUTHORITY: Equal Credit Opportunity Act, 15 U.S.C. 1691, *et seq.*

STAFF CONTACT: Dolores S. Smith, Section Chief, Division of Consumer Affairs (202-452-24120); Robert C. Plows, Section Chief, Division of Consumer Affairs (202-452-3667).

2. REGULATION: H (MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM)

ANTICIPATED ACTION: In April 1977, the Board issued for public comment a proposal to amend Regulation H to prohibit State member banks from purchasing loans on improved real estate or mobile homes located in flood hazard areas if the property is not covered by flood insurance (42 FR 20815, April 22, 1977). This proposal implements the Flood Disaster Protection Act which requires flood insurance on real estate located in flood hazard areas as a condition of obtaining a loan from a member bank. The Board will review the comments received on the draft amendments and take final action on the proposal.

AUTHORITY: Flood Disaster Protection Act, 42 U.S.C. 4012a(b) and 4128.

STAFF CONTACT: John L. Walker, Attorney, Legal Division (202-452-2418).

3. REGULATION: H (MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM)

ANTICIPATED ACTION: In January and October 1978, the Board issued for public comment proposed amendments to require that State member banks that effect certain securities transactions for customers

provide confirmations of and maintain records with respect to such transactions (43 FR 5006, February 7, 1978 and 43 FR 50914, November 1, 1978). Similar proposals were also published for comment by the Comptroller of the Currency and the Federal Deposit Insurance Corporation. These proposals were made subsequent to a study by the Securities and Exchange Commission on bank securities activities and respond to recommendations in the SEC report. The Board will review the comments received on the draft amendments and take final action on the proposals.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248 (a) and (i), and 321. Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

STAFF CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation (202-452-2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation (202-452-2717).

4. REGULATION: J (COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS)

ANTICIPATED ACTION: In January 1976, the Board issued for public comment proposals to amend Regulation J to deal with clearing and settlement of wire transfers and payment instructions recorded on magnetic tape (41 FR 3097, January 21, 1976). On June 16, 1977, the Board adopted Subpart B of Regulation J dealing with wire transfer operations only, and determined to adopt amendments regarding automated clearing house (ACH) operations at a later date (Subpart C of Regulation J).

The purpose of proposed Subpart C will be to set forth a system of rights and responsibilities governing the receipt and use of Federal Reserve electronic clearing and settlement services through automated clearing houses. At the present time individual agreements are in place with each of the 32 automated clearing house associations. This proposal is needed in view of the continuing increase in the volume of ACH transactions and the benefits that would be derived from the establishment of a uniform set of rules and responsibilities applicable to all participants in Federal Reserve ACH operations. It is anticipated that the Board will issue a *revised* proposal for public comment before taking any final action.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248 (i)(j) and (o), 342 and 360.

STAFF CONTACT: Lee S. Adams, Attorney, Legal Division (202-452-3594).

5. REGULATION: J (COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS)

ANTICIPATED ACTION: The Board will consider issuing for public comment an amendment to Regulation J dealing with the treatment by Federal Reserve Banks in their check collection procedures of payment instruments that are not payable on demand. This proposal will be considered in view of a recent court case in the State of Pennsylvania where State-chartered savings banks are authorized to issue to their depositors noninterest bearing negotiable orders of withdrawal (NINOWs). The Pennsylvania Superior Court recently determined that these instruments are not payable on demand, and thus Regulation J needs to be amended if Reserve Banks are to continue to collect these as cash items.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 248(i), 248(o), 342, and 360.

STAFF CONTACT: Lee S. Adams, Attorney, Legal Division (202-452-3594).

6. REGULATION: Q (INTEREST ON DEPOSITS) OR AA (UNFAIR OR DECEPTIVE ACTS AND PRACTICES)

ANTICIPATED ACTION: The Board will consider issuing for public comment an amendment to its Regulations Q or AA to require member and nonmember banks to make certain additional disclosures to depositors concerning savings and time deposit account. It is anticipated that the required disclosures, if proposed, would relate to the rate at and manner in which interest is computed and paid, service charges that may be imposed, and withdrawal restrictions. This initiative is in response to consumer surveys and consumer complaints alleging unfairness concerning certain practices engaged in by banks with regard to disclosure of terms relating to interest on deposits.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 371b. Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

STAFF CONTACT: Gilbert Schwartz, Senior Attorney, Legal Division (202-452-3623); Dolores S. Smith, Section Chief, Division of Consumer Affaris (202-452-2412).

7. REGULATION: Q (INTEREST ON DEPOSITS)

ANTICIPATED ACTION: The Board has been asked by several Members of the Congress to consider termination of a restriction contained in section 217.6(i) of Regulation Q which generally limits advertising and solicitation of NOW accounts to states in which Federal law authorizes the issuance of such accounts. Proponents urge this action based on recent action by the Board and the Federal Deposit Insurance Corporation authorizing commercial banks to offer automatic transfer accounts. This proposal will be considered by the Board in the near future.

AUTHORITY: Federal Reserve Act, 12 U.S.C. 371b.

STAFF CONTACT: Anthony F. Cole, Attorney, Legal Divsion, (202-452-3711).

8. REGULATION: Y (BANK HOLDING COMPANIES)

ANTICIPATED ACTION: In February 1978, the Board issued for public comment a proposed amendment to Regulation Y that would permit bank holding companies and their nonbank subsidiaries to sell, at retail, money orders and similar instruments, travelers checks, U.S. Savings Bonds and consumer-oriented financial management courses (43 FR 7440, February 23, 1978). The proposal was initiated in connection with an application by Citicorp, a New York bank holding company, to engage in such activities in Utah pursuant to section 4(c)(8) of the Bank Holding Company Act. The Board will review the comments received on the draft amendment and take final action on the proposal.

AUTHORITY: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

STAFF CONTACT: James McAfee, Senior Attorney, Legal Division, (202-452-3707).

9. REGULATION: Y (BANK HOLDING COMPANIES)

ANTICIPATED ACTION: In March and May 1978, the Board issued for public comment proposals to amend its Regulation Y relating to permissible insurance activities for bank holding companies (43 FR 14970, April 10, 1978 and 43 FR 23588, May 31, 1978). These proposals would conform the regulation with a recent federal court decision, *Alabama Association of Insurance Agents v. Board of Governors of the Federal Reserve System,* 553 F.2d 224 (5th Cir. 1976), rehearing denied, 558 F.2d 729 (1977), *cert.* denied 435 U.S. 904 (1978). The Board will review the comments received on the draft amendments and take final action on the proposals.

AUTHORITY: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

STAFF CONTACT: Richard M. Whiting, Attorney, Legal Division, (202-454-3786).

10. REGULATIONS: CONSOLIDATION AND REVISION OF THE BOARD'S INTERNATIONAL BANKING REGULATIONS: REGULATION K (CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT), REGULATION M (FOREIGN ACTIVITIES OF NATIONAL BANKS), AND PARTS OF REGULATION Y (BANK HOLDING COMPANIES)

ANTICIPATED ACTION: The Board's international banking regulations will likely be revised to account for the changes that have taken place in international banking in recent years. Existing Regulation K governing Edge Corporations is expected to be revised substantially in accordance with the International Banking Act. The proposed consolidated regulation would apply, in addition to Edge Corporations, to the foreign branches and investments of member banks, foreign investments by domestic bank holding companies, and the activities of foreign banks and foreign bank holding companies. The Board would issue the proposal for public comment.

AUTHORITY: International Banking Act, 12 U.S.C. 611a and 3108. Federal Reserve Act, 12 U.S.C., 601 and 615. Bank Holding Company Act, 12 U.S.C. 601 and 615. Bank Holding Company Act, 12 U.S.C. 1844.

STAFF CONTACT: C. K. Hurley, Jr., Senior Attorney, Legal Division, (202-452-3269).

Comments on this agenda should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, January 26, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-3483 Filed 2-1-79; 8:45 am]

[6820-27-M]

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

NATIONAL FIRE CODES

Proposed Revision of Standards

AGENCY: Office of the Federal Register, GSA.

ACTION: Request for comments and proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise its fire safety standards. The Office of the Federal Register (OFR), as a service to the public, requests public comment on revisions proposed by NFPA technical committees. The OFR also requests proposals from the public to amend existing NFPA standards. The purpose of these requests is to increase public participation in the system used by NFPA to develop its fire safety standards.

DATES: Comments on the technical committee proposals are due on or before April 6, 1979. Proposals from the public to amend existing NFPA standards are due on or before the dates listed in Supplementary Information—Request for Proposals.

ADDRESS: Send comments and proposals to the Assistant Vice President for Standards, 470 Atlantic Avenue, Boston, Mass. 02210. Copies of the 1979 Annual Technical Committee Reports are available from the NFPA Publications Department at the above address. The reports are available for public inspection at the Office of the Federal Register library, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ann Stevens, 202-523-4534.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register (OFR) approves the incorporation by reference of these standards under 5 USC 552(a) and 1 CFR Part 51.

REQUEST FOR COMMENTS

Revisions of existing fire safety standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its Technical Committee Report.

Action at the NFPA Fall Meeting in November, 1979 is being proposed on the NFPA standards listed below:

No.	Title	Action Proposed
15	Water Spray Fixed Systems	O-P
32	Drycleaning Plants	O-P
34	Finishing Processes	O-C
50	Bulk Oxygen Systems at Consumer Sites	O-P
51A	Acetylene Cylinder Charging Plants	O-P
59A	Liquefied Natural Gas	O-P
72A	Local Protective Signaling Systems	O-P
72B	Auxiliary Protective Signaling Systems	O-P
72D	Proprietary Protective Signaling Systems	O-C
72F	Emergency Communication Systems for High Rise and Other Occupied Buildings	N-O
86D	Industrial Furnaces Using Vacuum as an Atmosphere	O-P
88A	Parking Structures	O-P
88B	Repair Garages	O-P
92M	Waterproofing and Draining of Floors	W
110	Emergency Power Supplies	N-O
231	Indoor General Storage	O-C
385	Tank Vehicles for Flammable and Combustible Liquids	O-P
386	Portable Shipping Tanks	O-P
501A	Mobile Home Parks	W
501B	Mobile Homes	W
501BM	Mobile Home Heating and Cooling Load Calculations	W
501C	Recreational Vehicles	W
501D	Recreational Vehicle Parks	W
802	Nuclear Reactors	O-C
1410	Initial Fire Attack	O-C
1963	Screw Threads and Gaskets for Fire Hose Connections	O-P

TYPES OF ACTION

PROPOSED ACTION ON OFFICIAL DOCUMENTS

O-P Partial Amendments
O-C Complete Revision
O-T Tentative Revision

PROPOSED ACTION ON NEW DOCUMENTS

N-T Tentative Adoption
N-O Official Adoption

PROPOSED ACTION ON TENTATIVE DOCUMENTS

T-P Partial Amendments
T-C Complete Revision
T-O Official Adoption

OTHER PROPOSED ACTION

R Reconfirmation
W Withdrawal

Single copies of the 1979 Fall Technical Committee Reports are available at no charge from the National Fire Protection Association, Publications Department, 470 Atlantic Avenue, Boston, Mass. 02210. The NFPA will mail the reports during the week of February 5, 1979.

Interested persons may participate in these revisions by submitting written data, views, or arguments to the Assistant Vice President for Standards, NFPA, 470 Atlantic Avenue, Boston, Mass. 02210. Commenters should use the forms provided for comments in the Technical Committee Report. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. The NFPA will consider comments received on or before April 6, 1979, before final action is taken.

The NFPA will publish copies of all written comments received and the disposition of those comments by the NFPA committees as the Technical

Committee Documentation by September 10, 1979, prior to the Fall Meeting. A copy of the Technical Committee Documentation will be sent automatically to each commenter. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 12-14, 1979, at the Hyatt Regency Hotel, Phoenix, Arizona, by NFPA members who are members of record 30 (thirty) days prior to that meeting.

The NFPA will make copies of the Technical Committee Reports and Technical Committee Documentation, when published, available for review at the Office of the Federal Register, 1100 L Street, N.W., Washington, DC.

REQUEST FOR PROPOSALS

The technical committees of the NFPA report revisions of existing standards and adoptions of new standards. The OFR and NFPA request proposals from the public to amend some of these standards. Interested persons may submit proposed amendments, supported by written data, views, or arguments, to the Assistant Vice President for Standards, 470 Atlantic Avenue, Boston, Mass. 20010. Each person who submits a proposal must include his or her name and address, must identify the notice that requests the proposal, and must give reasons for the proposal. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

The NFPA will publish a copy of each written proposal that it receives and the disposition of each proposal by the NFPA committee as the technical committee report. The NFPA will send a copy of the technical committee report to each person who submits a proposal. The NFPA will make copies of the technical committee report available for review at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. The NFPA requests proposals to amend the following standards:

Committee	Document	Proposal closing date
Air Conditioning	NFPA 90A, Air Conditioning and Ventilating Systems.	July 20, 1979
Atomic Energy	NFPA 801, Facilities Handling Radioactive Materials.	July 20, 1979
Automatic Sprinklers	NFPA 13, Installation of Sprinkler Systems	July 20, 1979
	NFPA 13A, Care and Maintenance of Sprinkler Systems.	July 20, 1979
Aviation	NFPA 402, Aircraft Rescue and Fire Fighting.	July 20, 1979
	NFPA 416, Airport Terminal Buildings	July 20, 1979
	NFPA 424, Airport/Community Rescue and Fire Fighting.	July 20, 1979
Blower Systems	NFPA 91, Installation of Blower and Exhaust Systems for Dust, Stock and Vapor Removal for Conveying.	Nov. 1, 1979
Boiler-Furnace Explosions	NFPA 85B, Furnace Explosions in Natural Gas-Fired Multiple Burner Boiler-Furnaces.	Mar. 1, 1979
	NFPA 85D, Furnace Explosions in Fuel Oil-Fired Multiple Burner Boiler-Furnaces.	Mar. 1, 1979
	NFPA 85E, Furnace Explosions in Pulverized Coal-Fired Multiple Burner Boiler-Furnaces.	Mar. 1, 1979
	NFPA 85G, Furnace Implosions in Multiple Burner Boiler-Furnaces.	Mar. 1, 1979
Chimneys and Heating Equipment	NFPA 96, Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment.	May 1, 1979
Combustible Metals	NFPA 48, Storage, Handling and Processing of Magnesium.	Nov. 1, 1979
	NFPA 481, Production, Processing, Handling and Storage of Titanium.	Nov. 1, 1979
	NFPA 482M, Zirconium	Nov. 1, 1979
Dust Explosion Hazards	NFPA 61A, Manufacturing and Handling Starch.	Nov. 1, 1979
	NFPA 61C, Prevention of Fire and Dust Explosions in Feed Mills.	Nov. 1, 1979
	NFPA 61D, Prevention of Fire and Dust Explosions in the Milling of Agricultural Commodities for Human Consumption.	Nov. 1, 1979
	NFPA 63, Prevention of Dust Explosions in Industrial Plants.	June 1, 1979
	NFPA 66, Pneumatic Conveying Systems for Handling Feed, Flour, Grain and Other Agricultural Dusts.	June 1, 1979
	NFPA 654, Prevention of Dust Explosions in the Plastic Industry.	June 1, 1979
	NFPA 655, Prevention of Sulfur Fire and Explosions.	June 1, 1979
	NFPA 664, Prevention of Dust Explosions in Woodworking and Wood Flour Manufacturing Plants.	June 1, 1979
	NFPA 69, Explosion Prevention Systems	(Open)
Fire Department Equipment	NFPA 1904, Maintenance, Care, Testing and Use of Fire Department Aerial Ladders and Elevating Platforms.	(Open)
	NFPA 1921, Specifications for Fire Department Portable Pumping Units.	(Open)
Fire Hazards of Materials	NFPA 704, System for the Identification of the Fire Hazards of Materials.	July 20, 1979
Fire Prevention Code Committee	NFPA 1, Fire Prevention Code	May 1, 1979

Committee	Document	Proposal closing date
Fire Reporting	NFPA 901, Uniform Coding for Fire Protection.	June 1, 1979
	NFPA 902M, Fire Reporting Field Incident Manual.	June 1, 1979
	NFPA 903M, Property Survey Manual	June 1, 1979
Fire Service Training	NFPA 1401, Training Reports and Records	July 20, 1979
Fire Tests	NFPA 702, Flammability of Wearing Apparel.	July 20, 1979
Flammable Liquids	NFPA 30, Flammable and Combustible Liquids Code.	(Open)
	NFPA 327, Procedures for Cleaning or Safeguarding Small Tanks and Containers.	July 20, 1979
	NFPA 328, Control of Flammable and Combustible Liquids and Gases in Manholes and Sewers.	July 20, 1979
	NFPA 395, Storage of Flammable and Combustible Liquids on Farms and Isloated Construction Plants.	(Open)
Foam Water Sprinklers	NFPA 16, Foam Water Sprinkler and Spray Systems.	July 20, 1979
Fuel Gases	NFPA 54, National Fuel Gas Code	July 20, 1979
Health Care Facilities	NFPA 56B, Respiratory Therapy	(Open)
	NFPA 56C, Laboratories in Health-Related Facilities.	July 20, 1979
	NFPA 56K, Medical Surgical Vacuum Systems.	July 20, 1979
	NFPA 76C, Safe Use of High Frequency Electricity in Health Care Facilities.	July 20, 1979
	NFPA 3M, Hospital Emergency Preparedness.	July 20, 1979
	NFPA 56G, Inhalation Anesthetics in Ambulatory Care Facilities.	July 20, 1979
Industrial and Medical Gases	NFPA 51, Installation and Operation of Oxygen-Fuel Gas Systems for Welding and Cutting.	May 1, 1979
	NFPA 56F, Nonflammable Medical Gas Systems.	May 1, 1979
Motor Vehicle and Highway Fire Protection.	NFPA 502, Fire Protection for Limited Access Highways, Tunnels, Bridges, Elevated Roadways and Air Right Structures.	July 20, 1979
Pest Control Operations	NFPA 57, Fumigation	(Open)
Portable Fire Extinguishers	NFPA 10L, Model Enabling Act for the Sale or Leasing and Servicing of Portable Fire Extinguishers.	July 20, 1979
Protective Equipment for Fire Fighters	NFPA 19B, Respiratory Protective Equipment for Fire Fighters.	(Open)
	NFPA 1971, Protective Clothing for Structural Fire Fighting.	(Open)
Pyrotechnics	NFPA 1121L, Model State Fireworks Law	Nov. 1, 1979
	NFPA 1122L, Unmanned Rockets	Nov. 1, 1979
Signaling Systems	NFPA 72G, Audible and Visual Signaling Applicances for Protective Signaling Systems.	July 20, 1979
Standpipes and Outside Protection	NFPA 14, Installation of Standpipe and Hose Systems.	(Open)
Storage of Rubber Tires	NFPA 231D, Storage of Rubber Tires	July 20, 1979
Water Tanks	NFPA 22, Water Tanks for Private Fire Protection.	July 20, 1979

Dated: January 30, 1979.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc. 79-3573 Filed 2-1-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0318; DESI 8082]

CERTAIN PREPARATION FOR VAGINAL USE

Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of the new drug applications for certain preparations for vaginal use of the grounds that there is a lack of substantial evidence that they are effective. The products are used in the treatment of vulvovaginal candidiasis.

DATES: Any request for a hearing must be submitted on or before March 5, 1979.

In support of a request, all data and information relied upon to justify a hearing must be submitted on or before April 3, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 8082, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Request for hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk (HFA-305), Rm. 4-65.

Request for opinion of the applicability of this notice to a specific drug product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Adminis-

tration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTATRY INFORMATION: In a notice (DESI 8082) published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15188), the Food and Drug Administration (FDA) announced its conclusions that the drug products described below are probably effective for use in the treatment of vulvovaginal candidiasis.

1. NDA 8-082; Propion Gel containing calcium propionate and sodium propionate; Wyeth Laboratories, Inc., Division American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101.

2. NDA 11-816; Sporostacin Cream containing chlordantoin and benzalkonium chloride; Ortho Pharmaceutical Corp., Route 202, Raritan, NJ 08869.

Subsequent to the July 28, 1972 notice, Ortho Pharmaceutical Corp. submitted reports of three studies intended to show the effectiveness of Sporostacin Cream in the treatment of vulvovaginal candidiasis.

The first study, dated August 28, 1973, was an open uncontrolled study conducted by 10 investigators, involving a total of 170 patients. This study is, on its face, not an adequate and well-controlled study as no control group was employed. 21 CFR 314.111(a)(5)(ii)(a)(4): Uncontrolled studies are of necessity not blinded and no other measures were taken to minimize bias on the part of the subject and observer. 21 CFR 314.111(a)(5)(ii)(a)(3): The corrected cure rate (eight cases the sponsor deleted but which should have been regarded as test drug failures were added) for this study was 56.4 percent. In the absence of a proper control group, however, there is no way to determine whether this cure rate is higher than the cure rate that would have resulted from treatment with a placebo (e.g. a group treated with the base cream of Sporostacin Cream lacking the active ingredient).

The second study, submitted January 22, 1974, compared Sporostacin Cream and Nystatin Vaginal Tablets in 102 patients in a controlled, randomized, imperfectly blinded study (cream versus tablet). Of 49 subjects (divided among four investigators) treated with the test drug (Sporostacin), the firm eliminated all but 26 from evaluation and only 13 of these (50%) were considered cured. Of the 53 subjects treated with the control drug (Nystatin), 32 were retained for evaluation and 22 (68.8%) were said to be cured. This study was consistent with the others reported by the company in that a relatively low cure rate was found (50% in this case).

This study utilized a positive or active control design, attempting to demonstrate effectiveness of Sporostacin by showing it to give cure rates similar to Nystatin, a drug acknowledged to be effective. To be meaningful, however, such a study must have a high likelihood of detecting a difference between the two drugs, if one is present; i.e., it must have a high level of power. In this study, however, there would be only a 50% probability of detecting a difference as large as 20% (75% vs 55%) between the two drugs. In the present case, despite the small size of the study and low degree of power, a nearly significant difference from the control drug ($p < .07$) was seen. It is thus impossible to conclude that Sporostacin is equivalent to Nystatin in this study, and, in fact, it is more likely it was inferior to Nystatin. As the study did not include a placebo group, it cannot show Sporostacin to be superior to placebo. It thus fails to show effectiveness in comparison to an appropriate control group. 21 CFR 314.111(a)(5)(ii)(a)(4).

The third study, submitted in two parts on February 14, 1975, and December 30, 1975, consisted finally of 117 subjects. Four investigators, following the same protocol as the second study, compared the test drug to Nystatin. Of 117 subjects entered, Ortho used only 96 in its computations, eliminating 21 patients for various technical reasons. Some of those dropped, however, were evaluable for drug effect. Ortho reported a cure rate of 69.8% for the test drug and 75.5% for the control but FDA's review of the data, which included many of the subjects dropped from the sponsor's review, yielded cure rates of 54.2% and 71.6% respectively.

A statistical test of the difference in the two drugs using the sponsor's figures as submitted shows no significance, but because of the small numbers of subjects tested this study had only a 65% chance of detecting a clinically meaningful difference in cure rates of 20%, had one existed. Looking at this another way, the 95% confidence interval for the difference between the two cure rates ranges from Sporostacin 30% worse to Sporostacin 5% better, again indicating a study too small to provide acceptable precision. Thus, as in the second study, we cannot conclude the two drugs were equivalent and cannot conclude Sporostacin is effective by virtue of such equivalence. Again, there was no placebo group, so that we cannot tell whether Sporostacin was superior to placebo.

In summary, study two strongly suggests that a real difference exists between the test and control drugs. Study number three, while showing no difference, has insufficient statistical power and precision to contradict the findings of study two. In the absence of a direct comparison of Sporostacin to a placebo, the data are insufficient to demonstrate effectiveness of Sporostacin.

No data were submitted on behalf of Propion Gel in response to the July 28, 1972 notice. However, data were submitted on January 20, 1975, to the over-the-counter (OTC) Panel on Contraceptives and Other Vaginal Drug Products. 21 CFR Part 330. The data were reviewed in full and did not include adequate and well-controlled clinical studies by which effectiveness could be determined. 21 CFR 314.111(a)(5)(ii). The material consisted only of testimonial case studies from the literature.

In addition, OTC vaginal products are under review by the OTC Panel on Contraceptives and Other Vaginal Drug Products. No data submitted on behalf of these products provided evidence of effectiveness for the two products that are the subject of this notice. The OTC products are not subjects of this notice. When the OTC review is completed, the results will be announced in the FEDERAL REGISTER.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50 (in the case of Propion Gel) which provide substantial evidence of effectiveness for these drugs.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as de-

fined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before March 5, 1979, a written notice of appearance and request for hearing, and (2) on or before April 3, 1979, the data, information and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Cerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: January 24, 1979.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-3372 Filed 2-1-79; 8:45 am]

[4110-03-M]

[Docket No. 77N-0372; DESI 6002]

COMBINATION DRUG CONTAINING PIPERAZINE CITRATE AND TYLOXAPOL

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11-639) for Bryrel with Superinone Syrup containing piperazine citrate and tyloxapol. The drug product, which had been used in the treatment of ascariasis and enterobiasis, is no longer marketed.

EFFECTIVE DATE: February 12, 1979.

ADDRESS: Reqests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 6002 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Carol A. Kimbrough, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62207), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug application for the combination drug named below on the ground that the drug product lacks substantial evidence of effectiveness for its labeled indications. In order to meet the requirements for proving the effectiveness of a fixed-combination drug (21 CFR 300.50), each of the ingredients must be shown to contribute to the claimed effects of the combination. Neither the articles submitted by the sponsor of the product nor other material available to the Director of the Bureau of Drugs showed that tyloxapol contributes to the effectiveness of piperazine citrate for ascariasis and enterobiasis:

NDA 11-639; Bryrel with Superinone Syrup containing piperazine citrate and tyloxapol; Winthrop Products, Inc., Subsidiary of Sterling Drug Inc., 90 Park Ave., New York, NY 10016.

The effectiveness of piperazine, as a single entity, for ascariasis and enterobiasis is not in question; it was classified as effective in a FEDERAL REGISTER notice of August 7, 1971 (36 FR 14662).

Neither the holder of the new drug application for the named combination drug nor any other person filed a written appearance of election as provided by the December 9, 1977 notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

All drug products that are identical, related, or similar to the combination drug named above and are not the subject of an approved new drug application are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a

specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to this drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 11-639 providing for the drug product named above and all amendments and supplements applying thereto is withdrawn effective February 12, 1979.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: January 25, 1979.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-3369 Filed 2-1-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0324; DESI 10392]

HYDROXYZINE HYDROCHLORIDE AND HYDROXYZINE PAMOATE

Drugs For Human Use; Drug Efficacy Study Implementation; Announcement and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the results of the efficacy review of hydroxyzine hydrochloride and hydroxyzine pamoate and the conditions for marketing these drugs for the indications classified as effective. It offers an opportunity for hearing concerning indications classified as lacking substantial evidence of effectiveness. The drugs are used for symptomatic relief of anxiety.

DATES: Hearing requests due on or before March 5, 1979, bioavailablility supplements to approved new drug applications due on or before August 1, 1979; other supplements and data in support of hearing requests due on or before April 3, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10392, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk (HFA-305), Rm. 4-65.

Requests for guidelines or information on conducting bioavailability tests: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drugs Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application that became effective before October 10, 1962, was requested to submit to the Food and Drug Administration (FDA) reports containing the best data available in support of the effectiveness of each such product for the claimed indications. That information was needed to facilitate a determination by FDA, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. Pfizer Laboratories and J. B. Roerig, a division of Pfizer, the sponsors of the following drug products, did not submit such information and therefore the drug products were not reviewed by NAS-NRC.

1. NDA 10-392; Atarax Tablets containing hyroxyzine hydrochloride; J. B. Roerig & Co., Division of Pfizer, Inc., 235 East 42d St., New York, NY 10017.

2. NDA 10-485; Atarax Syrup containing hydroxyzine hydrochloride; J. B. Roerig & Co.

3. NDA 11-111; Vistaril Injection containing hydroxyzine hydrochloride; Pfizer Laboratories, Division of Pfizer, Inc., 235 East 42d St., New York, NY 10017.

4. NDA 11-459; Vistaril Capsules containing hydroxyzine pamoate; Pfizer Laboratories

5. NDA 11-795; Vistaril Oral Suspension containing hydroxyzine pamoate; Pfizer Laboratories

EFFICACY REVIEW

Another notice published in the FEDERAL REGISTER of November 19, 1975 (40 FR 53609), re-invited Pfizer, Inc., among other firms, to submit data on or before January 19, 1976. On February 13, 1976, Pfizer, Inc., submitted for its hydroxyzine hydrachloride and hydroxyzine pamoate products supplemental new drug applications containing revised draft labeling and data consisting of 83 reprints from the literature, to demonstrate the effectiveness of the drug products for the indications contained in this labeling. No data have been submitted for any other indication contained in previous labeling for these drug products or in the present labeling that is being used for them. Those indications for which no data have been submitted are classified as lacking substantial evidence of effectiveness. The indications for which data have been submitted and evaluated are as follows: *Syptomatic relief of anxiety associated with psychoneurosis, in other emotional disorders in which symptoms of anxiety are prominent, and as adjunctive therapy in organic disease states in which anxiety is manifested.*

For this indication 26 reprints were submitted. Some were of adequate and well-controlled studies, and others were of uncontrolled studies or other articles from the literature. These studies were evaluated and determined to support effectiveness for the following modified indication: "Symptomatic relief of anxiety and tension associated with psychoneurosis and as an adjunct in organic disease states in which anxiety is manifested." The data supported this indication at a dose level of 50 to 100 milligrams hydroxyzine four times a day, either orally or by intramuscular injection, but not at a lower dosage. *The American Medical Association Drug Evaluations,* second edition, states a dose range of 225 to 400 milligrams hydroxyzine per day for adults with anxiety. *Relief of histamine-mediated pruritus and allergic dermatoses such as chronic urticaria.*

For this indication 13 reprints were submitted. Some were of adequate and well-controlled studies and others were of open studies. These were evaluated and determined to support effectiveness for the following modified

indication: "Hydroxyzine is useful in the management of pruritus due to allergic conditions such as chronic urticaria and atopic and contact dermatoses and in histamine-mediated pruritus." The data supported this indication at a dose level of 25 milligrams hydroxyzine three or four times a day.

As a premedication for relief of anxiety and tension in patients who are to undergo surgical and dental procedures or obstetric delivery, and for the relief of postoperative and postpartum apprehension and anxiety.

For this indication 36 reprints were submitted, 10 pertaining to the oral dosage forms and 26 to the intramuscular dosage form. Some were of adequate and well-controlled studies and others were of uncontrolled studies or other articles from the literature. These studies were evaluated and determined to support effectiveness for the following modified indication: "As a sedative when used as premedication and following general anethesia." The data supported this indication at a dose level of 50 to 100 milligrams hydroxyzine orally or 50 milligrams intramuscularly in adults and at a dose level of 0.6 mg/kg in children by either route.

For that portion of the above indication "As a premedication for relief of anxiety and tension in obstetric delivery," two reprints were submitted, containing studies of Inmon and Zsigmond. The results of the studies are as follows:

Inmon (study 19). This was a double-blind study comparing the effects of hydroxyzine and placebo in 139 female patients in labor and delivery. A medical student or physician in the delivery room obtained answers to a total of 41 questions, which were concerned with the physical course of labor, the behavior of the woman during labor, pain experienced during labor, events of labor and delivery, and the condition of the baby at birth. The questions mainly pertained to the sedative and pain-killing properties of hydroxyzine and not to its use in relief of anxiety and tension. Therefore this study was not considered relevant to the use of hydroxyzine for relief of anxiety and tension. In addition, 50 milligrams of meperidine was given to 41 percent of the hydroxyzine patients and to 32 percent of the placebo patients every 2 hours as needed until delivery was accomplished, and it cannot be determined what effect this drug had on the results attributed to the test drug as no analysis of the results taking meperidine into account is available.

Zsigmond (Study 39). This was a double-blind study comparing the effects of hydroxyzine, hydroxyzine in combination with meperidine and atropine, and placebo in combination with meperidine and atropine in 131 patients in labor. The description of randomization, blinding techniques, and experimental design of the study is incomplete and inadequate. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*), (*3*), and (*4*). The results of the study as stated are incomplete as the baseline values for the measured variables are not given, providing no means of assessing comparability of groups. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

The studies submitted thus fail to provide substantial evidence of effectiveness for hydroxyzine and therefore the drug is classified as lacking substantial evidence of effectiveness for use as a premedication for relief of anxiety and tension in obstetric delivery.

Management of postoperative and postanesthetic nausea and vomiting.

For this indication eight reprints were submitted—one for the oral dosage form and seven for the intramuscular dosage form of hydroxyzine.

The studies by Bare (study 2), Dees (study 12), and Grady (study 54) were for hydroxyzine given intravenously and not by the intramuscular route of administration and thus are not pertinent to this evaluation.

Payne (study 31). This study mainly pertained to the drug's ability to produce adequate sedation and was not considered relevant to its use in management of postoperative and post-anesthetic nausea and vomiting.

Smith (study 79). This was an open study comparing the use of preanesthetic medications with three anesthetic agents. The occurrence of nausea and vomiting postanesthetic was never related specifically to the use of the preanesthetic medications, and therefore this study was not considered relevant to the above indication.

Hayward-Butt (study 57). This was an open study designed to compare hydroxyzine, hydroxyzine with meperidine, meperidine with promethazine, meperidine alone, and placebo as preanesthetic medications in nearly 5,000 patients undergoing various surgical procedures. The vast majority of the patients in the study were given hydroxyzine with meperidine, while only a small percentage of the patients were given hydroxyzine alone. This study was not considered relevant to the above indication but is actually a study of the effects of meperidine by itself and with other drugs.

Snow (study 80). This study compared the effects of hydroxyzine, prochlorperazine, and placebo in the control of postoperative nausea and vomiting in 450 patients who had retinal detachment. The results of the study showed that hydroxyzine was as effective as prochlorperazine and more effective than placebo in the control of postoperative nausea and vomiting following eye surgery for retinal detachment.

Momose (study 62). This study compared the use of hydroxyzine, hydroxyzine in combination with meperidine or pyrabital, meperidine or pyrabital alone, or no drug in 786 surgical patients in various Japanese hospitals to determine hydroxyzine's analgesic effect. The study also evaluated hydroxyzine's effect in management of postoperative nausea and vomiting. Due to the following methodology problems and lack of data submitted, no conclusions were reached on this study:

The criteria for entrance to the study were not described. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*). The method of assignment of patients to the treatment groups and the number of patients and the amount of drugs given for the meperidine or pyrabital groups were not stated. 21 CFR 314.111(a)(5)(ii(*a*)(*2*)(*ii*). Also the method of blinding was not described and the method of evaluation was not described adequately. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

The studies submitted thus fail to provide substantial evidence of effectiveness of hydroxyzine for management of postoperative and postanesthetic nausea and vomiting. Only one study, by Snow, provided some evidence of effectiveness of hydroxyzine for relief of nausea and vomiting following eye surgery for retinal detachment, but there was no other study to corroborate its findings. Therefore hydroxyzine is classified as lacking substantial evidence of effectiveness for management of postoperative and post-anesthetic nausea and vomiting.

Because of hydroxyzine's analgesic properties it has been found to be effective in the management of postoperative and posttraumatic pain. Hydroxyzine enhances the effectiveness of other analgesic agents when used in conjunction with them preoperatively, postoperatively, during labor, and after delivery, therefore permitting the dosage of other analgesic agents to be reduced accordingly.

For this indication 15 reprints were submitted. Three of the studies, Bare (study 2), Clark (study 10), and Dees (study 12), were for the intravenous use of hydroxyzine and were determined not to be pertinent to this evaluation. Twelve of the studies were for the intramuscular dosage form of hydroxyzine and the results of these studies are as follows:

Beaver (study 3). This was a double-blind study comparing the analgesic effects of hydroxyzine, hydroxyzine and morphine, and morphine and placebo in 96 patients with postoperative pain. The study shows that hydroxyzine given intramuscularly has analgesic activity, but an acutal determina-

tion of the drug's effectiveness cannot be made because no raw data or tabular summaries of the data were submitted. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

Brelje (*study 6*). This was a comparison of hydroxyzine plus meperidine and placebo plus meperidine. There was no significant difference shown between the two groups.

Malkasian (*study 26*). This was a comparison of hydroxyzine plus meperidine versus promethazine plus meperidine for analgesia during labor. No placebo control was used. The study shows no significant difference between the two groups.

Sunshine (*study 38*). This was a double-blind study conparing the analgesic properties of hydroxyzine, morphine, and hydroxyzine plus morphine for the relief of pain. No placebo was used. There were no significant differences between any of the test groups.

Childers (*study 44*). This was a short narrative on the use of hydroxyzine in labor and delivery. It does not meet the criteria of adequate and well-controlled studies. 21 CFR 314.111(a)(5)(ii).

Hayward-Butt (*study 57*). This was previously discussed and determined not to be relevant to this indication.

Forrest (*study 49*). This is an ongoing study and no conclusions can be drawn from it.

Pishkin (*study 67*). This is a study of the pshychophysiological and cognitive indices of stress in an acute double-blind study with hydroxyzine in psychiatric patients. The design of the study does not permit measurement of enhancement of analgesia as no analgesic agent was used in the study, and therefore the study is not relevant to this indication.

Semler (*study 71*). This study does not measure analgesic effect and is not relevant to this indication.

Mamose (*study 62*). This study was previously discussed and determined not to be adequate and well controlled.

Mamose (*study 63*). This study compared the use of hydroxyzine and pentazocine, and pentazocine alone on 658 patients waiting for surgery. A group of 303 patients that received no drug and were treated under similar conditions served as a control group. The drug was given within 15 to 30 minutes after the patients regained consciousness from the anesthesia following surgery. The drugs were administered in random order and then comparisons made between the groups receiving the drugs and the control group. Analgesic effectiveness was assessed by the time between the administration of the above post medications immediately after surgery and the first supplemental administration of analgesic. This study contained many methodological problems, some of which are as follows:

The measurement of analgesic effectiveness used in this study is not standardized, the basis on which the decision to remedicate the patient was not described, and therefore it is not know if the decision to remedicate was consistently made on the same basis by all 10 investigators in the study. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

The control group was not analyzed to ensure comparability with the drug-treated groups. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Also the methods of blinding, if any, were not described so it is not known if bias was eliminated. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

Momose (*study 64*). This study is made up of three individual studies involving approximately 12 investigators. The purpose of the study was to control the initial appearance of pain for a period of 12 hours and, insofar as possible, eliminate the appearance of pain in the patient altogether. The study was made up of 2,103 patients undergoing stomach, gall bladder, kidney, uterus, limb, body surface, or lower abdominal surgery. The drugs used in the study were hydroxyzine, pentazocine, diazepam, and placebo. These drugs were given by themselves and in combination with each other. In one study the drugs were given only once and in the other studies the drugs were given at prescribed intervals. Analgesic effectiveness was considered satisfactory if no pain appeared for 12 hours following surgery. The treatment was considered ineffective if pain appeared within the first 12 hours following surgery. The study contained many methodological problems some of which are as follows:

The measurement of analgesic effectiveness used in the study was not measured by pain relief, but by the need for remedication and the criteria for deciding whether or not to medicate during the period of observation are not stated. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

The patients in each treatment group were not analyzed to determine if the populations were comparable. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). The method of assignment of patients to the groups was not clearly spelled out. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*).

In comparing the results obtained from the different groups, only subsets of each group were compared based on the site of surgery; at no time were the total numbers of patients in each group compared. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

The only statistically significant results obtained in the study were found in a small subgroup of one of the individual studies in which the best results were obtained from a combination of hydroxyzine and pentazocine when this medication was repeated in 4 hours.

The studies submitted thus fail to provide substantial evidence of effectiveness of hydroxyzine for its analgesic claims and therefore it is classified as lacking substantial evidence of effectiveness for the following indication: "For use in the management of postoperative and posttraumatic pain. It enhances the effectiveness of other analygesic agents when used in conjunction with them preoperatively, postoperatively, during labor, and after delivery, therefore permitting the dosage of other analgesic agents to be reduced accordingly."

RESULTS OF REVIEW

This notice announces that hydroxyzine, as the hydrochloride and as the pamoate, is evaluated as effective for certain of its indications and as lacking substantial evidence of effectiveness for its other indications. It sets forth the conditions under which such drug products may be marketed and offers an opportunity for a hearing on those indications classified as lacking substantial evidence of effectiveness.

As stated in the FEDERAL REGISTER of August 23, 1977 (42 FR 423311), the provision of 21 CFR 320.22(c) waiving bioavailability data for certain drugs does not necessarily apply to drug products first announced as effective in DESI notices published after January 7, 1977. As this is the first notice announcing that hydroxyzine hydrochloride and hydroxyzine pamoate are effective, the oral and injectable products have also been reviewed for actual or potential bioequivalence problems. It has been determined that solid oral dosage forms of hydroxyzine hydrochloride and hydroxyzine pamoate and oral suspension dosage forms of hydroxyzine pamoate should be added to the list of drugs for which bioavailability data are not waived.

CONDITIONS FOR MARKETING AND OPPORTUNITY FOR HEARING

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine wheth-

er it covers any drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that drug products containing hydroxyzine hydrochloride or hydroxyzine pamoate are effective for the indications set forth in the labeling conditions below and they lack substantial evidence of effectiveness for their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Hydroxyzine hydrochloride is in tablet or syrup form suitable for oral administration, or in sterile solution form suitable for intramuscular injection. Hydroxyzine pamoate is in capsule or suspension form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For symptomatic relief of anxiety and tension associated with psychoneurosis and as an adjunct in organic disease states in which anxiety is manifested.

Useful in the management of pruritus due to allergic conditions such as chronic urticaria and atopic and contact dermatoses and in histamine-mediated pruritus.

As a sedative when used as a premedication and following general anesthesia.

The effectiveness of hydroxyzine as an antianxiety agent for long-term use, that is more than 4 months, has not been assessed by systematic clinical studies. The physician should reassess periodically the usefulness of the drug for the individual patient.

c. The Dosage and Administration section contains the following information: (i) Dosage recommendations, expressed in amounts equivalent to hydroxyzine hydrochloride, as follows:

For symptomatic relief of anxiety and tension associated with psychonerurosis and as an adjunct in organic disease states in which anxiety is manifested: 50-100 milligrams q.i.d.

For use in the management of pruritus due to allergic conditions such as chronic urticaria and atopic and contact dermatoses and in histamine-mediated pruritus: 25 milligrams t.i.d. or q.i.d.

As a sedative when used as a premedication and following general anesthesia: 50-100 milligrams orally or 50 milligrams intramuscularly in adults, and 0.6 mg/kg in children by either route.

and (ii) When treatment is initiated by the intramuscular route of administration, subsequent doses may be administered orally.

3. *Marketing Status.* a. Marketing of such drug products that are the subject of a new drug application approved before October 10, 1962, may be continued provided that, on or before April 3, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). In addition, to permit full approval of such applications on the basis of effectiveness, as well as safety, the holders of applications for capsule, tablet, and oral suspension dosage forms are required to supplement their applications, on or before August 3, 1979, to provide the information described below. If the NDA holder wishes to submit the protocol for its study, the date by which bioavailability data are due will be extended by the time required by the Division of Biopharmaceutics to review and comment on the protocol.

Hydroxyzine Hydrochloride Tablets—Dissolution data on three consecutive lots of the product, conducted in accordance with the methods provided for in the guidelines on conducting dissolution tests, which are available from the Division of Biopharmaceutics. The drug product should meet the specifications of 50 percent in 30 minutes and 80 percent in 60 minutes. Failure of the product to meet these dissolution specifications would require the firm to conduct an in vivo bioavailability study, comparing the product to hydroxyzine hydrochloride syrup.

Hydroxyzine Pamoate Capsules and Suspension—Evidence from in vivo studies demonstrating the bioavailability of the product compared to hydroxyzine hydrochloride syrup. The bioavailability study should be conducted with at least 18 subjects in a crossover design.

Any firm that makes a claim of bioequivalence or equal activity between the hydrochloride and pamoate salts of hydroxyzine must provide evidence from an in vivo study demonstrating the bioequivalence of its product. This bioequivalence study may be incorporated into bioavailability study required above.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) published in the FEDERAL REGISTER of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Applications for the syrup dosage form must include such evidence or information. No waiver will be granted for the other oral dosage forms. However, the bioavailability requirement will be regarded as satisfied for the tablet, capsule, and oral suspension forms by supplying the information stated in 3.a above. For the intramuscular dosage form the following is required:

Hydroxyzine Hydrochloride Intramuscular Injection—For drug products identical in both concentration of active ingredient and inactive ingredient formulation to the innovator product: provide either evidence demonstrating that the drug is identical in both active and inactive ingredient formulation, or evidence demonstrating the in vivo bioavailability of the drug product as compared to the innovator product.

For drug products differing in either concentration of active ingredient or in inactive ingredient formulation: provide evidence from in vivo studies demonstrating the bioavailability of the drug product as compared to the innovator product.

Marketing before approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is aware of only one adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drugs for the following indication: "For relief of nausea and vomiting following eye surgery for retinal detachment." For this indication a second study should have been submitted to determine whether the results of the first are replicable. If the second study used a similar surgical procedure of the eye then the indication would only be reevaluated for relief of nausea and vomiting following eye surgery, but if the second study used another clinical investigator and some other surgical procedure, then the indication would not have to be limited to eye surgery

and it would be reevaluated for relief of postoperative and postanesthetic nausea and vomiting. The Director is unaware of any such adequate and well-controlled clinical investigations demonstrating effectiveness of the drugs for the other indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holders of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows that is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any applications supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6). e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

An applicant or any person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before March 5, 1979, a written notice of appearance and request for hearing, and (2) on or before April 3, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, or when a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions under this notice of opportunity for a hearing must be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) an under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: January 25, 1979.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-3373 Filed 2-1-79; 8:45 am]

[4110-35-M]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Suspension of Maximum Allowable Cost Limits

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

ACTION: Suspension of Maximum Allowable Cost Limits on Penicillin G Potassium 400mu and 800mu Tablets.

SUMMARY: In accordance with 45 CFR 19.5 and 19.6, the Pharmaceutical Reimbursement Board announces the suspension of the maximum allowable cost (MAC) limits on penicillin G potassium 400mu and 800mu tablets. These limits were set forth at 43 FR 57972-77, December 11, 1978. These limits will remain suspended pending an additional review of price data by the Pharmaceutical Reimbursement Board.

DATE: The effective date of this suspension is January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, (202) 472-3820.

Dated: January 29, 1979.

VINCENT R. GARDNER,
Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 79-3627 Filed 2-1-79; 8:45 am]

[4110-08-M]

National Institutes of Health

CANCER CONTROL MERIT REVIEW COMMITTEE OF THE NATIONAL CANCER INSTITUTE.

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Merit Review Committee, National Cancer Institute, Febru-

ary 23, 1979, Blair Building, First Floor Conference Room, 8300 Colesville Road, Silver Spring, Maryland 20910. Except as noted below, this meeting will be open to the public on February 23, 1979, from 8:30 a.m.-5:00 p.m., to review contract progress reports from: University of Arizona, Georgetown University, Fox Chase Cancer Center, Medical College of Virginia, Utah State Division of Health, North Dakota State Department of Health, Nevada Division of Health, Arizona State Department of Health, Wyoming State Department of Health and Social Services. Attendance by the public will be limited to space available.

In accordance with 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 approximately half an hour in the morning before lunch to discuss personal information concerning individuals associated with: University of Arizona, Georgetown University, Utah State Division of Health, North Dakota State Department of Health, Nevada Division of Health, Arizona State Department of Health, Wyoming State Department of Health and Social Services; and will be closed approximately half an hour before closing to discuss personal information concerning individuals associated with: Fox Chase Center and Medical College of Virginia. The disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Hugh E. Mahanes, Jr., Acting Executive Secretary, National Cancer Institute, Blair Building, Room 720, National Institutes of Health, Silver Spring, Maryland 20910 (301/427-7298) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.394, National Institutes of Health)

Dated: January 26, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3562 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE

Open Meetings

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 entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) 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.

Name of committee: President's Cancer Panel.
Dates: March 9, 1979; 9:30 a.m.—adjournment.
Place: Building 31C Conference Room 8. National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and the National Cancer Program.
Executive Secretary: Dr. Richard A. Tjalma, Building 31, Room 11A46, National Institutes of Health, 301/496-5854.
Name of Committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: March 26, 1979; 9:00 a.m.—adjournment.
Place: Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive Secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health, 301/496-5108.

Dated: January 22, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3564 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 22 and 23, 1979, in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. on February 22 to 4:00 p.m. on February 23, will be open to the public. The Committee will discuss initiatives proposed for the Division of Lung Diseases implementation plan for Fiscal 1980. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.838, National Institutes of Health)

Dated: January 25, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3561 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Meeting of the Education and Training Work Group of the National Arthritis Advisory Board

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Education and Training Work Group of the National Arthritis Advisory Board on February 20-21, 1979, in Washington, D.C. The time and meeting location may be obtained by contacting Mr. William Plunkett, Executive Director of the Board, P.O. Box 30286, Bethesda, Maryland 20014, telephone (301) 496-1991.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national arthritis programs. Attendance by the public will be limited to space available.

Mr. William Plunkett, address above, will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: January 22, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3560 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Meeting of the Population Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 21-23, 1979 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 21 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552(c)(4) and 552(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 21 from 10:30 a.m. to adjournment on March 23 for the review, discussion and evaluation of individual grant applications. The 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. Majorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496—6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health).

Dated: January 26, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

FR Doc. 79-3565 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Meeting of the Maternal and Child Health Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 22-23, 1979, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public on March 22 from 9:00 a.m. to 10:30 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, Center for Research for Mothers and Children, the Chiefs, Human Learning and Behavior, Pregnancy and Infancy, and Developmental Biology and Nutrition Branches and the Executive Secretary of the Committee. Concept clearance for contract programs of the Center for Research for Mothers and Children will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 22 from 10:30 a.m. to adjournment on March 23 for the review, discussion and evaluation of individual grant applications.

The 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 Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Research Committee, NICHD, Landow Building, Room 7C16 National Institutes of Health, Bethesda, Maryland, Area Code 301-496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: January 25, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3566 Filed 2-1-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF DENTAL RESEARCH

Meeting of the NIDR Special Grants Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, on March 6-7, 1979, in Building 31-C, Conference Room 10, National Institutes of Health, Bethesda, Md. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on March 6 to discuss general policies and philosophies relating to dental research institutes and centers. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 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 on March 7 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. 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.

Dr. Emil L. Rigg, Chief of Scientific Review Branch, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20014 (Phone 301 496-7658) will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.845, National Institutes of Health.)

Dated: January 25, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-3563 Filed 2-1-79; 8:45 am]

[4110-08-M]

National Institutes of Health

INTERAGENCY PRIMATE STEERING COMMITTEE

General Announcement Replies to Solicitation of Comments on a Proposed National Primate Plan

The Interagency Primate Steering Committee, at the request of the Assistant Secretary for Health, developed a National Primate Plan. The document was reviewed and approved by all agencies of the Federal government concerned with the supply and use of nonhuman primates for bio scientific purposes. The Plan has broad implications affecting both the public and private sectors of the bioscientific

community and it was, therefore, released in draft form in order that all interested parties might comment upon it before preparation of the final version. Announcement of the availability of the draft National Primate Plan appeared in the FEDERAL REGISTER, February 10, 1978 (43 FR 5895).

All relevant material received has been considered in preparation of the final version of the National Primate Plan and a record of the analysis of that material is available upon request from the Office of the Interagency Primate Steering Committee, NIH Building 31, Room 4B30, 9000 Rockville Pike, Bethesda, Maryland 20014.

The final version of the National Primate Plan is currently undergoing departmental review. Once final approval is received, a notice announcing its availability will appear in the FEDERAL REGISTER.

Dated: January 22, 1979.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-3559 Filed 2-1-79; 8:45 am]

[4110-03-M]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Orgainization, Functions, and Delegations of Authority; Correction

In the FR Doc. 78-10369, appearing on page 16420 in the FEDERAL REGISTER of April 18, 1978, make the following change in the third column:

Delete paragraph (k-3-iii) Division of Industry Programs (HFFK) in its entirety.

In the reorganization of the Bureau of Foods as published at 43 FR 1136, January 6, 1978, the Division of Industry Programs was disestablished and its functions combined with those of the Division of Compliance Programs to form the Division of Compliance and Industry Programs.

Dated: January 23, 1979.

FREDERICK M. BOHEN,
Assistant Secretary for
Management and Budget.

[FR Doc. 79-3622 79-Filed 2-1-79; 8:45 am]

[4110-07-M]

Social Security Administration

CERTIFICATION OF MANUAL, ONE-TIME SUPPLEMENTAL SECURITY INCOME BENEFIT PAYMENTS TO THE DEPARTMENT OF THE TREASURY FOR DISBURSEMENT

Modifications in Redelegations of Authority

Section 301 of title III of Pub. L. 92-603 (the Social Security Amendments of 1972) amended title XVI of the Social Security Act, as amended, (the Act) to establish a new program and retitle this portion of the Act to read: "Title XVI—Supplemental Security Income for the Aged, Blind and Disabled." Section 1631(a)(1) of the Act, which is contained in part B of title XVI, authorizes the Secretary of Health, Education, and Welfare (the Secretary) to pay benefits in a manner that will best effectuate the purposes of title XVI. Section 1616(a) of the Act, which is contained in part A of title XVI, authorizes the Secretary to make optional State supplementation payments on behalf of any State that enters into an agreement with the Secretary. Section 212 of Pub. L. 93-66 (Amendments to the Renegotiation Act of 1951, and to the Social Security Act) established a program of mandatory minimum State supplementation of Federal supplemental security income (SSI) benefits. Section 212(b)(1) of Pub. L. 93-66 authorizes the Secretary to make such mandatory minimum supplementation payments on behalf of any State that enters into an agreement with the Secretary under subsection (a) of section 212.

Authority to perform the functions vested with the Secretary by sections 1631(a)(1) and 1616(a) of the Act has been delegated to the Commissioner of Social Security (the Commissioner), with authority to redelegate (38 FR 15648, dated June 14, 1973). Authority to perform the SSI functions vested with the Secretary by sections 210 through 214 of part B of title II of Pub. L. 93-66 has also been delegated to the Commissioner, with authority to redelegate (38 FR 32828, dated November 28, 1973). The Commissioner previously redelegated the subject authorities to various positions in the Social Security Administration (SSA), as described in the material published in the FEDERAL REGISTER on May 10, 1976 (41 FR 19155).

I. Notice is hereby given that the Commissioner has rescinded the previous redelegations of the subject authorities published at 41 FR 19155, dated May 10, 1976, and has replaced them with the following redelegations:

A. AUTHORITIES

1. Authority to certify to Department of the Treasury Disbursing Officers amounts to be disbursed from supplemental security income appropriation accounts for Federal assistance payments required by and properly authorized under section 1631(a)(1) of the Act.

2. Authority to certify to Department of the Treasury Disbursing Officers amounts to be disbursed from supplemental security income appropriation accounts for optional State supplementation payments required by and properly authorized under section 1616(a) of the Act.

3. Authority to certify to Department of the Treasury Disbursing Officers amounts to be disbursed from supplemental security income appropriation accounts for mandatory minimum State supplementation payments required by and properly authorized under section 212(b)(1) of Pub. L. 93-66.

B. DELEGATES

1. Teleservice Center Manager and Supervisor, Boston Teleservice Center; Assistant Regional Commissioner, Supplemental Security Income; Supervisory Supplemental Security Income Quality Review Specialist; and Supplemental Security Income Quality Review Analyst, Boston Regional Office.

SCOPE OF AUTHORITY

1. Any SSI claim filed in the Boston region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

2. Deputy Assistant Regional Commissioner, Field Operations and Supervisory Social Insurance Specialist, New York Regional Office.

SCOPE OF AUTHORITY

2. Any SSI claim filed in the New York region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

3. Assistant Regional Commissioner, Supplemental Security Income; Supervisory Quality Maintenance Review Analyst; and Supervisory Supplemental Security Income Claims Specialist, Philadelphia Regional Office.

SCOPE OF AUTHORITY

3. Any SSI claim filed in the Philadelphia region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

4. Chief; Deputy Chief; Operations Specialist; and Automated Data Processing Specialist, Payment Records Processing Branch, Southeastern Program Service Center.

SCOPE OF AUTHORITY

4. Any SSI claim filed in the Atlanta region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

5. Chief, Operations Branch; Chief, Special Operations Staff; and Director, Division of Operational Support, Chicago Regional Office.

SCOPE OF AUTHORITY

5. Any SSI claim filed in the Chicago region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

6. Assistant Regional Commissioner, Supplemental Security Income; Supervisory Supplemental Security Income Quality Review Specialist; and Supplemental Security Income Quality Review Analyst, Kansas City Regional Office.

SCOPE OF AUTHORITY

6. Any SSI claim filed in the Kansas City region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

7. Assistant District Manager, Austin, Texas District Office; Field Processing Unit Supervisor, Dallas Regional Office; and Claims Authorizer, Dallas Regional Office.

SCOPE OF AUTHORITY

7. Any SSI claim filed in the Dallas region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

8. Assistant Regional Commissioner, Field Operations; Manager, Special Operations Section; and Claims Authorizer, Special Operations Section, Denver Regional Office.

SCOPE OF AUTHORITY

8. Any SSI claim filed in the Denver region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

9. Assistant Regional Commissioner, Field Operations; and Supervisory Social Insurance Specialist, San Francisco Regional Office.

SCOPE OF AUTHORITY

9. Any SSI claim filed in the San Francisco region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

DELEGATES

10. Chief, Operations Branch and Operations Specialist, Operations Branch, Seattle Regional Office.

SCOPE OF AUTHORITY

10. Any SSI claim filed in the Seattle region which requires manual processing and certification to the Department of the Treasury for payment of a one-time SSI benefit check.

C. CONDITIONS

1. Further redelegations may not be made.

2. The individuals occupying the positions enumerated above must be personally designated as certifying officers by the Director, Division of Finance, Office of Financial Management, Office of Management and Administration, SSA, in accordance with current Department of the Treasury requirements, before they exercise any of the subject authorities.

II. Previous redelegations of the subject authorities are rescinded as of February 2, 1979. The new redelegations described in section I. above are also effective as of that date.

III. Should any of the individuals occupying the positions enumerated in section I. above exercise any of the subject authorities before this notice is published in the FEDERAL REGISTER, such actions are hereby affirmed and ratified, provided they fall within the scope of the new redelegations.

Dated: January 25, 1979.

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 79-3572 Filed 2-1-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WILLIAMS FORK MANAGEMENT FRAMEWORK PLAN

Notice of Intent

The Craig Colorado District Office, Bureau of Land Management, is reviewing and will publish a supplement to the Williams Fork Management Framework Plan (MFP). The Supplement will reflect, as completely as possible, existing statutory requirements and policies as well as requirements of the Bureau's Federal lands review mandated by Section 522(c) of the Surface Mining Control and Reclamation Act (SMCRA). The requirements of SMCRA, as well as their implications for existing policy, are discussed in a draft environmental statement (DES) describing the Secretary's proposed coal program and the alternatives. The DES was released for review on December 15, 1978, FEDERAL REGISTER Volume 43 No. 242.

Background and standards for this MFP review and procedures for preparation of the supplement appear in FEDERAL RIGISTER Volume 43 No. 237, of December 8, 1978.

Procedures and content of this specific update will be discussed at a public meeting to be held at 7:00 PM, February 12, 1979 at Craig, Colorado City Hall (new), 300 West 4th Street and at 7:00 PM, February 13, 1979 at the Ramada Foothills, 11595 West 6th Avenue in Denver.

MARVIN W. PEARSON,
District Manager.

[FR Doc. 79-3375 Filed 2-1-79; 8:45 am]

[4310-70-M]

Office of the Secretary

[INT DES 78-6]

PROPOSED GENERAL MANAGEMENT PLAN, HALEAKALA NATIONAL PARK, HAWAII

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental Statement for the proposed General Management Plan, Haleakala National Park, Maui, Hawaii.

The statement considers programs designed to preserve and protect the park's unusual biotic communities and cultural resources. Major actions include the acquisition of 952 acres of land, improvement and replacement of visitor facilities and campground expansion on the West Crater Rim, provision of minimal facilities in the Oheo area, and designation of 9,000 acres of the Kipahulu Valley as a research natural area.

Written comments on the evironmental statement are invited and will be accepted until March 19, 1979. Comments should be addressed to the Superintendent, Haleakala National Park.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Avenue, San Francisco, California 94102.
Hawaii State Office, National Park Service, P.O. Box 50165, 300 Ala Moana Boulevard, Suite 6305, Honolulu, Hawaii 96850.
Haleakala National Park, P.O. Box 537, Makawao, Maui, Hawaii 96768.

Dated: January 29, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-3549 Filed 2-1-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

SOUTHERN NINTH CIRCUIT PANEL OF THE UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Meeting

A meeting of the Southern Ninth Circuit Panel of the United States Circuit Judge Nominating Commission will be held on February 24, 1979, at 9:00 a.m. in the Federal Court Building, 230 N. First Avenue, Phoenix, Arizona.

The purpose of the meeting is to interview candidates from Arizona for a vacancy on the Court of Appeals. The meeting will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 29, 1979.

[FR Doc. 79-3773 Filed 2-1-79; 8:45 am]

[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRICE INDEXES

Meeting

The BRAC Committee on Price Indexes will meet on Tuesday, February 20, 1979, at 10:00 A.M. in Room 4454 of the General Accounting Office Building, 441 G Street, N.W., Washington, D.C. The agenda for the meeting is as follows:

1. Status Report on the Consumer Price Index Program;
2. Developments in the Family Budget Program;
3. Producer Price Index Revision Progress Report;
4. Current Developments in the International Price Program;
5. Committee Reaction to the Chartbook on Wages, Prices, and Productivity;
6. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559

Signed at Washington, D.C. this 24th day of January 1979.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc.79-3487 Filed 2-1-79; 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 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of January 1979.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 29, 1979

Name of applicant and location of enterprise	Principal product or activity
Cochise Airlines, Inc. Yuma, Arizona.	Scheduled air transportation for passengers and freight.

[FR Doc. 79-3640 Filed 2-1-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-79-2-C]

AMANDA MINING, INC.

Petition for Modification of Application of Mandatory Safety Standard

Amanda Mining, Inc., P.O. Box 373, Masontown, West Virginia 26542, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Amanda Mine in Preston County, West Virginia. The petition is filed under section 101 (c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition pertains to the following equipment at the petitioner's mine: one 11RU Joy cutting machine, two Fletcher roof bolting machines, and three 74 SS Uni-Trac scoops.
2. The petitioner is mining in heights averaging 48 inches.
3. The petitioner states that because of roof and floor undulations and roof supports, the installation of canopies on its equipment would—

(a) Place the equipment operator in such a cramped and confined position that it would be impossible to safely operate and maintain complete control of the equipment, and

(b) Severely restrict the operator's view of the roof condition above him and restrict his view of other miners in the area.

(4) For these reasons, the petitioner states that cabs or canopies on the equipment in its mine would result in a diminution of safety; and therefore the petitioner requests relief from the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-33748 Filed 2-1-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-130-C]

DOVERSPIKE BROS. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Doverspike Bros. Coal Co., RD #4, Box 271, Punxsutawney, Pa., 15767, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Ringgold No. 2 Mine in Jefferson County, Pa. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition pertains to the illumination of working places by permissible lighting on self-propelled mining equipment.

2. The petitioner is mining in heights varying between 27 and 34 inches.

3. These low seam heights prevent the installation of lights on the tops of the mining equipment, and operating controls and rope drums prevent the installation of lights on the sides of the petitioner's auger-type mining equipment.

4. The auger-type mining equiment is powered by direct current, and no satisfactory direct current power supply for mine lighting is readily available.

5. The petitioner states that the application of the standard will result in a diminution of safety to miners for the following reason:

a. The equipment operator would no longer be able to see the signal light from the jack-setters indicating for the operator to start or stop the equipment.

b. Due to the contact of the equipment with coal ribs, timbers and jacks, equipment lights could not be maintained.

6. For these reasons, the petitioner requests relief from the standard until such time as technology provides an acceptable lighting system that can be used in low mining heights.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: January 25, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-3749 Filed 2-1-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-125-C]

GREEN TREE MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Green Tree Mining Corporation, Route 1, Box 210, Princeton, West Virginia 24740, has filed a petition to modify the application of 30 CFR 75.1100 (fire protection) to its Swope #2 Mine in McDowell County, W. Va. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) This petition pertains to the installation of fire-protection waterlines along the entire length of belt conveyors.

(2) The expected life of the petitioner's mine is less than one year.

(3) There is no surface water available within 5,000 feet of the petitioner's mine.

(4) Three seams of coal have been mined out beneath the petitioner's mine to depths of 1,200 feet and there is no assurance of finding water by drilling a well in these areas.

(5) The entire length of the belt conveyor inside the mine will be less than 900 feet.

(6) As an alternative to the installation of the waterline, the petitioner proposes to place 10 lb. dry chemical fire extinguishers with 240 lbs. of rock dust at 150 foot intervals along the belt conveyor and at the tailpiece. In addition, during certain times of the year a 500 gallon water car could also be maintained.

(7) The petitioner contends that this alternative will achieve no less protection for the miners of its mine than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: January 24, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-3750 Filed 2-1-79; 8:45 am]

[4510-43-M]

[Docket No. M-79-6-C]

L & M COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

L & M Coal Company, Box 2097, Lashmeet, West Virginia 24733, has filed a petitition to modify the application of 30 CFR 75.305 (weekly examinations of return airways) to its No. 1 Mine in Mercer County, W. Va. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Due to adverse roof conditions, roof falls have made the return airway of the mine impassable at locations designated on a map supplied with the petition.

2. Because of these roof falls, the return airway cannot be examined on a weekly basis as required in section 75.305.

3. As an alternative, the petitioner proposes to establish two air quality monitoring stations, one at the inby side of the fall area.

4. The following procedures will be followed in conjunction with these stations:

a. Air measurements will be taken on a daily basis where the air enters and

exits the area designated in the petition.

b. The monitoring stations and the approaches leading to them will be maintained in a safe condition at all times.

c. The date, time and results of air quality measurements will be recorded in a book or on a date board provided at each monitoring station. The results will also be recorded in a book kept on the surface and made available to all interested parties.

5. The petitioner states that this alternative will achieve no less protection for the miners affected thant that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

Dated: January 24, 1979.

[FR Doc. 79-3751 Filed 2-1-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

[V-78-12; V-79-1]

GENERAL MOTORS CORP. AND CHRYSLER CORP.

Applications for Variance; Grants of Interim Orders

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

ACTIONS: (1) Notice of application for variance and interim orders. (2) Grant of interim orders concerning lead and renewal of interim orders concerning inorganic arsenic.

SUMMARY: This notice announces the application of General Motors Corporation and Chrysler Corporation for variance and the grant of interim orders from certain provisions of the standard prescribed in 29 CFR 1910.1025 concerning occupational exposure to lead. It also announces the renewals of interim orders granted Nov. 17, 1978, in the FEDERAL REGISTER (43 FR 58847) from certain provisions of the standard prescribed in 29 CFR 1910.1018 concerning occupational exposure to inorganic arsenic.

DATES: The effective date of the interim orders is February 2, 1979. The last date for interested persons to submit comments concerning the applications for variances from the occupational safety and health standards on Occupational Exposure to Inorganic Arsenic and Occupational Exposure to Lead is April 18, 1979. The last date for affected employers and employees to request hearings on the applications is April 18, 1979.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, Third Street and Constitution Ave., N.W., Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: (202) 523-7121.

Copies of the applications are available for review at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, JFK Federal Building, Room 1804—Government Center, Boston, Massachusetts 02203.

U.S. Department of Labor, Occupational Safety and Health Administration, 400-2 Totten Pond Road—2nd Floor, Waltham, Massachusetts 02154.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza)—Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, 200 Mamaroneck Avenue—Room 302, White Plains, New York 10601.

U.S. Department of Labor, Occupational Safety and Health Administration, 2E Blackwell Street, Dover, New Jersey 07801.

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 1110, Charles Center, 31 Hopkins Plaza, Baltimore, Maryland 21201.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 3007, 844 King Street, Wilmington, Delaware 19801.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street, N.E.—Suite 587, Atlanta, Georgia 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, Building 10—Suite 33, La Vista Perimeter Office Park, Tucker, Georgia 30084.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 344 Smoke Tree Business Park, North Aurora, Illinois 60542.

U.S. Department of Labor, Occupational Safety and Health Administration, 231 West Lafayette, Room 628, Detroit, Michigan 48226.

U.S. Department of Labor, Occupational Safety and Health Administration, Clark Building—Room 400, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building—Room 4028, 550 Main Street, Cincinnati, Ohio 45202.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building—Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building—Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1425 W. Pioneer Drive, Irving, Texas 75061.

U.S. Department of Labor, Occupational Safety and Health Administration, 50 Penn Place—Suite 408, Oklahoma City, Oklahoma 73118.

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street—Room 3000, Kansas City, Missouri 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 210 North 12th Boulevard—Room 520, St. Louis, Missouri 63101.

U.S. Department of Labor, Occupational Safety and Health Administration, 1150 Grand Avenue—6th Floor, 12 Grand Building, Kansas City, Missouri 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue—P.O. Box 36017, San Francisco, California 94102.

U.S. Department of Labor, Occupational Safety and Health Administration, 211 Main Street, San Francisco, California 94105.

U.S. Department of Labor, Occupational Safety and Health Adminis-

tration, 400 Oceangate, Suite 530, Long Beach, California 90802.

NOTICE OF APPLICATIONS

Notice is hereby given that General Motors Corporation, 3044 W. Grand Blvd., Detroit, Michigan 48202 and Chrysler Corporation, P.O. Box 1919, Detroit, Michigan 48288 have made applications pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for variances, and interim orders pending a decision on the applications for variances, from the standards prescribed in various paragraphs of 29 CFR 1910.1025 concerning lead.

The addresses of the places of employment that will be affected by the applications for inorganic arsenic and lead are as follows:

GENERAL MOTORS CORPORATION

FISHER BODY DIVISION

Detroit Fleetweed, W. Fort & W. End, Detroit, Michigan.

Flint Plant, 4300 S. Saginaw Street, Flint, Michigan.

Lansing, 401 Verlinden Avenue, Lansing, Michigan.

Pontiac, 900 Baldwin Avenue, Pontiac, Michigan.

Detroit Control Plant, 6051 Hastings Street, Detroit, Michigan.

GENERAL MOTORS ASSEMBLY DIVISION PLANTS

Arlington, 2525 E. Abram Street, Arlington, Texas.

Baltimore, 2122 Broening Highway, Baltimore, Maryland.

Doraville, 3900 Motors Industrial Way, Doraville, Georgia.

Fairfax, 100 Kindelberger Road, Kansas City, Kansas.

Framingham, Western Avenue, Framingham, Massachusetts.

Fremont, 45500 Fremont Boulevard, Fremont, California.

Janesville, 1000 Industrial Drive, Janesville, Wisconsin.

Lakewood, McDonough & Sawtell, Atlanta, Georgia.

Leeds, 6817 Stadium Drive, Kansas City, Missouri.

Linden, 1016 West Edgar Road, Linden, New Jersey.

Lordstown, 1600 Hallock Young Road, Lordstown, Ohio.

Norwood, 4726 Smith Road, Norwood, Ohio.

Oklahoma City, 7447 SE 74th Street, Oklahoma City, Oklahoma.

St. Louis, 3809 N. Union Boulevard, St. Louis, Missouri.

Southgate, 2700 Tweedy Boulevard, Southgate, California.

Tarrytown, Beekman Avenue, Tarrytown, New York.

Van Nuys, 8000 Van Nuys Boulevard, Van Nuys, California.

Willow Run, 2625 Tyler Road, Ypsilanti, Michigan.

Wilmington, Boxwood Road, Wilmington, Delaware.

CHRYSLER CORPORATION

STAMPING AND ASSEMBLY DIVISION

Belvidere Assembly Plant, Chrysler Drive, Belvidere, Illinois.

Hamtramck Assembly Plant, 7900 Jos. Campau Avenue, Hamtramck, Michigan.

Jefferson Truck Assembly Plant, 12200 E. Jefferson Avenue, P.O. Box 1658, Detroit, Michigan.

Lynch Road Assembly Plant, 6334 Lynch Road, P.O. Box 1518, Detroit, Michigan.

Missouri Truck Assembly Plant, 1050 Dodge Drive, Fenton, Missouri.

Newark Assembly Plant, 550 S. College Street, P.O. Box 179, Newark, Delaware.

St. Louis Assembly Plant, 1001 N. Highway Drive, Fenton, Missouri.

Warren Recreational Vehicle Plant, 6600 E. Nine Mile Road, Warren, Michigan.

Warren Truck Assembly Plant, 21500 Mound Road, Detroit, Michigan.

Warren Truck Special Equip. Center, 21900 Hoover Road, Warren, Michigan.

In addition, the applicants have asked to have these variances apply to any future facilities which would have solder grinding booths which operate in the same manner.

The applicants certify that employees who would be affected by the variances have been notified of the applications by giving copies of them to their authorized employee representatives, and by posting copies at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for Occupational Safety and Health for a hearing.

Regarding the merits of the applications, the applicants contend the method they propose to use will provide a place of employment as safe as that required by § 1910.1025 which contains regulations concerning lead. The permissible exposure limit of this standard requires, in part, that the employer shall assure that no employee is exposed to lead at concentrations greater than 50 micrograms per cubic meter of air (50 $\mu g/M^3$) averaged over an eight hour period. The industry represented by the applicants has an implementation schedule of compliance dates as follows:

The permissible exposure limit shall be not more than 200 $\mu g/M^3$ on the effective date of the standard and 50 $\mu g/M^3$ by one year after this effective date.

In the assembly of an automotive body, the applicants state it is necessary to apply solder to some welded joints. Excess solder must then be removed in order to achieve a smooth finish of the joint. Removal of the excess solder is accomplished in solder grind booths. These booths vary from about 100 to 200 feet in length, and can accommodate a line of several car bodies with about six feet on either side for the solder grind operators to work. These workers use grinding and finishing tools to remove excess solder and smooth the finish. The first operator in the line will use a relatively coarse abrasive; successive employees use a finer abrasive as the car body passes through the booth.

According to material specification, the Chrysler Motor Corporation solder contains 90 percent lead, while the General Motors Corporation solder contains 92 percent lead. High velocity particles of solder dust containing lead are thrown into the atmosphere of the booth by the grinding operation. The booths are operated under negative pressure with an in-draft of a minimum of 150 fpm at all openings.

Specifically, the applicants request variances from several paragraphs of the lead standard, as follows:

Section 1910.1025(d) contain requirements concerning exposure monitoring.

Section 1910.1025(d)(1)(i) defines employee exposure to lead as the exposure which would occur if the employee were not wearing a respirator.

Section 1910.1025(d)(1) (ii) and (iii) requires collection of full shift (at least 7 continuous hours) personal sampling including at least one sample for each shift for each job classification in each work area which shall be representative of the monitored employee's regular, daily exposure to lead.

The applicants state that past monitoring has shown that the level of airborne lead in the booths does not exceed 100,000 $\mu g/M^3$. The operation of the booths is on a continuous assembly-line basis as are most other job classifications involving lead operations, with very little fluctuation in the dust levels during any of the shifts. For these reasons, the applicants state that monitoring the levels in the booths and taking full-shift personal samples of employees in other assembly-line areas would serve no useful purpose. The applicants contend that monitoring for a short period of time is representative and should be allowed.

The employees in the booths are required to wear approved positive pressure air-supplied hoods which are

listed in § 1910.1025(f)(2) Table II for concentration of lead not greater than 100,000 μg/M³. The applicants state that there are no problems with fit, comfort or employee acceptance with these respirators, and that their proper use is strictly enforced. Therefore, they state that the only monitoring which is meaningful is inside the respirator in the breathing zone of the employee. The applicants also state that their blood lead monitoring program serves as an additional check on the proper functioning of the air-supplied hoods.

Section 1910.1025(e)(1) requires the institution of engineering and work practice controls to reduce exposures to or below the permissible exposure limits. Paragraph (e)(3) requires the establishment and implementation of a written program to reduce exposure. The applicants request variances from the requirement for using engineering and work practice controls to reduce employee exposure in the solder grinding booths and from the requirement to develop written compliance programs. The applicants state that the postive pressure air-supplied hoods and the respirator programs will protect their employees from exposure to lead while in the solder grinding booths, and that the negative pressure of the booths and the hygiene requirements will keep the airborne lead from being carried to other areas of the plants. Therefore, the applicants state that, without regard to the feasibility of engineering or work practice controls, they are providing a place of employment to their employees as safe and healthful as that which would be provided by compliance with the standards.

Section 1910.1025(f)(2) Table II contains the requirements for respirator selection, including a table which lists the required respirator for various concentrations of airborne lead. The applicants request variances from this section to permit supervisors to wear half facepiece filter-type respirators aproved for toxic dust, with a high-efficiency filter if necessary. Although these respirators are accepted in Table II of the standard only for concentrations of lead not greater than 500 μg/M³, the applicants state that the time the supervisors spend in the booth is minimal (1–3 minutes at a time, not exceeding 15 minutes per shift and 1 hour per week) and, therefore, the supervisors' exposure would be within the permitted 8 hour time-weighted average. The applicants also state that supervisors would be required to wear the positive pressure air-supplied hoods if they are in the booth for an extended period of time.

Section 1910.1025(g)(2)(viii) requires that employers provide and assure the use of facilities for employees working in regulated areas where exposure (without the use of respirators) exceeds 200μg/M³ to vacuum their protective clothing and clean or change shoes before entering change rooms, lunchrooms or showers. The applicants propose instead to provide an air ring to blow the solder dust from the clothing before the employees leave the booth. The dust is contained within the atmosphere of the booth. The applicants state that vacuuming properly requires considerable time and effort to pass the nozzle over all parts of the clothing, while blowing the dust off the clothing with an air ring can be accomplished quickly and easily. Thus they state that the use of compressed air to blow the dust off is likely to be more effective than vacuuming.

Section 1910.1025(h)(3) prohibits the use of compressed air cleaning of equipment. Chrysler contends that cleaning dust from car bodies inside of ventilated booths with compressed air is more effective then vacuuming as required by the standard, because the dust is contained inside the solder grind booths and does not substantially change the lead levels inside the booths.

Section 1910.1025(i) requires special hygiene facilities and practices other than lavatories (including changerooms, showers, and lunchrooms) where employees are exposed to lead above the permissible exposure level. The applicants contend that with the low blood levels of the affected employees (exployees who work between the solder grind booth and Bonderite operation) this requirement is unnecessary. Moreover, ample space is not available at all of the locations. to install hygiene facilities.

Also, the applicants have indicated that they plan to reduce or eliminate inorganic arsenic and lead (solder) in their automobile bodies, as soon as feasible.

General Motors Corporation has committed itself to a program to eliminate employee exposure to lead in its automotive body assembly operations by the elimination or redesign of certain exterior solder joints, which will require extensive body retooling, from new dies in stamping plants to new fixtures and facilities in the automotive body assembly plants. Such substantial alterations can only be accomplished during the shutdown incident to a major model change. The Corporation anticipates that barring unforeseen economic or other developments, all of its models will undergo major change by the 1986 model year, the production of which will commence by August 1, 1985.

This program is already underway and some 1979 car models are being produced without body solder. With the introduction of 1980 models, further progress is anticipated toward reduction in lead usage.

In undertaking this program, however, General Motors Corporation does not foreclose the possibility of alternative solutions which would result in employees' health being protected from lead hazards in conformity with the OSHA standard and its requirements. Should a breakthrough result in a solution to the health problem of employees without eliminating the use of lead in the body building process, the basic objective would still be attained in the Corporation.

Chrysler Corporation has committed itself to substantially reduce the amount of lead solder used on the car body and where feasible to eliminate lead body solder.

Two automobile models that the Corporation has recently introduced have no soldered seams. A substantial effort has been made to reduce the number of soldered seams for the other models that Chrysler Corporation builds. Where solder cannot be eliminated, the seams have been or will be reduced in width.

The Corporation intends to continue its development efforts towards the elimination of lead body solder. If this process (the development of plastic body solder) can be perfected it will be introduced at all car assembly plants which require the use of body solder in production.

While this program is being developed, measures can be taken to protect employee health as fully as it would be protected under the standard itself, short of shutting down production. In particular, Chrysler Corporation is presently removing employees from the job when they have a 70 μg/100g blood lead level. By September 1, 1979, Chrysler is willing to lower this removal level to 60 μg/100g. This commitment, which improves on the removal schedule required by the standard by two years, will assure that no employee suffers impairment of health as a result of lead exposure on the job.

Section 1910.1025(i)(4) requires that employers provide readily accessible lunchrooms with temperature controlled, positive pressure, filtered air supply for employees working in regulated areas. The applicants state that the negative pressure in the booths keeps the airborne lead from spreading to other areas of the plant. Employees are forbidden to eat in the booths, and are required to blow dust from their clothing, remove hoods and gloves and wash prior to eating. The applicants argue that the negative pressure of the booths and the hygiene requirements make it safe for employees to eat in the existing lunchrooms throughout the plant. A separate lunchroom with temperature con-

trolled filtered air would provide no additional protection to the employees, according to the applicants.

Section 1910.1025(r) requires that all obligations of the lead standard commence on the effective date except for such requirements as hygiene facilities and compliance programs. The applicants request relief from any obligation of this section from which the variances are requested.

Employees in the solder grinding booths will receive blood-lead monitoring on a bimonthly basis. This will serve as a check on the efficacy of the hoods.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the applications for variances are invited to submit written data, views, and arguments relating to the pertinent applications no later than April 18, 1979. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than April 18, 1979, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

RENEWAL AND GRANT OF INTERIM ORDERS

It has been determined that interim orders from the lead standard shall be issued. These interim orders are being issued to permit the employers time to submit additional relevant data to support their applications that they will be providing places of employment as safe and healthful as the requirements of the standards, and to allow the Occupational Safety and Health Administration sufficient time to complete its evaluation of relevant data and information.

The applicants were previously granted limited time interim orders from the inorganic arsenic standard which were published in the November 17, 1978 FEDERAL REGISTER (43 FR 58847). These interim orders expired on January 8, 1979.

It has been determined that these interim orders from the inorganic arsenic standard shall be renewed subject to the terms and conditions of the original interim orders and the conditions set forth below in this notice.

Therefore, it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059) that General Motors Corporation and Chrysler Corporation be, and they are hereby subject to the following conditions, in lieu of complying with the paragraphs of the inorganic arsenic and lead standards from which they have requested variances. Both applicants have requested and been granted relief from the following paragraphs of 29 CFR 1910.1018—Occupational Exposure to Inorganic Arsenic:

(e)(ii);
(e)(iii);
(g);
(h)(2);
(m)(5);
(n)(1)(i); and
(u)(5).

Both applicants have requested and been granted relief from the following paragraphs of 29 CFR 1910.1025—Occupational Exposure to Lead:

(d)(1)(i);
(d)(1)(ii);
(d)(1)(iii);
(e)(1);
(e)(3);
(f)(2);
(g)(2)(viii); and
(i).

Chrysler Corporation has also requested and been granted relief from §§ 1910.1025(h)(3) and 1910.1025(i)(4) of the Standard for Occupational Exposure to Lead.

The applicants shall comply with all provisions of the inorganic arsenic and lead standards for which variances have not been requested and granted.

1. Employees in the grinding booth shall be supplied with and required to wear individually issued approved air-supplied hoods, for protection up to 100,000 $\mu g/M^3$ of lead;

2. Monitoring of air levels for lead and arsenic separately shall be performed by both Corporations as follows:

a. At least 10 full-shift personal samples from each of 5 different plants shall be taken in tandem, i.e., paired or side-by-side, from within the air-supplied hood in the breathing zone of the solder grinder in the solder grind booth, and from within the solder grind booth, outside of the air-supplied hood. Within each plant, the samples shall include solder grinders utilizing grinding and finishing tools of different grades of abrasive including the finest abrasive grit. The grade of abrasive represented by each sample shall be reported with the sample results and the job or work station shall be identified;

b. At least 10 full-shift area samples from each of 3 different plants shall be taken at various distances outside of but within 10 feet from entrances to and exists from the solder grind booth. The distances selected for sampling shall be reported with the sample results;

c. At least 20 full-shift personal samples shall be taken for employees on the assembly line in areas adjacent to the solder grind booth along with the appropriate accompanying short-term samples to demonstrate their comparability. This data shall be submitted with the proposed method of extrapolating the short-term data to full-shift representation;

d. At least 12 wipe samples shall be obtained from the interior of the respirator hood face-plate as follows: From each of 2 employees monitored in section 2a., an initial wipe sample shall be taken prior to starting work with a freshly cleaned hood. Wipe samples shall be taken at the end of the shift for 5 consecutive work days on the same hood. Data shall be reported individually with data of sample and reference to air monitoring results from that employee;

e. At least 10 wipe samples shall be obtained from eating surfaces (tables or counters) in snack rooms or other facilities where solder-grind employees usually eat lunch. For both 2d. and 2e. a description of sampling method and area sampled shall be provided.

f. For 2 of the 10 employees at each plant monitored in 2a. above, the sampling filter from within the air-supplied hoods shall be changed at the end of the shift prior to final dust removal. The employees shall be sampled during dust removal, in one case using blow down by compressed air and in the other using vacuum. The samples shall be identified so that the values may be compared to their full-shift exposure.

3. For the period of these interim orders, each Corporation shall operate a program of medical removal including medical removal protection benefits as provided in paragraph (k) of the final Standard for Occupational Exposure to Lead for any employee whose most recent blood lead level is 70 $\mu g/100$ g whole blood or greater or whose blood lead, based upon the average of the three most recent samples, is 70 $\mu g/100$ g whole blood or greater.

4. The development and implementation of a written program (compliance plan) for using engineering and administrative controls to reduce exposure is not required for the period of these interim orders. However, available data on such items as air flow within the solder grind booth and at exhaust points, treatment of exhaust air through filters, and whether such air is recirculated, shall be submitted by both Corporations.

5. The supervisors shall be permitted to use half facepiece filter-type respirators approved for toxic dusts when they enter the grinding booths, so long as their exposure time remains minimal (1-3 minutes at a time, not exceeding 15 minutes per shift and 1 hour per week) and the mask remains in place at all times. If they are in the booth longer than the time limits above they shall be required to wear

positive pressure air-supplied hoods. A log book shall be maintained of the entrance and exit time for the supervisors at the 5 plants selected for monitoring in 2a. above. Entries shall include name, shift, and time in booth. It shall be kept for 2 weeks continuously and submitted with data from item 7. below;

6. Before employees leave the grinding booth, they shall be required to remove dust from their clothing by vacuuming or blowing with compressed air while connected to their air supply. Data must be supplied to support the contention that the use of compressed air is as effective in removing dust from clothing as vacuuming;

7. Employees shall be required to remove dust from their clothing, remove hoods and gloves, and wash face, hands, and arms to the elbow prior to eating. However, readily accessible temperature controlled, positive pressure, filtered air lunchrooms are not required for the period of these interim orders;

8. Both Corporations shall provide the two most recent blood lead values for each individual currently in the Corporations lead and blood monitoring program as a result of exposures arising out of vehicles body solder operations grouped by the following job categories: booth grinder, repairman, torch solder and supervisory personnel. The latest blood lead level data shall be provided for any other employee monitored during the last 12 months who no longer works in the area. Each blood lead level shall be identified by job category, plant location, and date obtained. The data shall not be in summary form, but on an individual employee basis;

9. The establishment of hygiene facilities other than lavatories for solder grind applicators and employees on the line between the solder grind booths and Bonderite in the case of General Motors Corporation, and on the line between the solder grind booths and phosphating in the case of Chrysler Corporation, is not required for the period of the interim orders. However each Corporation shall compile and submit a census of available hygiene facilities by plant and work shift which shall include at least the following information: number of employees affected, protective clothing required, clothing change frequency, shower and lunchroom facilities and the distance of each of these facilities from employees' work stations;

10. Both Corporations shall submit a written, detailed respiratory protection program to include selection, maintenance, cleaning, and training procedures for solder grind employees and supervisors.

11. The applicants shall provide all currently available data and any additional data gathered to support their requests for variance within 30 calendar days after the publication of these interim orders in the FEDERAL REGISTER. A second submission of data is due within 45 calendar days after publication of this interim order and all information required is due within 60 calendar days after publication of this interim order.

12. The applicants will comply with the conditions of these interim orders and with all provisions of the lead standard not subject to the interim orders, without regard to the grant of any administrative or judicial stays of the lead standard.

General Motors Corporation and Chrysler Corporation shall give notice of these grants and renewals of interim orders to employees affected thereby by the same means required to be used to inform them of the applications for variances. These interim orders shall become effective upon publication in the FEDERAL REGISTER. The Assistant Secretary may revoke these interim orders at any time if the applicants do not comply with the requirements for the submission of further information within the specified time or do not comply with any other requirements of the interim orders or the relevant standards; or if evaluation of the information submitted by the applicants or other information indicates that revocation of the interim orders is warranted. Unless revoked, the interim orders will remain in effect until a decision is made on the application for variances. Signed at Washington, D.C. this 26th day of January 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-3752 Filed 2-1-79; 8:45 am]

[4510-26-M]

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

[V-78-7]

UNITED STATES STEEL CORP.

Hearing on application for Variance; Change of Dates and Room Locations

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

ACTION: Change dates of hearing on application for variance.

SUMMARY: This notice changes the dates and room locations of the previously announced hearing on the application for variance submitted by U.S. Steel Corporation. The variance requested is from 29 CFR 1910.1029(g)(2)(ii) concerning respirator selection for coke oven emissions.

DATES: The hearing will be held on March 6, 7, and 8, 1979.

ADDRESS: The location of the hearing will be the Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. The hearing will be held in Room 2501 on March 6, 1979, and Room 2212 on March 7 and 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210, Telephone: (202) 523-7121.

SUPPLEMENTARY INFORMATION: On November 21, 1978, a notice was published in the FEDERAL REGISTER (43 FR 54306) announcing a hearing on the application for variance submitted by U.S. Steel Corporation.

The purpose of this document is to notify interested persons that the dates and room location of the hearing for U.S. Steel Corporation has been changed. The hearing will now be held at 9 a.m. on March 6, 7, and 8, 1979, at the Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. The new room locations are as follows: Room 2501 on March 6, 1979, and Room 2212 on March 7 and 8, 1979.

Signed at Washington, D.C., this 30th day of January, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-3935 Filed 2-1-79; 10:13 am]

[4510-28-M]

Office of the Secretary

[TA-W-3959]

CONSOLIDATED ALUMINUM CORPORATION BENTON, KENTUCKY

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-3959: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 10, 1978 which was filed on behalf of workers and former workers producing aluminum chairs, redwood picnic tables, tea carts and aluminum signs at Consolidated Aluminum Corporation, Benton,

Kentucky. The investigation revealed that workers at the Benton plant also produced CB radio antennas, but produced no aluminum signs.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199-32200). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Consolidated Aluminum Corporation, 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.

Aluminum lawn furniture accounted for the major proportion of production at the Benton plant. Imports of Metal Outdoor Furniture increased absolutely and relative to domestic production in 1977 compared to 1976, and increased absolutely in the first nine months of 1978 compared to the like period in 1977.

The Department surveyed a number of Consolidated Aluminum Corporation's customers for lawn furniture. Several of the respondents reported that they reduced purchases from the company and increased their purchases of imported lawn furniture in 1977 compared to 1976 and in the first eight months of 1978 compared to the like period 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 aluminum lawn furniture produced at Consolidated Aluminum Corporation, Benton, Kentucky contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Consolidated Aluminum Corporation, Benton, Kentucky engaged in employment related to the production of aluminum lawn furniture who became totally or partially separated from employment on or after June 27, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3501 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-2921]

EAGLE CLOTHES, INC., BROOKLYN, NEW YORK

Notice of Negative Determination Regarding Application for Reconsideration

By letters of June 22, 1978, and July 18, 1978, counsel for a window trimmer employed by Eagle Clothes, Inc., requested administative 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 engaged in setting up clothing displays at New York and New Jersey retail stores of Eagle Clothes, Inc. The determination was published in the FEDERAL REGISTER on May 23, 1978, (43 FR 22092). An oral presentation in support of the application was given on December 6, 1978, in New York, New York.

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.

Counsel for one of the former workers claims through personal testimony and through an oral presentation in New York on December 6, 1978, that his client was separated from employment with Eagle Clothes, Inc., because of increased imports.

Neither the written application nor the oral presentation in New York provided information which would indicate that the Department's denial was erroneous. The Department's denial was based on the determination that the window trimmers were not integrated into the production process of Eagle Clothes, whose workers produced men's suits, sportcoats and pants and were certified eligible for adjustment assistance. The Department determined that window trimming and retail selling do not constitute the production of an article. The Department of Labor has previously determined that the performance of services is not included within the term "article" as used in Section 222(3) of the Act.

Workers at the Brooklyn, New York, plant and the New York, New York, offices of Eagle Clothes, Inc., were certified eligible to apply for trade adjustment assistance on August 31, 1978, (TA-W-3465 and 3466). All hourly and piecework employees at Eagle Clothes, Inc., were covered by an earlier certification (TA-W-279). Workers in retail stores owned by Eagle Clothes have not petitioned for adjustment assistance. According to company officials, 30 percent of sales by its retail stores consisted of suits, sportcoats and slacks produced by Eagle Clothes, some 50 percent consisted of clothing produced by other domestic U.S. manufacturers and 20 percent of the clothing originated in foreign countries.

According to the oral testimony of December 6, 1978, Mr. Al Sherman was an employee of Eagle Clothes, Inc., who set up and maintained store window displays in several Eagle Clothes' retail outlets. Given the fact that well over half of the stock of apparel carried by the stores in which he worker were of non-Eagle origin, the Department does not regard him or other window trimmers as part of the integrated production process at Eagle whereby men's suits, sportcoats and pants are produced.

Under the circumstances in the subject case, it is not reasonable to regard workers in the retail stores as part of an integrated production process. It would be unlikely that layoffs in the firm's retail stores would be importantly and directly linked to the import impact on the firm's production operations. While there is some connection between the retail sales stores and the manufacturing operation in Brooklyn given the fact that they are in the same corporation, the functions are significantly different. Since the retail stores are so dependent on goods produced by other domestic and foreign manufacturers, they are considered as standing by themselves.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3503 Filed 2-1-79; 8:45 am]

[4510-30-M]

FEDERAL COMMITTEE ON APPRENTICESHIP

Reestablishment

Notice is given that after consultation with the General Services Administration, it has been determined that the Federal Committee on Apprenticeship (FCA), whose charter expired

January 5, 1979, is hereby reestablished for a period of 4 months. This action is necessary and in the public interest for the following reasons:

A. The National Apprenticeship Act itself, under Section 1, requires the Secretary of Labor to bring together employers and labor for the formulation of standards of apprenticeship. The FCA is a major means by which the Secretary accomplishes this objective.

B. The FCA is the only advisory committee dealing exclusively with apprenticeship matters across industry lines at the national level. No other forum of this type, either in-house, intragovernment or public, is available to the Secretary of Labor.

C. The FCA serves as an effective sounding board in testing experimental projects and assessing policy issues. The open FCA meetings have been drawing an increasing number of people from the public. The meetings provide an opportunity for the reaction, interest, and contributions from the public sector on issues of vital significance to the apprenticeship community.

D. The FCA meetings foster the expansion of cooperative relationships with State agencies concerned with apprenticeship and skill training.

E. In consideration of its purposes, an equitable balance of concerned interests has been achieved in the membership of the Committee. From the apprenticeship establishment, management and labor are equally represented with management from a cross section of major industry groups and labor from diverse craft union organizations. The special interest of minority and women's groups is represented as well as participation from education and State apprenticeship agencies.

F. Many of the issues surface with respect to an ongoing program such as apprenticeship operating almost exclusively in the private sector and are not amenable to single opinion resolution. There needs to be a continuity in the deliberations and in the work and the membership of subcommittees that would not be possible under ad hoc or limited life arrangements.

G. Under the terms of the National Apprenticeship Act, members of the Committee do not receive compensation for their service.

H. In order to maintain the skill requirements of the Nation, the Committee's recommendations are a deciding factor in accomplishing the skilled manpower requirements.

I. Due to the required involvement of personnel from industry, labor, and other public interest groups, it is beyond the scope of this Agency to perform the functions of the Committee, nor is there an existing advisory committee which can perform these functions.

The General Services Administration is waiving the 15-day period between the publication of this notice and the filing of the charter in view of the previously scheduled meeting of the Committee for January 17-19, 1979, as published in the FEDERAL REGISTER (43 FR 10647).

Signed at Washington, D.C. this 17th day of January, 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-3488 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4455]

FOREMAN MANUFACTURING CO., INC., COLLINGS LAKE, N.J.

Notice of 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-4455; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' outerwear at Foreman Manufacturing Company, Inc., Collings Lake, New Jersey.

The investigation revealed that the plant produces ladies' raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Foreman Manufacturing Company, 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. 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.

Sales increased in value in 1977 compared with 1976 and continued to increase in value through 1978 as compared to 1977.

Conclusion

After careful review, I determine that all workers of Foreman Manufacturing Company, Inc., Collings Lake, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3504 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4517]

GEAR, INC., EL MONTE, CALIF.

Notice of 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-4517: 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 14, 1978 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Gear, Incorporated, El Monte, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Gear, Incorporated, 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.

Company sales and production at Gear, Incorporated increased in the fourth quarter of 1977 compared to the like period in 1976 and in January-November 1978 compared to the like period in 1977.

CONCLUSION

After careful review, I determine that all workers of Gear, Incorporated, El Monte, California 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3505 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4408]

GENERAL HOUSEWARES CORP. COLUMBIAN DIVISION, TERRE HAUTE, IND.

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-4408: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 15, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing porcelain and steel cookware at General Housewares Corporation, Columbian Division, Terre Haute, Indiana.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of General Housewares Corporation 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 made.

Imports of porcelain enameled cookware increased absolutely and relative to domestic production from 1976 to 1977, and increased absolutely during the first nine months of 1978 compared to the first nine months of 1977.

A survey of several customers of cookware produced by General Housewares Corporation revealed that most of the surveyed customers reduced purchases from General Housewares while purchasing large quantities of imported cookware.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with porcelain enameled steel cookware produced at General Housewares Corporation, Columbian Division, Terre Haute, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of General Housewares Corporation, Columbian Division, Terre Haute, Indiana who became totally or partially separated from employment on or after November 13, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3506 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4518]

HEIDI-HO, INC., KEYSVILLE, VA.

2Notice of 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-4518: 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 14, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing children's apparel at Heidi-Ho, Incorporated, Keysville, Virginia.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Heidi-Ho, Incorporated, its customer (manufacturer), 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.

Evidence developed during the course of the investigation revealed that layoffs at Heidi-Ho, Incorporated in the fourth quarter of 1978 were seasonal in nature.

The average number of production workers at Heidi-Ho increased in every quarter of 1978 compared to like quarters in 1977.

During 1978, contract work with one manufacturer accounted for all of Heidi-Ho's production. This manufacturer, when contacted by the Department, indicated that imports have had no effect on its contract work with Heidi-Ho and that any decrease in contract work with Heidi-Ho during the last quarter of 1978 reflects the seasonality of the children's apparel industry.

CONCLUSION

After careful review, I determine that all workers of Heidi-Ho, Incorporated, Keysville, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3507 Filed 2-1-79; 8:45 am]

[4510-28-M]

ALATEX, INC., ET AL.

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Alatex, Incorporated (ACTWU)	Crestview, Florida	1/22/79	1/18/79	TA-W-4,745	men's underwear
Arizona Agrochemical Company, Inc., (workers).	Chandler, Arizona	1/22/79	1/17/79	TA-W-4,746	liquid ammonia
Bethlehem Steel Corp., Sparrows Point Shipyard (Industrial Union/ Marine & Shipyard Workers of America.	Sparrows Point, Maryland	1/25/79	1/24/79	TA-W-4,747	ocean-going ships, tankers, bulk cargo vessels, ore carriers, etc
Delton Ltd. (ACTWU)	New York, New York	1/22/79	1/18/79	TA-W-4,748	tailored clothing for men
Texas Apparel Company, Alice Street Plant (ACTWU).	Eagle Pass, Texas	1/22/79	1/18/79	TA-W-4,749	boy's jeans
Texas Apparel Company, Plant #2 (ACTWU).	Eagle Pass, Texas	1/22/79	1/18/79	TA-W-4,750	boy's jeans
Texas Apparel Company (ACTWU)	Del Rio, Texas	1/22/79	1/18/79	TA-W-4,751	men's jeans

[FR Doc. 79-3500 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4507]

JALYN FASHIONS, SAN GABRIEL, 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-4507: 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 12, 1978 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Jayln Fashions, San Gabriel, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jayln Fashions, 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 and sales of ladies' coats by Jalyn Fashions increased absolutely from 1977 to 1978. Increases were registered in each of the first three quarters of 1978 compared to the like quarters in 1977.

Conclusion

After careful review, I determine that all workers of Jayln Fashions, San Gabriel, California 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3508 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4441]

JOSEPH F. CORCORAN SHOE COMPANY STOUGHTON, MASS.

Notice of 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-4441: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing men's boots at the Joseph F. Corcoran Shoe Company, Stoughton, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Joseph F. Corcoran Shoe Company and its parent firm, Acme Boot Company, 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.

Company sales of men's boots, in quantity and value, increased in the last quarter of 1977 compared to the last quarter of 1976, and continued to increase in the first nine months of 1978 when compared with the like period in 1977. Production of men's boots, in quantity, increased in the last quarter of 1977 compared to the previous quarter, and increased in the first nine months of 1978 when compared with the like period in 1977.

Conclusion

After careful review, I determine that all workers of Joseph F. Corcoran Shoe Comany, Stoughton, Massachusetts 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 793502 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4278]

KNITCRACKER SWEET, LTD., 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-4278: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 18, 1978 which was filed on behalf of workers and former workers producing women's sweaters and knit tops at Knitcracker Sweet, Limited in New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Knitcracker Sweet, Limited, 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.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

U.S. imports of women's, misses' and children's blouses and shirts increased from 1976 to 1977. Imports increased in the first three quarters of 1978 compared to the first three quarters of 1977.

A Departmental survey of the major customers of Knitcracker Sweet, Limited revealed that several customers increased their purchases of imported women's sweaters and knit tops and decreased their purchases from Knitcracker Sweet during the January-September period in 1978 compared to the same period 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 women's sweaters and knit tops produced at Knitcracker Sweet, Limited, New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Knitcracker Sweet, Limited, New York, New York, who became totally or partially separated from employment on or after August 5, 1978 and before November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 or the Trade Act of 1974."

Signed at Washington, D.C. this 26th day of January, 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3509 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4425]

LONDON KNITTING CO., PHILADELPHIA, 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-4425: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and boys' sweaters. The investigation revealed that London Knitting Company, Incorporated also produces women's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of London Knitting Company, Incorporated, 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.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely and relative to domestic production from 1975 to 1976. U.S. imports increased absolutely from 1976 to 1977 and for the first three quarters of 1978 compared to the same period of 1977.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters in 1977 were greater than the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production exceeded 140 percent in 1976 and in 1977. The import to domestic production (IP) ratio in 1977 was higher than the average IP ratio for the period 1973 through 1976.

A Departmental survey of the customers of London Knitting Company, Incorporated indicated that several customers increased their reliance on imported men's, boys', and women's sweaters and decreased their purchases from London Knitting Company, Incorporated during the first eleven months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports or articles like or directly competitive with men's, boys' and women's sweaters produced at London Knitting Company, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, make the following certification:

"All workers of London Knitting Company, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after July 21, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3510 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4457, TA-W-4457a]

LOUSONS KNITTING MILLS, INC., PHILADELPHIA, PA.

MARDER KNITTING MILLS, INC., PHILADELPHIA, PA.

Notice of 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-4457 & TA-W-4457a: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 27, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and ladies' sweaters at Lousons Knitting Mills, Incorporated in Philadelphia, Pennsylvania and at Marder Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plants also produce boys' sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692-93). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lousons Knitting Mills, Incorporated and Marder Knitting Mills, Incorporated, 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.

Lousons Knitting Mills, Incorporated and Marder Knitting Mills, Incorporated are two separate companies under common management. Evidence developed during the course of the investigation revealed that the average employment of hourly workers at Lousons Knitting Mills, Incorporated and at Marder Knitting Mills, Incorporated increased in 1977 compared to 1976. Average employment of hourly workers increased at Lousons in the first eleven months of 1978 compared to the same period of 1977. Average employment of hourly workers at Marder did not change in the first eleven months of 1978 compared to the same period of 1977. The average number of hours worked remained stable in both companies from 1976 through November 1978.

CONCLUSION

After careful review, I determine that all workers of Lousons Knitting Mills, Incorporated in Philadelphia, Pennsylvania and of Marder Knitting Mills, Incorporated in Philadelphia, Pennsylvania 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3511 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4427]

MARK-D KNITTING CO., INC., PHILADEPHIA, PA.

Notice of 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-4427: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit fabric for sweaters at Mark-D Knitting Company, Incorporated, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mark-D Knitting Company, Incorporated, its manufacturers, the 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 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 U.S. imports of finished fabric (bleached, dyed and printed) declined from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 341 million square yards in the first nine months of 1977 to 386 million square yards in the first nine months of 1978. However, the ratio of imports to domestic production was less than two percent in 1976 and in 1977.

Major manufacturers for whom Mark-D Knitting Company produced knit fabric indicated that they did not purchase imported knit fabric in 1976, 1977 or 1978.

CONCLUSION

After careful review, I determine that all workers of Mark-D Knitting Company, Incorporated, Philadelphia, Pennsylvania 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3512 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4428]

MEYER MANUFACTURING, INCORPORATED, PHILADELPHIA, PA.

Notice of 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-4428: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's swimwear, tennis dressed, tennis warm-up suits and sweaters at Meyer Manufacturing, Incorporated in Philadelphia, Pennsylvania. the investigation revealed that the plant primarily produces women's and girls' swimwear.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Meyer Manufacturing, Incorporated, 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 asistance, 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.

Meyer Manufacturing, Incorporated began operations in September of 1976. Sales, in value, increased at Meyer Manufacturing, Incorporated in the last quarter of 1977 compared with the last quarter of 1976 and continued to increase in the first eleven months of 1978 compared with the like period of 1977. Sales and production are equivalent at Meyer Manufacturing.

CONCLUSION

After careful review, I determine that all workers of Meyer Manufacturing, Incorporated in Philadelphia, Pennsylvania 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3513 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-3692]

NEW BRUNSWICK CHILDREN'S COAT CO., HIGHLAND PARK, N.J.

Revised Determination on Reconsideration

On January 12, 1979, (44 FR 4045), the Department of Labor granted administrative reconsideration of the negative determination which it had made on November 7, 1978, (43 FR 53861) pursuant to Section 223 of the Trade Act of 1974 for all workers at the Highland Park, New Jersey, plant of the New Brunswick Children's Coat Company regarding eligibility to apply for worker adjustment assistance.

In its reconsideration, the Department reviewed the investigative files of the subject firm and its major manufacturer. The review revealed that workers of the major manufacturer which supplied the subject firm with virtually all of its orders in 1977 and 1978 were certified eligibile to apply for trade adjustment assistance on November 13, 1978. Further, the Highland Park, New Jersey, plant of the New Brunswick Children's Coat Company closed in November 1978 because of a lack of orders.

U.S. imports of women's, misses' and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977. Imports declined slightly from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978.

CONCLUSION

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

"All workers at the Highland Park, New Jersey, plant of the New Brunswick Children's Coat Company who became totally or partially separated from employment on or after April 25, 1977, are eligibile 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3514 Filed 1-31-79; 8:45 am]

[4510-28-M]

[TA-W-2524]

NEW JERSEY RUBBER CO., BEISINGER INDUSTRIES CORP., TAUNTON, MASS.

Notice of Revised Determination of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223 (a) of such Act, on January 23, 1978 the Department issued a Notice of Negative Determination of Eligibility to Apply for Adjustment Assistance applicable to workers and former workers of New Jersey Rubber Company, Division of Beisinger Industries Corporation, Taunton, Massachusetts.

The Notice of Negative Determination was published in the FEDERAL REGISTER on January 31, 1978 (43 FR 4131).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers and former workers who were separated from New Jersey Rubber Company, Division of Beisinger Industries Corportion. Further investigation revealed that all of the group eligibility requirements of Section 222 of the Act have been met.

Imports of non-leather bottomstock materials for footwear increased absolutely and relative to domestic production from 1976 to 1977.

The Department surveyed customers which reduced purchases of non-leather bottom stock from New Jersey Rubber Company. The survey revealed that some customers had increased purchases of imported non-leather bottom stock for shoes.

CONCLUSION

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following certification:

"All workers of New Jersey Rubber Company, Division of Beisinger Industries Corporation, Taunton, Massachusetts who became totally or partially separated from employment on or after October 25, 1976 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3515 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4215]

OUTBOARD MARINE CORP., GALE PRODUCTS DIVISION, GALESBURG, ILL.

Notice of 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-4215: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1978 in response to a worker petition received on September 21, 1978 which was filed by the Independent Marine and Machinist Association on behalf of workers and former workers producing lawn mowers and parts for outboard motors at the Galesburg, Illinois plant of the Outboard Marine Corporation. The investigation revealed that the Galesburg plant is known as the Gale Products Division.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Outboard Marine Corporation, 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 ceiteria 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 and/or production.

The Galesburg plant produces lawn mowers and parts for outboard motors and has acted as the parts and accessories distribution center for Outboard Marine Corporation. During July and August of 1977 a model changeover occurred that required a retooling of production equipment. Additionally the workers at the plant went on strike from October 30 to November 21, 1977. The combined impact of the model changeover and the strike depressed lawn mower production levels at the Galesburg plant in the third and fourth quarters of 1977.

Company sales and production of lawn mowers at the Galesburg plant increased during the January-October period of 1978 compared to the same period of 1977.

Furthermore, the ratio of imports to domestic production for lawn tractor and lawn mowers remained below 0.3 percent in the 1973-1977 period.

During 1978 the Galesburg plant experienced employment declines as a result of the transfer of the parts and accessories distribution center to a new facility in Beloit, Wisconsin.

Parts for outboard motors are manufactured at the Galesburg plant for use primarily in company-assembled motors. Data on company sales and production of outboard motor parts were not maintained. However, company sales and production of outboard motors, which are rough proportional equivalents to the sales and production of outboard motors parts, increased during the January-October period of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers at the Gale Products Division of Outboard Marine Corporation, Galesburg, Illinois 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3516 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4475]

P. F. INDUSTRIES, INC., BRISTOL, R.I.

Notice of 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-4475; 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 6, 1978 in response to a worker petition received on December 4, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Worker's of America on behalf of workers and former workers producing canvas, sporting, and waterproof footwear at P. F. Industries, Incorporated, Bristol, Rhode Island. The investigation revealed that the plant produces canvas and leather athletic footwear.

The Notice of Investigation was published in the FEDERAL REGISTER on December 9, 1978 (43 FR 59165-59166). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of P. F. Industries, Incorporated, 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 and/or production.

P. F. Industries, Incorporated purchased the Bristol, Rhode Island plant in April 1977 from Converse Rubber Company. Since that time, P. F. Industries has sold canvas and leather athletic footwear to three groups of customers. For the first year of operation, P. F. Industries produced footwear under contract with Converse Rubber Company. At the end of this contract in April 1978, Converse sourced that production at another one of its domestic facilities.

Workers at P. F. Industries were eligible to apply for adjustment assistance under certification TA-W-911. That certification expired on September 6, 1978.

During the period preceeding and subsequent to the expiration of the certification in September 1978, P. F. Industries has been producing footwear primarily for sale to the U. S. Government and to distributors. Under the "Buy American " plan, the U. S. Government does not buy any imported footwear.

Footwear produced at P. F. Industries is also sold through distributors. A survey of these customers indicated that they had increasing sales from 1977 to 1978 and reduced their pur-

chases of imports over the same period.

CONCLUSION

After careful review, I determine that all workers of P. F. Industries, Bristol, Rhode Island 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3517 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4431]

S & E KNITTING CO., INC., PHILADELPHIA, PA.

Notice of 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-4431: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing doubleknit fabric for dresses and blouses at S & E Knitting Company, Incorporated, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of S & E Knitting Company, Incorporated, its manufacturers, the 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 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 U.S. imports of finished fabric (bleached, dyed and printed) declined from 464 million square yards in 1976 to 453 million square yards in 1977. Imports then increased from 341 million square yards in the first nine months of 1977 to 386 million square yards in the first nine months of 1978. However, the ratio of imports to domestic production was less than two percent in 1976 and in 1977.

Manufacturers for whom S & E Knitting Company produced knit fabric indicated that they did not purchase imported knit fabric in 1976, 1977 and 1978.

CONCLUSION

After careful review, I determine that all workers of S & E Knitting Company, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade of 1974.

Signed at Washington, D.C. this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3519 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4255]

SALANT AND SALANT, INC., UNION CITY, TENN.

Notice of 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-4255: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 10, 1978 which was filed by the Amalgamated Clothing Textile Workers' Union on behalf of workers and former workers producing men's jeans at the Union City, Tennessee plant of Salant and Salant, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Salant and Salant, Incorporated, 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.

Salant and Salant, Incorporated made a one-time small purchase of imported jeans in early 1978 amounting to less than 1.5 percent of Union City's annual production.

A survey by the Department revealed that none of the customers of the Union City, Tennessee plant purchased imported jeans in 1976, 1977 or the first nine months of 1978.

CONCLUSION

After careful review, I determine that all workers of Salant and Salant, Incorporated, Union City, Tennessee 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3520 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4433]

SALZ LEATHER, INC., SANTA CRUZ, CALIF.

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-4433: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Amalgamated Meat Cutters and Butcher Workmen of North America on behalf of workers and former workers engaged in the tanning of raw cattle hides to a finished leather state at Salz Leather, Incorporated, Santa Cruz, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-56953).

No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Salz Leather, Incorporated 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.

U.S. imports of tanned and finished cattlehides increased both absolutely and relative to domestic production in January-September 1978 compared to the same period in 1977.

A Departmental survey of customers of Salz Leather revealed that several surveyed customers reduced purchases from the subject firm and increased purchases of imported leather in the first ten months of 1978 compared to the same period 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 finished leather produced at Salz Leather, Incorporated, Santa Cruz, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Salz Leather, Incorporated, Santa Cruz, California who became totally or partially separated from employment on or after June 3, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3521 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4435]

STURBRIDGE, INC., PHILADELPHIA, 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-4435: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and ladies sweaters at Sturbridge, Incorporated, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sturbridge, Incorporated, its manufacturers, 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. It is concluded that all of the requirement have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely in 1977 compared to 1976 and increased absolutely in the first three quarters of 1978 compared to the same period in 1977.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production in each successive year from 1973 through 1976. In 1976, the ratio of imports to domestic production reached 141.9 percent. In 1977, imports of sweater were 9.0 percent above the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 through 1975 time period.

A Departmental survey of manufacturers for whom Sturbridge, Incorporated performed contract work indicated that some manufacturers decreased their contract work with Sturbridge and increased their purchases of imported sweaters. In addition, several manufacturers, accounting for a significant proportion of Sturbridge's contract work, decreased their utilization of Sturbridge in the first eleven months of 1978 compared to the like period of 1977, as they themselves experienced decreasing sales. A survey of the manufacturers' retail customers revealed that major retailers reduced purchases from the manufacturers and increased their purchases of imported sweaters 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 men's and ladies' sweaters produced at Sturbridge, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sturbridge, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after 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 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3522 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4416]

TRAN SPECTRA, INCORPORATED, AIRPORT ROAD, GREENFIELD, TENN., PALMERSVILLE, TENN.

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-4416: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 17, 1978 which was filed on behalf of workers and former workers producing electronic capacitors at the Palmersville, Tennessee plant of Tran Spectra, Incorporated. The investigation was expanded to include Tran Spectra's plant at Airport Road, Greenfield, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tran Spectra, Incorporated, 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 eligibilty 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 fixed aluminum electrolytic capacitors increased absolutely during 1977 compared to 1976 and during the first nine months of 1978 compared to the first nine months of 1977.

Major customers of aluminum electrolytic capacitors produced by the Palmersville and Greenfield (Airport Road), Tennessee plants were surveyed by the Department. The customers reported that they decreased their purchases from Tran Spectra in the first ten months of 1978 while increasing their purchases of imported aluminum electrolytic capacitors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fixed aluminum electrolytic capacitors produced at the Palmersville, Tennessee, and Airport Road, Greenfield, Tennessee plants of Tran Spectra, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Palmersville, Tennessee and Airport Road, Greenfield, Tennessee plants of Tran Spectra, Incorporated who became totally or partially separated from employment on or after February 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3523 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4458]

WILLIAM PRYM, INC., DAYVILLE, CONN.

Notice of 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-4458: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing sewing novelties at William Prym, Incorporated, Dayville, Connecticut.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of William Prym, Incorporated.

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 average number of production workers increased in the fourth quarter of 1977 compared to the fourth quarter of 1976, and in each quarter of 1978 compared to the same quarter of 1977. Safety pins and straight pins comprise over half of William Prym's output. In 1977, imports of safety pins increased both absolutely and relative to domestic production but declined both absolutely and relatively in the first six months of 1978 compared to the same period in 1977. Imports of straight pins decreased both absolutely and relatively in 1977 and while declining absolutely in the first half of 1978 increased slightly relative to domestic production.

William Prym's total production was higher in 1977 than in 1976 and in the first eleven months of 1978 than in the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of William Prym, Incorporated, Dayville, Connecticut, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3518 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4420]

CREATIVE KNITTING, INC., PHILADELPHIA, 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 to TA-W-4420: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit sweater fabrics at Creative Knitting, Incorporated, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No Public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Creative Knitting, Incorporated, its manufacturer, 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 finished fabric (bleached, dyed and printed) declines from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 341 million square yards in the first three quarters of 1977 to 386 million square yards in the first three quarters of 1978. However, the ratio of imports of finished fabric to domestic production was less than two percent in 1976 and in 1977.

A Departmental survey conducted with the sole manufacturer that contracted work with Creative Knitting, Incorporated revealed that the manufacturer did not employ any foreign contractors nor did the manufacturer import any knit sweater fabric during

the period of 1976 through November 1978.

CONCLUSION

After careful review, I determine that all workers of Creative Knitting, Incorporated, Philadelphia, Pennsylvania 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3753 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4443]

DRIVER-HARRIS CO., HARRISON, 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-4443: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire and strip products, all nickel base for electrical and high temperature applications, at Driver-Harris Company, Harrison, New Jersey. The investigation revealed that the plant primarily produces nickel alloy wire.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Driver-Harris Company, 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.

Evidence developed during the course of the investigation revealed that the impact of imports of nickel alloy wire in the domestic market has been substantial. U.S. imports of nickel alloy wire increased absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

Historically, it has been the practice of domestic producers to sell resistance wire at published list prices without offering discounts. Approximately four years ago the Germans began offering a 5 to 8 percent discount on their products to induce domestic users to switch to their product. U.S. producers did not meet these price discounts and the Germans subsequently captured 5 to 10 percent of domestic market sales. When the French seriously entered the U.S. market in 1977, prices of both domestically produced and imported resistance wire dropped 15 to 20 percent. It is believed that at present the price of resistance wire is 5 to 10 percent lower in the U.S. than in any other country in the world.

A survey of Driver-Harris Company's customers indicated that some customers have increased purchases of imported nickel alloy wire and decreased purchases from the subject firm during the period 1976 through November 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 nickel alloy wire produced at Driver-Harris Company, Harrison, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Driver-Harris Company, Harrison, New Jersey who became totally or partially separated from employment on or after November 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 26th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3754 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4292]

FITCHBURG YARN CO., FITCHBURG, 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-4292: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing acrylic and other man-made fiber yarns at Fitchburg Yarn Company, Fitchburg, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fitchburg Yarn Company, 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.

The ratio of imports to domestic production for all yarns remained below two percent in each year from 1974 through 1977. Most of the customers surveyed indicated that they did not increase purchases of imported yarn while decreasing purchases from Fitchburg Yarn during the first three quarters of 1978 compared with the same period in 1977. Increases in purchases of imports by those customers who did reduce puchases from Fitchburg Yarn Company were insignificant in relation to the subject firm's total sales.

CONCLUSION

After careful review I determine that all workers of Fitchburg Yarn Company, Fitchburg, Massachusetts 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 29th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3755 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4238]

GAF PHOTO SERVICE, APPLETON, WIS.

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-4238: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 4, 1978 in response to a worker petition received on October 3, 1978 which was filed on behalf of workers and former workers engaged in the developing of film at the Appleton, Wisconsin plant of the GAF Photo Service.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the GAF Corporation, and Department files.

The GAF Photo Service operated within the GAF Corporation's Consumer Photo Products Division, but operated with a completely independent management.

No more than 20 percent of the film processed by GAF Photo Service was film manufactured by GAF Corporation. At least 80 percent of the film processed at the Appleton, Wisconsin plant was produced by other manufacturers. The Photofinishing plant did not depend on any GAF plant for its work. Each photofinishing plant obtained its work from individual consumers. All of the GAF photofinishing plants were sold on April 17, 1978.

Since only a small percentage of the film processing done at GAF Photo Service was of film manufactured by GAF, it has been determined that the GAF Photo Service, Appleton, Wisconsin is not an "appropriate subdivision" of GAF Corporation within the meaning of Section 222 of the Trade Act of 1974. Furthermore, GAF Photo Service does not produce an article, and the Department of Labor has already determined that the performance of services is not included within the term "article" as used in Section 222 (3) of the Act.

CONCLUSION

After careful review, I determine that all workers of the Appleton, Wisconsin plant of the GAF Photo Service 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 January 1979.

HARRY J. GILMAN,
Supevisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3756 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4505]

H AND M SPORTSWEAR, GLENDALE, 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-4505: 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 12, 1977 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at H and M Sportswear, Glendale, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of H and M Sportswear, 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.

Sales and Production of Ladies' Coats at H and M Sportswear, Glendale, California, increased in the fourth quarter of 1977 compared to the like quarter of 1976 and in 1978 compared to 1977.

CONCLUSION

After careful review, I determine that all workers of H and M Sportswear, Glendale, California 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3757 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4426]

MAINLINE, INC., PHILADELPHIA, 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-4426: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters at Mainline, Incorporated of Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mainline, Incorporated, its manufacturers, 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.

A Departmental survey conducted with the manufacturer from whom Mainline, Incorporated received contract work revealed that the manufacturer did not employ any foreign contractors nor import any men's sweaters in the 1976 through November 1978 period. The manufacturer's sales increased in 1977 compared to 1976 and were unchanged in the first eleven months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Mainline, Incorporated, Philadelphia, Pennsylvania 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3758 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4447]

MOHAWK RUBBER CO., WEST HELENA, ARK.

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-4447: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 27, 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 West Helena, Arkansas plant of the Mohawk Rubber Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Mohawk Rubber Company, 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.

U.S. imports of passenger car tires increased in 1976 and 1977, decreasing slightly during the January-October period of 1978 compared with the same period of 1977.

U.S. imports of truck tires increased in 1976 and 1977 and remained at the same level during the January-October period of 1978 compared to the same period of 1977.

A Department survey of customers of the Mohawk Rubber Company revealed that some customers decreased purchases of both passenger car tires and truck tires from Mohawk while increasing imports during the January-September period of 1978 compared to the same period of 1977.

The closure of the West Helena plant, which primarily produced bias tires, was hastened by the shift in consumer preference to radial tires which are imported in greater quantities than bias tires.

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 West Helena, Arkansas plant of the Mohawk Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the West Helena, Arkansas plant of the Mohawk Rubber Company who became totally or partially separated from employment on or after April 24, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3759 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4483]

MOHAWK RUBBER CO., AKRON, 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-4483: 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 6, 1978 in response to a worker petition received on November 29, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers formerly producing truck tires at the Akron, Ohio plant of the Mohawk Rubber Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Mohawk Rubber Company, 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.

U.S. imports of truck tires increased in 1976 and 1977 and remained unchanged during the January-October period of 1978 compared to the same period of 1977.

A Department survey of customers of the Mohawk Rubber Company revealed that some customers decreased purchases of truck tires from Mohawk while increasing imports during the January-September period of 1978 compared to the same period of 1977.

The closure of the Akron plant, which primarily produced bias tires, was hastened by the shift in consumer preference to radial tires which are imported in greater quantities than bias tires.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with truck tires produced at the Akron, Ohio plant of the Mohawk Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Akron, Ohio plant of the Mohawk Rubber Company who became totally or partially separated from employment on or after November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3760 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4429]

QUALITEX KNITWEAR MANUFACTURING CO., PHILADELPHIA, PENNSYLVANIA

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-4429: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 30, 1979 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters at Qualitex Knitwear Manufacturing Company, Philadelphia, Pennsylvania. The investigation revealed that Qualitex also produces boys' sweaters, men's knitted vests, ladies' knitted vests and knit sweater fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from official of Qualitex Knitwear Manufacturing Company, its manufacturers, 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.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers (which includes vests) increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

U.S. imports of women's, misses' and children's sweaters (which includes vests) increased from 1975 to 1976. In 1977, imports of sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) in 1977 was higher than the average IP ratio for the period 1973 through 1976.

The Office of Trade Adjustment Assistance conducted a survey of the manufacturers that contracted work to Qualitex Knitwear Manufacturing Company. The survey revealed that a manufacturer, which accounted for a substantial proportion of Qualitex's sales decline, decreased purchases of sweaters from Qualitex in the first eleven months of 1978 compared to the same period of 1977 and itself experienced decreasing company sales. A secondary survey conducted with manufacturer's retail customers indicated that major retailers increased their purchases of imported sweaters and decreased purchases from the manufacturer 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 men's and boys' sweaters, men's knitted vests, and ladies' knitted vests produced at Qualitec Knitwear manufacturing Company, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Qualitex Knitwear Manufacturing Company, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after 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 26th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3761 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4434]

SHEROFF-GREEN COMPANY, INC., METUCHEN, 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 to TA-W-4434: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 17, 1978 which was filed on behalf of workers and former workers producing tooling (machinery) for the shoe and clothing industries at the Sheroff-Green Company, Incorporated, Metuchen, New Jersey. The investigation revealed that since 1976 the company also produced universal joints.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sheroff-Green Company, Incorporated, 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 petition alleges that increased imports of shoes and clothing adversely affected production and employment at Sheroff-Green.

However, shoes or clothing cannot be considered to be like or directly competitive with tooling (machinery) uses in the shoe and clothing industries. Imports of tooling (machinery) would need to be considered in determining import injury to workers producing tooling (machinery) for the shoe and clothing industries. It is the Department's understanding that imports of this kind of custom machinery are negligible.

Evidence developed in the course of the investigation, however, revealed that within the period of potential coverage, namely, since November 14, 1977, Sheroff-Green primarily produced universal joints for nuclear submarines. Sheroff-Green had begun to produce the nuclear submarine equipment in 1976. With the company's sale to its present owner in March 1977, production was shifted away from the specialized textile and footwear machinery produced by the petitioners and into universal joints. It was this strategic marketing decision that was the dominant cause of the separations of the petitioning workers.

CONCLUSION

After careful review, I determine that all workers of Sheroff-Green Company, Incorporated, Metuchen, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3762 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4013]

HENRY I. SIEGEL COMPANY, INC., FULTON, KY.

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-4013: investigation regarding certification 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 20, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and ladies' slacks at the Fulton, Kentucky plant of Henry I. Siegel Company, Incorporated (H.I.S.).

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Henry I. Siegel Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department filed.

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 men's and boys' dress and sport trousers and shorts increased from 73.2 million pairs in 1976 to 76.4 million pairs in 1977 and from 54.4 million pairs in the first nine months of 1977 to 72.4 million pairs in the first nine months of 1978.

Imports of men's and boys' woven cotton and man-made jeans and dungarees increased from 14 million pairs in 1976 to 23 million pairs in 1977 and from 16.7 million pairs in the first nine months of 1977 to 24.8 million pairs in the first nine months of 1978.

Imports of women's, misses' and children's slacks and shorts increased from 132.5 million pairs in 1976 to 139.5 million pairs in 1977 and from 40.5 million pairs in the first nine months 1977 to 54.5 million pairs in the first nine months of 1978.

A survey was conducted of customers who purchased men's and ladies' slacks from H.I.S. The survey revealed that some customers reduced purchases from H.I.S. and increased purchases of imports in 1977 and in the first three quarters 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 men's and ladies' slacks produced at Henry I. Siegel Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Fulton, Kentucky plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Fulton, Kentucky plant of Henry I. Siegel Company, Incorporated who became totally or partially separated from employment on or after July 18, 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3763 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4014]

HENRY I. SIEGEL COMPANY, INC., DICKSON, TENN.

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-4014: investigation regarding certification 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 20, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and ladies' slacks at the Dickson, Tennessee plant of Henry I. Siegel Company, Incorporated (H.I.S.).

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Henry I. Siegel Company, Incorporated, 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 men's and boys' dress and sport trousers and shorts increased from 73.2 million pairs in 1976 to 76.4 million pairs in 1977 and from 54.4 million pairs in the first nine months of 1977 to 72.4 million pairs in the first nine months of 1978.

Imports of men's and boys' woven cotton and man-made jeans and dungarees increased from 14 million pairs in 1976 to 23 million pairs in 1977 and from 16.7 million pairs in the first nine months of 1977 to 24.8 million pairs in the first nine months of 1978.

Imports of women's misses' and children's slacks and shorts increased from 132.5 million pairs in 1976 to 139.5 million pairs in 1977 and from 40.5 million pairs in the first nine months of 1977 to 54.5 million pairs in the first nine months of 1978.

A survey was conducted of customers who purchased men's and ladies' slacks from H.I.S. The survey revealed that some customers reduced purchases from H.I.S. and increased purchases of imports in 1977 and in the first three quarters of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that increases of imports of articles like or directly competitive with men's and ladies' slacks produced at Henry I. Siegel Company, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Dickson, Tennessee plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Dickson, Tennessee plant of Henry I. Siegel Company, Incorporated, who became totally or partially separated from employment on or after July 18, 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3764 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4388]

STRESSTEEL CORP., WILKES-BARRE, 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-4388: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 13, 1978 which was filed on behalf of workers and former workers producing high strength steel bars used in prestressed concrete construction at Stressteel Corporation, Wilkes-Barre, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Stressteel Corporation, the Post-Tensioning 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 Act must be met. It is concluded that all of the requirements have been met.

Imports of cold finished alloy steel bars increased from 1976 to 1977 and in the first six months of 1977 compared to the first six months of 1978. The ratio of imports to domestic shipments increased from 5.6 percent in 1976 to 6.6 percent in 1977, and from 5.5 percent in the first six months of 1977 to 10.0 percent in the first six months of 1978.

Imports of steel strand for prestressed concrete increased absolutely from 1976 to 1977, and in the first nine months of 1978 compared to the like period of 1977. The ratio of imports to domestic production increased from 190.5 percent in 1976 to 217.2 percent in 1977.

Industry sources indicate that there has been a gradual shift from bars to strand in prestressed concrete construction over the past ten years. Stressteel Corporation, originally a manufacturer of only high-strength steel bars, began purchasing steel strand from Japanese firms in the mid-1960's in order to maintain its sales. In the second half of the decade, the composition of Stressteel's sales began to change, with bar shipments declining and strand shipments increasing in each year. By 1977, the major proportion of Stressteel's strand purchases was imported.

In November 1978, the U.S. International Trade Commission determined that several Japanese firms have been dumping strand on the U.S. market. According to industry sources, the effect of the import competition has been to depress the market price of bars and strand, and has hurt domestic manufacturers of both products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with high strength steel bars used in prestressed concrete construction produced at Stressteel Corporation, Wilkes-Barre, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stressteel Corporation, Wilkes-Barre, Pennsylvania who became totally or partially separated from employment on or after July 22, 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 January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-3765 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4191-4198, 4200]

WALWORTH CO.

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-4191-4198, 4200: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers engaged in administrative and support functions at the corporate offices and warehouse facilities of the Walworth Company King of Prussia, Pennsylvania (TA-W-4200) and sales offices of the Walworth Company located in Hinsdale, Illinois (TA-W-4191); Downey, California (TA-W-4192); Oakland, California (TA-W-4193); Atlanta, Georgia (TA-W-4194); Dallas, Texas (TA-W-4195); Houston, Texas (TA-W-4196); Westfield, New Jersey (TA-W-4197); and New York, New York (TA-W-4198).

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Walworth Company, 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. The Department's investigation revealed that all of the requirements have been met.

The administrative and warehousing functions performed at the company's King of Prussia, Pennsylvania facilities and the services provided by the company's eight regional sales offices constitute support services necessary to the company's operations.

Imports of valves increased absolutely and relative to domestic production from 1976 to 1977 and in the first nine months of 1978 compared with the same period of 1977.

The Department of Labor has previously determined that imports of valves contributed importantly to declines in production and employment at three production facilities of the Walworth Company (see TA-W-1359, 1360, 1361). These three plants account for a significant portion of the total production of the Walworth Company. Declines in the production and sale of valves by the Walworth Company have resulted in worker separations at the company's King of Prussia facilities and in the regional sales office.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with valves produced by the Walworth Company contributed importantly to the decline in sales or production of the company and to the total or partial separation of employees at the company's corporate offices, sales offices and warehouse facilities. In accordance with the provisions of the Act, I make the following certification:

All workers at the corporate offices and warehouse facilities of the Walworth Company in King of Prussia, Pennsylvania and sales offices of the Walworth Company located in Hinsdale, Illinois; Downey, California; Oakland, California; Atlanta, Georgia; Dallas, Texas; Houston, Texas; Westfield, New Jersey; and New York, New York who became totally or partially separated from employment on or after September 6, 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 January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3766 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4199]

WALWORTH CO., COLUMBUS, 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-4199: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act:

The investigation was initiated on September 30, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers producing steel industrial valves at the Columbus, Ohio plant of Walworth Company.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Walworth Company, 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 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 quarterly employment of production workers at the Columbus plant increased steadily each quarter from the first quarter of 1977 through the second of quarter of 1978 compared to the previous quarter. Employment increased from the third quarter of 1977 through the second quarter of 1978 compared to the same quarter of the previous year. Average employment increased in the first 8 months of 1978 compared to the first 8 months of 1977. There is no immediate threat of worker separations at the plant.

CONCLUSION

After careful review, I determine that all workers of the Columbus, Ohio plant of Walworth Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3767 Filed 2-1-79; 8:45 am]

[4510-28-M]

[TA-W-4201 and 4202]

WALWORTH CO.

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-4201 and 4202: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers producing steel industrial valves at the Linden, New Jersey and Elizabeth, New Jersey plants of Walworth Company.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Walworth Company, 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 sales or production, or both, or the firm or subdivision have decreased absolutely.

Production of valves at the Linden and Elizabeth plants of Walworth Company increased in 1977 compared to 1976 and in the first ten months of 1978 compared to the first ten months of 1977. Production was higher in each of the last two quarters of 1977 and the first three quarters of 1978 when compared to the corresponding quarter of the previous year.

Company sales data are not separately identifiable by plant, however company officials stated that increased production at a given plant indicated increased sales of the products produced at the plant.

CONCLUSION

After careful review, I determine that all workers of Linden, New Jersey and Elizabeth, New Jersey plants of the Walworth Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3768 Filed 2-1-79; 8:45 am]

[4510-23-M]

NATIONAL ADVISORY COMMITTEE FOR WOMEN

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the National Advisory Committee for Women.

Date and Time: February 20 and 21, 1979, 10 a.m. to 5 p.m. each day.

Place: Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Conference room S4215 A, B, C.

Purpose: This is a meeting called by the Acting Chair.

The agenda for the meeting will focus on the future directions of the Committee, including working procedures and program.

Dated: January 30, 1979.

ELLEN M. MCGOVERN,
Executive Director.

[FR Doc. 79-3769 Filed 2-1-79; 8:45 am]

[6820-35-M]

LEGAL SERVICES CORP.

GRANTS AND CONTRACTS

JANUARY 29, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

Western Nebraska Legal Services in Scottsbluff, Nebraska to serve Adams, Merrick, Hamilton, Howard, Sherman, Kearney, Phelps, Franklin and Gosper Counties.

Legal Aid Society in Omaha, Nebraska to serve Antelope, Pierce, Madison, Boone, Nance, Platte, and Colfax Counties.

Legal Services of Southeast Nebraska in Lincoln, Nebraska to serve Polk, York, Fillmore, Thayer, Jefferson, Cass, Pawnee, Richardson, and Nemaha Counties.

Kansas Legal Services in Topeka, Kansas to serve Sherman, Wallace, Thomas, Logan, Greeley, Wichita, Scott, Lane, Ness, Norton, Graham, Phillips, Roosk, Ellis, Rush, Russell, Barton, Stafford, Pratt, Barber, Rice, Reno, Ottawa, Riley, Geary, Jefferson, Johnson, Linn, Lyon, Nemaha, Osage, Pottowatomie, and Wabaunsee Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

THOMAS EHRLICH,
President.

[FR Doc. 79-3740 Filed 2-1-79; 8:45 am]

[6820-35-M]

GRANTS AND CONTRACTS

JANUARY 29, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

Upper Peninsula Legal Services in Sault Ste. Marie, Michigan to serve Leelanau, Benzie, Wexford, Mainstee and Missaukee Counties.

Legal Aid of Western Michigan in Grand Rapids, Michigan to serve Montcalm and Ionia Counties.

Legal Aid Society of Calhoun County in Battlecreek, Michigan to serve Branch County.

Virginia Legal Aid Society in Lynchburg, Virginia to serve Amherst, Southampton, Isle of Wright Counties and Franklin and Suffolk Cities.

Legal Aid Society of Roanoke Valley in Roanoke, Virginia to serve Rockbridge and Bath Counties and Lexington and Buena Vista Cities.

Blue Ridge Legal Aid Planning Group in Harrisonburg, Virginia to serve Augusta, Rockingham, Highland Counties and Harrisonburg, Staunton and Waynesboro Cities.

Client Centered Legal Services of Southwest Virginia in Clintwood, Virginia to serve Lee, Scott, Wise, Dickenson, Russell, Tazewell and Buchanan Counties and Norton City.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, Suite 600, Arlington, Virginia 22209.

THOMAS EHRLICH,
President.

[FR Doc. 79-3741 Filed 2-1-79; 8:45 am]

[1410-01-M]

LIBRARY OF CONGRESS

AMERICAN FOLKLIFE CENTER, BOARD OF TRUSTEES

Meeting

In accordance with Pub. L. 92-463, the Board of Trustees of the American Folklife Center announces its meeting to be held on February 23, 1979, in the Wilson Room of the Library of Congress from 9:30 a.m.-5 p.m. The meeting will be open to the public up to the seating capacity of the room (approximately 50, including about 25 members of the Board and the staff of the American Folklife Center). It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 426-6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal Agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done on contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

RAYMOND L. DOCKSTADER,
Deputy Director,
American Folklife Center.

[FR Doc. 79-3634 Filed 2-1-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on March 7, 1979, at the Offices of the National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456. The meeting will commence at 9:00 a.m. in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. An NCU Board review will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, DC 20456.

LORENA C. MATTHEWS,
Acting Administrator.

JANUARY 30, 1979.

[FR Doc. 79-3571 Filed 2-1-79; 8:45 am]

[7532-01-M]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING CANCELLATION

ACTION: Notice of meeting cancellation by the National Commission on Neighborhoods cancelled by a consensus of the commissioners.

SUMMARY: This notice required under the Federal Advisory Committee Act (5USC Appendix I) cancels a public meeting.

TIME & DATE: From 9 a.m. to 5 p.m. on February 8, 1979.

PLACE: Room 9104, New Executive Office Building.

AGENDA: 9 a.m. to 5 p.m.—Consideration of final report.

JOHN EADE,
Designated Federal Officer.

[FR Doc. 79-3722 Filed 2-1-79; 8:45 am]

[7532-01-M]

PRIVACY ACT OF 1974

Revocation and Transfer of Sytems of Records

Pursuant to the provision of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the National Commission on Neighborhoods published in the FEDERAL REGISTER (43 FR 13025) notices of the existence of the following systems of records subject to the Privacy Act:

NCN-1, General Financial Records; NCN-2, Payroll Records; NCN-3, Correspondence Records—National Commission on Neighborhoods. The Commission will terminate operations on April 19, 1979, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records, subsequent to the termination date:

NCN-1

System Name:

General Financial Records-NCN.

To be retained by the General Services Administration, External Services Branch, for use in concluding administrative operations for the National Commission on Neighborhoods as part of the GSA system of records, Defunct Agency Records, GSA/OAD-G14.

NCN-2

System Name:

Payroll Records—NCN.

To be retained by the General Services Administration, Region 3, Payroll Processing Branch, for use in concluding administrative operations of the National Commission on Neighborhoods as part of the GSA system of records, Defunct Agency Records, GSA/OAD-G14.

NCN-3

System Name:

Correspondence Records—NCN.

To be destroyed.

JOHN EADE,
Administrator.

[FR Doc. 79-3632 Filed 2-1-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR INFORMATION SCIENCE AND TECHNOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Information Science and Technology.
Date and Time: February 22 and 23, 1979—9 a.m. to 4 p.m. each day.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Mrs. Darcey Higgins, Room 1250, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632-5824. Persons planning to attend should notify Mrs. Higgins by February 16, 1979.
Summary minutes: May be obtained from Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: To provide advice, recommendations, and oversight concerning support activities related to the Foundation's program in information science and technology.
Agenda:

FEBRUARY 22, 1979

Welcome and Introductory Remarks.
Discussion of the Goals of the Division of Information.
Science and Technology.
General Discussion of Core Research Problems in Information.
Science.
Open Public Participation

FEBRUARY 23, 1979.

Continuation of Discussion of Core Research Problems.
Planning for Next Meeting.
Open Public Participation.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 29, 1979.

[FR Doc. 79-3638 Filed 2-1-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON MOLECULAR 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 Molecular Biology, Group A, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: February 22 & 23, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Brian J. Johnson, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C., 20550, telephone (202) 632-4260.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 29, 1979.

[FR Doc. 79-3637 Filed 2-1-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR SENSORY PHYSIOLOGY AND PERCEPTION

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 Behavioral and Neural Sciences Subcommittee for Sensory Physiology and Perception.
Date and time: February 21 and 22, 1979, 9:00 a.m.-5:00 p.m. each day
Place: National Science Foundation, 1800 G. Street, N.W. Room 642, Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. Terrence R. Dolan, Program Director for Sensory Physiology and Perception, Room 310, National Science Foundation, Washington, D.C. (202) 634-1624
Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included 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 ex-

emptions (4) and (6) of 5 U.S.C. 552b(C). Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 79-3636 Filed 2-1-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ELECTRICAL SCIENCES AND ANALYSIS 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 on Electrical Science and Analysis of the Advisory Committee for Engineering.

Date and time: February 20 and 21, 1979—9 a.m. to 5 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550. Room 1224 on 2/20; Room 643 on 2/21.

Type of meeting: Part-Open—Open—2/20—9 a.m. to 12:30 p.m., 2/21—9 a.m. to 5 p.m.; Closed—2/20—1:30 p.m. to 5 p.m.

Contact person: Dr. Yoh-Han Pao, Section Head, Electrical Sciences and Analysis Section, Room 416, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632-5881.

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 recommendations concerning support for research in the area of Electrical Sciences and Analysis.

Agenda:

TUESDAY, FEBRUARY 20, 1979—9 A.M. TO 12 NOON—OPEN

9:00 a.m.—Introductory Remarks, Yoh-Han Pao.

9:10 a.m.—Briefing by Division Director, Engineering, H. C. Bourne, Jr.

9:30 a.m.—Overview of Section Activities, Yoh-Han Pao.

10:00 a.m.—Briefing by Program Directors: N. Caplan; J. H. Harris; W. L. Brogan and E. Schutzman.

TUESDAY, FEBRUARY 20, 1979—1 P.M. TO 5 P.M.—CLOSED

1:00 p.m.—Discussion of proposal review and decisionmaking processing, followed by separate subgroup discussions of individual programs, including review of peer review material and other privileged material.

5:00 p.m.—Adjourn.

WEDNESDAY, FEBRUARY 21, 1979—9 A.M. TO 5 P.M.—OPEN.

9:00 a.m.—Briefings by Section Heads and Program Directors of Related Research Areas (Computer Sciences, Materials, Research Applications).

10:30 a.m.—Presentation of Electrical Sciences and Analysis Long Range Plans.

11:30 a.m.—Open Discussion of Goals and Priorities—Chaired by—Professor D. T. Paris.

12:30 p.m.—Lunch.

1:30 p.m.—Open Discussion of Goals and Priorities—Chaired by—Professor D. T. Paris.

5:00 p.m.—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 29, 1979.

[FR Doc. 79-3635 Filed 2-1-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON SOCIAL AND DEVELOPMENTAL PSYCHOLOGY

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 Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and Time: February 22-23, 1979: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street, NW. Washington, D.C. 20550

Type of Meeting: Closed

Contact Person: Dr. Kelly G. Shaver, Program Director, Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5714.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The Proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 29, 1979.

[FR Doc. 79-3639 Filed 2-1-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

REGULATORY REQUIREMENTS REVIEW COMMITTEE

Report of Meeting

The Regulatory Requirements Review Committee (RRRC), composed of senior members of the U.S. Nuclear Regulatory Commission staff, held a meeting on January 2, 1979 and made recommendations on the issue of Anticipated Transients Without Scram (ATWS).

A summary of the results of the RRRC meeting dated January 18, 1979, the Committee recommendations, and all of the associated documents considered by the RRRC in reaching its recommendations have been placed in the Commission's Public Document Room at 1717 H Street N.W., Washingon, D.C., for public inspection.

The NRC Office Director having responisbility for deciding whether to implement the recommendations of the RRRC will consider appeals from these recommendations if received by March 2, 1979.

Appeals with respect to this issue should be directed to H. R. Denton, Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 26th day of January 1979.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Chairman, Regulatory Requirements Review Committee.

[FR Doc. 79-3784 Filed 2-1-79; 8:45 am]

[6325-01-M]

OFFICE OF PERSONNEL MANAGEMENT

DEPARTMENT OF DEFENSE

Notice of Title Change in Noncareer Executive Assignment

By notice of December 28, 1976, F.R. Doc. 76-37972, the Civil Service Commission authorized the Department of Defense to make a change in title for the position of Deputy Assistant Secretary (International Trade and Resources), ODAS (International Trade and Resources), OASD (International Security Affairs), Office of the Secretary of Defense, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Assistant Secretary of Defense (International Economic Affairs), ODAS (International Economic Affairs), OASD (International Security Affairs), Office of Under Secretary of Defense for Policy, Office of the Secretary of Defense.

The Office of Personnel Management.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-3460 Filed 2-1-79; 8:45 am]

[6325-01-M]

ESTABLISHMENT OF OFFICE OF GOVERNMENT ETHICS

Establishment, Location, and Functions

The "Ethics in Government Act of 1978," P.L. 95-521 (the "Act"), created the Office of Government Ethics (OGE) as an office within the Office of Personnel Management (OPM).

Notice is hereby given that:

1. The OGE is located at 1900 E Street, N.W., Washington, D.C. 20415. Phone (202) 632-7692.

2. There is at the head of the OGE a Director, appointed by the President.

3. The OGE has the responsibility for overall direction of executive branch policy relating to conflicts of interest, as well as specific responsibilities under the Act. The Office will consult with the Attorney General and recommend rules and regulations for promulgation by the OPM or the President. It will monitor compliance with ethical practices and procedures by executive branch personnel and agencies, review certain forms and require reports and corrective action as necessary. A general statement of the Office's responsibilities is contained in Title IV of the Act.

FOR FURTHER INFORMATION CONTACT:

David Reich, (202) 632-5421, or David W. Ream, (202) 632-7642.

The Office of Personnel Management.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-3459 Filed 2-1-79; 8:45 am]

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

PRIVACY ACT OF 1974

Adoption of Systems of Records

On December 1, 1978, there was published in the FEDERAL REGISTER (Vol. 43, FR 56344) a notice of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 522a. The public was given the opportunity to submit, not later than January 1, 1979, written comments concerning the proposed systems of records. No comments were received.

The proposed systems notices are hereby adopted as published.

Dated at Washington, D.C. on January 25, 1979.

DANIEL E. SHAUGHNESSY,
Acting Executive Director.

[FR Doc. 79-3631 Filed 2-1-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-7008]

COMMUNITY PSYCHIATRIC CENTERS

Application To Withdraw From Listing and Registration

JANUARY 26, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Community Psychiatric Centers (the "Company") has been listed for trading on the Amex since October 15, 1971. On June 30, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect fees, costs, expenses and reporting requirements attendant on maintaining a dual listing on both exchanges and has determined that they are unnecessary and should no longer be incurred.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE and the Pacific Stock Exchange, Inc. The Amex has posed no objection in this matter.

Any interested person may, on or before February 26, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3733 Filed 2-1-79; 8:45 am]

[8010-01-M]

[File No. 1-5979]

FILMWAYS, INC.

Application to Withdraw from Listing and Registration

JANUARY 26, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Filmways, Inc. (the "Company") has been listed for trading on the Amex since January 15, 1969. On June 28, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and ex-

penses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before February 26, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS
Secretary.

[FR Doc. 79-3734 Filed 2-1-79; 8:45 am]

[8010-01-M]

[Rel. No. 20899; 70-6098]

JERSEY CENTRAL POWER & LIGHT CO.

Proposed Issue and Sale of Short-Term Notes to Banks

JANUARY 26, 1979.

Notice is hereby given that Jersey Central Power & Light Company ("JCP&L"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 29, 1977 (HCAR No: 20345), the Commission authorized JCP&L, for the period ending December 31, 1978, to issue or renew, from time to time, its short-term notes to various commercial banks, provided that the aggregate principal amount of such notes outstanding at any one time would not exceed $127,000,000, or the amount permitted by JCP&L's charter.

JCP&L now requests that, for the period commencing on the date of an order granting this application and ending December 31, 1979, it be permitted, from time to time, to issue or renew notes, of a maturity of nine months or less evidencing short-term bank borrowings up to the lesser of (a) $105,000,000 principal amount outstanding at any one time or (b) the amount permitted by JCP&L's charter.

The short-term notes will bear interest at the lending bank's prime interest rate for commerical borrowing at the date of issue of the notes, will mature not more than nine months from the date of issue, will be prepayable at any time without premium and will not be issued as a part of a public offering.

Although no commitments or agreements for the proposed borrowings have been made, JCP&L expects that, to the extent its cash needs require, borrowings will be effected from time to time from among 32 designated banks. It is proposed that the maximum short-term credit made available by the banks will total $178,800,000, which exceeds by $73,800,000 the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount of available credit is to provide flexibility with one or more particular banks (but without exceeding such authorized total amount for all banks) since some banks have indicated from time to time that it is not always convenient for them to renew outstanding notes at the time JCP&L request them to do so.

It is anticipated that the banks, from which borrowings will be made, will require compensating balances at levels generally approximately 10% of the line of credit or 20% of the amounts actually borrowed, whichever is higher. Assuming compensating balances will equal 20% of the aggregate amounts borrowed and a prime rate of 11¾%, the effective cost of borrowing would be 14.69%.

JCP&L proposes to use the proceeds of the short-term loans for its short-term working capital requirements, including repayment of other short-term borrowings, and for construction expenditures. JCP&L states that it now has short-term notes outstanding in an aggregate principal amount of $50,000,000. The cost of JCP&L's 1979 construction program is approximately $295,000,000.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be amended, may be granted as provided in Rule 23 of General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3735 Filed 2-1-79; 8:45 am]

[8010-01-M]

[Release No. 34-15510; File No. SR-NASD-78-20]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 15, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Section 5 of the Association's Uniform Practice Code. (New language is indicated by italics, deletions are indicated by brackets.)

TRANSACTIONS IN SECURITIES "EX-DIVIDEND,"

"EX-RIGHTS" OR "EX-WARRANTS"

Sec. 5

[Ex-date designated by the Committee]

Designation of ex-date

(a) All transactions in securities, except "cash" transactions, shall be "ex-dividend," "ex-rights" or "ex-warrants" (*i*) on the day specifically designated by the Committee after definitive information concerning the declaration and payment of a dividend or the issuance of rights or warrants has been received at the office of the Committee[.]*; or (ii) on the day specified as such by the appropriate national securities exchange which has received definitive information in accordance with the provisions of SEC* Rule 10b-17 concerning the declaration and payment of a dividend *or the issuance of rights and warrants.*

NASD STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The proposed amendment to Section 5 of the Association's Uniform Practice Code clarifies the fact that the ex-date for dividends, rights and warrants is the date designated by either the Association or the national securities exchange which has in effect procedures recognized as appropriate under Rule 10b-17, after receipt of definitive information from the issuer. Adoption of the proposed amendment as set forth herein was considered necessary by the Association to comply with a request of the Commission staff for such clarification.

NASD STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Secton 15A(b)(6) provides that the rules of a national securities association shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable prinicples of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

The proposed amendment to Section 5 of the Uniform Practice Code was approved by the board of Governors under the authority granted to it by Article XIV, Section 1 of the Association's By-Laws as a means of carrying out the purposes of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Article XIV of the Association's By-Laws provides that the Board of Governors may amend the Uniform Practice Code without recourse to the membership.

Comments of the membership were not solicited or received.

NASD STATEMENT ON BURDEN ON COMPETITION

The Association believes that no burden on competition is imposed by the proposed amendment to Section 5 of the Uniform Practice Code.

On or before March 9, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 15 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 22, 1979.

[FR Doc. 79-3736 Filed 2-1-79; 8:45 am]

[4910-57-M]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

UMTA PROCUREMENT STUDY TASK FORCE, EVALUATION OF ROLLING STOCK AND EQUIPMENT PROCUREMENT PROCEDURES

Request for Public Comment

AGENCY: Department of Transportation, Urban Mass Transportation Administration.

ACTION: Request for Public Comment.

SUMMARY: This publication reviews the purposes for which the UMTA Procurement Study Task Force was created. It requests comments from the public as to strengths and weaknesses of the existing governmental procurement process, formally advertised (low-bid), used to purchase rolling stock and technical equipment with financial assistance under the Urban Mass Transportation Act of 1964, as amended. Additional information is sought to help the Department of Transportation identify advantages and disadvantages of alternative procurement methods as well as to evaluate present procedures.

DATES: Comments should be received by March 15, 1979, to be given full consideration by the Task Force in its recommendations.

ADDRESS: Mail comments to: W. H. Lytle, Director, Office of Procurement and Third Party Contract Review, UMTA/UAD-70, 2100 2nd Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William J. Rhine, Office of Safety and Product Qualification, UMTA/UTD-50, 2100 2nd Street, S.W., Washington, D.C. 20590 (202) 426-9545.

SUPPLEMENTARY INFORMATION: Section 309 of the Surface Transportation Assistance Act of 1978 requires that the Secretary of Transportation make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964. The evaluation will focus on advantages and disadvantages of utilizing alternative procurement procedures, such as negotiated procurement and two-step formally advertised, and additional factors, such as performance, standardization, and life-cycle costs. The evaluation is not concerned with details of contract language, such as terms and conditions or other contract clauses.

In formulating its recommendations, the Department of Transportation strongly encourages submission of comments, information and views from transit operators, manufacturers, buyers, designers, engineers, contract and procurement specialists, state or local public bodies, and other interested parties.

In addition to general comments, information and opinions on the following matters would be particularly useful to the Department of Transportation:

1. Identify and describe present procurement procedures used in buying rolling stock or other transit equipment with Federal assistance.
2. Delineate advantages and disadvantages resulting from present procurement procedures. An objective analysis is requested.
3. Cite state or local laws which govern and/or control the type(s) of procurement procedures that can be used for purchase of this equipment or would preclude changing present procurement procedures.
4. Present your assessment of the advantages and disadvantages in using alternative procurement procedure for Federally-assisted purchases.
5. Identify and describe other procurement procedures that may be suitable or applicable to purchase of rolling stock and technical equipment.

Persons who are interested in assisting the Department of Transportation in reaching its recommendations by responding to this notice, should do so in writing to: W. H. Lytle, Director, Office of Procurement and Third Party Contract Review, UMTA/UAD-70, 2100 2nd Street, S.W., Washington, D.C.

All communication received on or before March 15, 1979 will be afforded full consideration by the Department of Transportation in making its recommendations to Congress.

Signed at Washington, D.C., this 29th day of January 1979.

RICHARD S. PAGE,
Administrator.

[FR Doc. 79-3624 Filed 2-1-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

AMOXICILLIN TRIHYDRATE FROM SPAIN

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Spain has given benefits which are considered to be bounties or grants on the manufacture, production or exportation of amoxicillin trihydrate. A final determination will be made no later than July 27, 1979. Interested parties are invited to comment on this action.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On September 11, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 40331). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of amoxicillin trihydrate constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act"). Imports covered by this investigation are classified under item 407.8517 of the Tariff Schedules of the United States, Annotated.

On the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that benefits which consititute a bounty or grant within the meaning of section 303 of the Act have been paid or bestowed, directly or indirectly, by the Government of Spain on the manufacture, production, or exportation of amoxicillin trihydrate. The benefits are received in the form of an overrebate upon exportation of the Spanish indirect tax, the "Desgravacion Fiscal". The overrebate consists of three elements: (1) Taxes on services and inputs which are not physically incorporated in the final product; (2) a credit for a tax on transactions between manufacturers and wholesalers which, in fact, is not levied on export sales; and (3) a number of "parafiscal" taxes included in the computation of the rebate, which are charges assessed for services provided and which are not levied on an *ad valorem* basis on the product.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Act are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of amoxicillin trihydrate from Spain. A final determination will be made no later than July 27, 1979.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W. Washington, D.C. 20229, in time to be received by his office not later than March 5, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 29, 1979.

[FR Doc. 79-3705 Filed 2-1-79; 8:45 am]

[4810-22-M]

DELEGATION OF PROCUREMENT AUTHORITY TO OFFICE OF ADMINISTRATIVE PROGRAMS AND TREASURY

[Number 101-3]

JANUARY 16, 1979.

Pursuant to the authority vested in me as Assistant Secretary (Administration) by Treasury Department Order No. 208, Revision 4, it is hereby ordered as follows:

1. The authority to prescribe and publish Treasury Procurement Regulations is hereby delegated to the Director, Office of Administrative Programs, Office of the Secretary, without the power of further redelegation.

2. (a) The following officials of the Department of the Treasury are hereby delegated the authority to procure property and services consistent with Title III of the Federal Property and Administrative Services Act of 1949 (Act), as amended (41 USC 251-260), except as precluded by Section 307 (41 USC 257) of the Act:

Director, Office of Administrative Programs for Office of the Secretary and Bureau of Engraving and Printing.
Director, Bureau of Alcohol, Tobacco and Firearms.
Comptroller of the Currency.
Director, Federal Law Enforcement Training Center.
Commissioner of Customs.

Commissioner, Bureau of Government Financial Operations.
Commissioner of Internal Revenue.
Director of the Mint.
Commissioner of the Public Debt.
National Director, U.S. Savings Bonds Division.
Director, U.S. Secret Service.

(b) Each of the officials named in (a) is deemed "chief officer responsible for procurement" within the meaning of 41 USC 257(b).

3. The authority delegated includes but is not limited to taking the following actions:

(a) To enter into and take all necessary actions with respect to purchases, contracts, leases, and other contractual procurement transactions;

(b) To make determinations and decisions with respect to procurement matters, except those determinations and decisions required by law or regulation to be made by other authority; and

(c) To designate persons qualified in procurement matters as Contracting Officers and representatives thereof and to signify such designation of qualified persons by issuance of Treasury Department Form 70-06.1, "Certificate of Appointment," in accordance with requirements and procedures established in Section 1.404 of the "Treasury Procurement Regulations."

4. The authority delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Act; the Federal Procurement Regulations, 41 CFR, Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR, Chap. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations, including but not limited to 41 CFR, Chap. 10, and Treasury Directive Manual Chapter 70-06, "Treasury Procurement Regulations."

5. To the extent permitted by the Act and this delegation, the authority herein delegated to the above-named officials may be redelegated by them by letter or bureau order to any subordinate officer or employee who has been duly designated to act as a Contracting Officer for the United States.

This Order supersedes Treasury Department Order 208-1 dated June 29, 1977.

WALTER J. MCDONALD,
Acting Assistant Secretary (Administration).

[FR Doc. 79-3570 Filed 2-1-79; 8:45 am]

[4810-22-M]

Office of the Secretary

PERCHLORETHYLENE FROM BELGIUM

Antidumping; Withholding of Appraisement and Determination of Sales at Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Withholding of Appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that perchlorethylene from Belgium is being sold at less than fair value under the Antidumping Act, 1921. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise in the home market or to third countries). Appraisements of entries of this merchandise will be suspended for three months. This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 16, 1978, a petition in proper form was received from counsel on behalf of PPG Industries, Pittsburgh, Pennsylvania, Stauffer Chemical Company, Westport, Connecticut, Diamond Shamrock Corporation, Cleveland, Ohio, Vulcan Materials Company, Birmingham, Alabama, and Dow Chemical, U.S.A., Midland, Michigan, alleging that perchlorethylene from Belgium is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 24, 1978 (43 FR 32009).

For purposes of this investigation, "perchlorethylene" means perchlorethylene, including technical grade perchlorethylene and purified grade perchlorethylene, provided for in item 429.3400, Tariff Schedules of the United States, Annotated.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, I hereby determine that perchlorethylene from Belgium is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* Available information indicates that 100 percent of the imports of the subject merchandise from Belgium are manufactured by Solvay and CIE. Therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of this determination, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales were made to an unrelated purchaser in the United States through a buying agent in Germany. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning exports and home market sales during the period February 1, 1978, through July 31, 1978.

c. *Purchase Price.* For the purposes of this determination, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of an f.o.b. price to the German buying agent for the unrelated U.S. purchaser. Adjustments were made for inland freight and terminal charges.

d. *Home Market Price.* For the purposes of this determination, the home market price has been calculated on the basis of the delivered price to distributors in the home market with adjustments for inland freight, a quantity rebate and special rebate. A deduction for inland freight is permitted pursuant to section 205(a) of the Act, 19 U.S.C. 164(a), for the cost of moving the merchandise from Solvay's factory to the port of Rotterdam. An adjustment for a quantity rebate also has been permitted. The amount of the rebate varies from 1-5 percent, depending upon the quantity of mer-

chandise sold to individual purchasers during the preceding year. In calculating fair value the amount of the weighted-average rebate was determined by dividing the total amount of the rebate by the total value of the sales in the home market. The special rebate adjustment is granted to distributors who must sell the merchandise at prices which do not yield a sufficient profit. An adjustment was allowed for the special rebates to the extent that the amount paid could be verified.

Circumstances of sale adjustments were claimed for advertising, travel costs, technical expenses, and packing differentials. Advertising, travel costs, and technical expenses were disallowed because on the basis of the information submitted, it could not be determined that these expenses were directly related to the sales under consideration, as required by § 153.10, Customs Regulations (19 CFR 153.10). Further information relative to these claims was requested, but has not been received. The adjustment for differences in packing costs was disallowed because the packing costs for almost all sales compared were identical in both markets.

e. *Results of Fair Value Comparison.* Using the above criteria, comparisons were made on 100 percent of subject perchlorethylene sales to the United States during the representative period. Those comparisons indicate that the purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from approximately 147 to 154 percent on 100 percent of the sales compared. The weighted-average margin of those sales on which comparisons were made amounted to 150 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons noted above, Customs officers are being directed to withhold appraisement of perchlorethylene from Belgium in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), shall become effective February 2, 1979. It shall cease to be effective at the expiration of three months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 29, 1979.

[FR Doc. 79-3721 Filed 2-1-79; 8:45 am]

[4810-22-M]

PERCHLORETHYLENE FROM FRANCE

Antidumping: Notice of Withholding of Appraisement and Determination of Sales at Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Withholding of appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that perchlorethylene from France is being sold at less than fair value under the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement of entries of this merchandise will be suspended for 3 months. This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 16, 1978, a petition in proper form was received from counsel on behalf of PPG Industries, Pittsburgh, Pennsylvania, Stauffer Chemical Company, Westport, Connecticut, Diamond Shamrock Corporation, Cleveland, Ohio, Vulcan Materials Company, Birmingham, Alabama, and Dow Chemical, U.S.A., Midland, Michigan, alleging that perchlorethylene from France is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 24, 1978 (43 FR 32010).

For purposes of this investigation, "perchlorethylene" means perchlorethylene, including technical grade perchlorethylene and purified grade perchlorethylene, provided for in item number 429.3400, Tariff Schedules of the United States, Annotated (TSUSA).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, I hereby determine that perchlorethylene from France is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* Approximately 90 percent of the imports of the subject merchandise from France are manufactured by Rhone-Poulenc-Petrochimie (R.P.P.). Therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis for comparison is between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales to the United States were made to related customers who resold the merchandise subsequent to its exportation. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide an adequate basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning exports and home market sales during the period February 1, 1978 through July 31, 1978.

c. *Exporter's Sales Price.* For purposes of this determination, the exporter's sales price was calculated on the basis of the resale price to unrelated distributors of the imported merchandise in accordance with section 204 of the Act. Adjustments were made for ocean freight, insurance, survey fees, brokerage, duty, inland freight in the home market and selling and administrative expenses incurred in the U.S. Adjustments for ocean freight, insurance, survey fees, broker-

age, duty and inland freight were made pursuant to section 204(1) of the Act since these costs and charges are incident to bringing the merchandise from the place of shipment in France to the place of delivery in the United States. The selling and administrative expenses incurred in the United States were deducted as charges incurred in the resale of the merchandise, pursuant to section 204(3) of the Act.

d. *Home Market Price.* For the purposes of this determination, the home market price was calculated on the basis of the f.o.b. factory price with adjustments for inland freight, differences in packing, advertising and selling expenses.

The selling expenses claimed in the home market were deducted as an offset, not to exceed the amount of the selling and administrative expenses incurred in the United States market. This is in accordance with § 153.10(b), Customs Regulations (19 CFR 153.10(b)). The adjustment for advertising was for costs incurred in advertising the perchlorethylene on behalf of the distributors purchasing the merchandise, as provided by § 153.10, Customs Regulations (19 CFR 153.10). The adjustment for differences in packing was based on additional home market costs incurred in placing the merchandise in trucks. The export merchandise was piped directly onto chemical tankers.

Claims were made for a circumstance of sale adjustment for finance costs. These were related to costs anticipated as a result of the failure of customers to pay for merchandise already received. Such claims for anticipated bad debts in the past have been determined not to be directly related to the sales under consideration. Therefore, the claim has been disallowed.

e. *Results of Comparison.* Using the above criteria, comparisons were made on 90 percent of subject perchlorethylene sales in the United States during the representative period. Those comparisons indicate that the exporter's sales price was less than the home market price of such or similar merchandise. Margins were found ranging from 30.23 to 56.78 percent on 100 percent of the sales compared. The weighted-average margin of those sales on which comparisons were made amounted to 47.82 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons noted above, Customs Officers are being directed to withhold appraisement of perchlorethylene from France in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 3 months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 26, 1979.

[FR Doc. 79-3708 Filed 2-1-79; 8:45 am]

[4810-22-M]

PERCHLORETHYLENE FROM ITALY

Antidumping: Notice of Withholding of Appraisement and Determination of Sales at Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Withholding of Appraisement and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that perchlorethylene from Italy is being sold at less than fair value under the Antidumping Act, 1921. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries). Appraisements of entries of this merchandise will be suspended for 3 months. This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 16, 1978, a petition in proper form was received from counsel on behalf of PPG Industries, Inc., Pittsburgh, Pennsylvania, Stauffer Chemical Company, Westport, Connecticut, Diamond Shamrock Corporation, Cleveland, Ohio, Vulcan Materials Company, Birmingham, Alabama, and Dow Chemical U.S.A., Midland, Michigan, alleging that perchlorethylene from Italy is being sold at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the antidumping act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, and "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 24, 1978, (43 FR 32011).

For purposes of this investigation, the term "perchlorethylene" refers to perchlorethylene, including technical grade perchlorethylene and purified grade perchlorethylene, provided for in item number 429.3400, Tariff Schedules of the United States, Annotated.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, I hereby determine that perchlorethylene from Italy is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* All of the imports of the subject merchandise from Italy are manufactured by Montedison S.p.A. and Rumianca S.p.A., both of Milan, Italy. Therefore, the investigation was limited to these two manufacturers.

b. *Basis of Comparison.* For purposes of this determination, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all exports to the United States were purchased, or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise was imported. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning exports and home markets sales during the period January 1, 1977, through July 31, 1978.

c. *Purchase Price.* For purposes of this determination, since all merchandise was purchased or agreed to be purchased prior to the time of exportation, by the persons by whom or for whose account it was imported, within

the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the C.I.F. price with the exception of one sale, in which the price also included U.S. customs duty. Adjustments were allowed for ocean freight, insurance, duty (where applicable), and sales commission (where applicable).

d. *Home Market Price.* For purposes of this determination, the home market price has been calculated, in the case of Montedison, S.p.A., on the basis of the weighted-average sales price to unrelated wholesalers with adjustment for discounts, rebates and inland freight expenses. The sales prices to wholesalers were used to established fair value because that was the class of purchaser most similar to the class to which Montedison sold in the United States.

Montedison made claims for adjustments to the home market price for an offset for selling expenses in the U.S., and for the cost of preparation and shipment and research and development. Because purchase price was used as the basis for establishing the sales price to the United States, an adjustment for selling expenses incurred in the United States cannot be made, in accordance with § 153.10, Customs Regulations (19 CFR 153.10). The claim for preparation and shipment expenses was neither adequately explained nor documented. The extent to which research and development claim pertained to perchlorethylene has not been demonstrated. Therefore, these claimed adjustments were not allowed.

In the case of Rumianca, S.p.A., home market price has been calculated on the basis of the weighted-average sales price to all customers with adjustments for a prompt payment discount (where applicable), inland freight expenses in Italy, rebates (where applicable), and an amount for home market sales expenses equivalent to the amount of the commission paid on the export sales, in accordance with § 153.10, Customs Regulations (19 CFR 153.10). The home market price to all customers was used as the starting price for the home market calculation because Rumianca does not vary its price according to class of purchaser.

e. *Results of Comparison.* Using the above criteria, comparisons were made on 100 percent of the perchlorethylene sales to the United States during the representative period. Those comparisons indicate that the purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from 15 to 53.8 percent on 100 percent of the sales compared in the case of Montedison, and were found ranging from 35 to 40 percent on 100 percent of the sales in the case of Rumianca. The weighted-average margin was 29 percent in the case of Montedison and 37.8 percent in the case of Rumianca. The weighted-average margin on all sales from Italy was 30.8 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

Based on the reasons noted above, Customs Officers are being directed to withhold appraisement of perchlorethylene from Italy in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice, which is published pursuant to § 153.35(a), Customs Regulations (19 CFR 153.35(a)), shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 3 months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 25, 1979.

[FR Doc. 79-3707 Filed 2-1-79; 8:45 am]

[4810-22-M]

45 R.P.M. ADAPTERS (FLAT AND ROUND SPINDLE) FROM THE UNITED KINGDOM

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of 45 r.p.m. adapters (flat and round spindle) from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise, allegedly at less than fair value, are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Commission for a determination as to whether there is a reasonable indication of injury.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTRACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On December 12, 1978, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from the Aldshir Manufacturing Company, Inc., Tuckahoe, New York, alleging that 45 r.p.m. adapters (flat and round spindle) from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act").

Flat and round spindle 45 r.p.m. adapters are ½ inch diameter plastic or metallic devices which fit over a standard record changer spindle in order to permit the automatic sequential play of 45 r.p.m. records. These adapters are classifiable under item 685.3270 of the Tariff Schedules of the United States, Annotated. Single adapters which are imported as part of a record changer or combination unit, and which are intended for resale as part of these units, are not subject to this investigation.

It appears that the foreign producer and the purchaser in the United States are related within the meaning of the Act and, therefore, it will be necessary to establish the exporter's sales price of the merchandise in the U.S. market.

Based upon the information set forth in the petition and that derived from the Customs Service's summary investigation, it appears that the margins of dumping may range from 30 percent to 90 percent or more.

There is evidence on record concerning injury, or likelihood of injury, to the U.S. industry from the alleged less than fair value imports of 45 R.P.M. adaptors from the United Kingdom. This information indicates that the primary British exporter, BSR, holds a large share of the U.S. market in round adaptors and a predominant share of the U.S. market in flat adaptors. Further, information submitted by petitioner indicates that margins by which petitioner is being undersold by BSR in connection with flat adaptors would be completely eliminated were the alleged less than fair value margins eliminated. Petitioner has alleged that it has been unable to compete with BSR in sales to large volume customers which are original equipment manufacturers without resorting to unprofitable price levels. Information has also been received, however, that BSR has ceased exporting flat spindle adaptors to the United States and has taken steps to commence production of this merchandise in the United States. Further, information received from the petitioner and from

other sources indicates that round spindle adaptors represent and extremely small share of the total adaptor (round and flat) market in the United States.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury or likelihood of injury to an industry in the United States by virtue of such imports from the United Kingdom. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the U.S. International Trade Commission, within 30 days of receipt of this referral, advise the Secretary that there is not reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, this investigation will be terminated. Otherwise, the investigation will continue to conclusion.

This notice is published pursuant to § 153.30, Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 26, 1979.

[FR Doc. 79-3706 Filed 2-1-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 19]

ASSIGNMENT OF HEARINGS

JANUARY 30, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of concellation or postponements of hearings in which they are interested.

MC 144620F, Executive Coach, Inc., now being assigned continued hearing March 5, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 138328 (Sub-60F), Clarence L. Werner dba Werner Enterprises now assigned continued hearing March 6, 1979 at the office of Interstate Commerce Commission, Washington, D.C.

No. MC 22301 (Sub-26F), Sioux Transportation Company, Inc., now assigned March 12, 1979 (1 week), at Sioux Falls, South Dakota, in a hearing room to be later designated.

No. MC 15859 (Sub-10F), The Hine Line, now assigned May 1, 1979 at Chicago, Illinois (4 days), in a hearing room to be later designated.

MC 115495 (Sub-37F), United Parcel Service, Inc., now assigned February 27, 1979, at Dallas, Texas, is changed to February 27, 1979 (14 days), at Dallas Marriott Hotel Market Center 2101 Stemmons Freeway, Dallas, Texas and continued to April 3, 1979 (9 days) at Dallas Marriott Hotel, Market Center 2101 Stemmons Freeway, Dallas, Tex.

MC-114533 (Sub-371), Bankers Dispatch Corporation, now assigned April 2, 1979 (5 days), at Topeka, Kansas in a hearing room to be later designated.

MC-F 13644, Ford Brothers, Inc.—Purchase (Portion)—Davis Transport, Inc. MC-112595 (Sub-77F), Ford Brothers, Inc.; now assigned for hearing on March 14, 1979 (3 days), at Columbus, Ohio in a hearing room to be later designated.

MC-116915 (Sub-65F), Eck Miller Transportation Corp., now assigned for hearing on March 13, 1979 (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 109324 (Sub-38F), Garrison Motor Freight, Inc., now being assigned March 13, 1979 (14 days), at Little Rock, Ark., in a hearing room to be later designated.

MC 123069, Aller & Sharp, Inc., now assigned continued hearing March 20, 1979, at the offices of Interstate Commerce Commission, Washington, D.C.

No. MC 126822 (Sub-48F), Westport Trucking Company, now assigned May 1, 1979 at Chicago, Illinois (4 days), in a hearing room to be later designated.

No. MC 119991 (Sub-22F), Young Transport, Inc., now assigned May 1, 1979 (4 days), at Chicago, Illinois in a hearing room to be later designated.

No. MC 119991 (Sub-18), Young Transport, Inc., now assigned May 1, 1979 (4 days), at Chicago, Illinois in a hearing room to be later designated.

No. MC F 13593, Nebraska Transport Co., Inc.—Control—G & H Truck Line, Inc., now assigned February 6, 1979 (2 weeks) at Scottsbluff, Nebraska is canceled and transferred to Modified Procedure.

No. MC 133233 (Sub-57), Clarence L. Werner, dba Werner Enterprises now assigned January 15, 1979 at Chicago, Illinois is canceled.

No. MC 116254 (Sub-204F), Chem-Haulers, Inc., now assigned February 28, 1979 at Kansas City, Missouri for hearing is canceled and application dismissed.

No. MC 116254 (Sub-206F), Chem-Haulers, Inc., now assigned for hearing February 27, 1979 at Kansas City, Missouri is canceled and application dismissed.

MC 143364 Sub 1F, Associated Cab Company, Inc., now assigned continued hearing March 13, 1979, (4 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 107012 Sub 258, North American Van Lines, Inc., now assigned continued March 19, 1979, (2 days), at Atlanta Ga., in a hearing room to be later designated.

MC 144190 Sub 2F, Story, Inc., now being assigned March 21, 1979, (3 days), at Atlanta, Ga., in a hearing room to be later designated.

No. MC-128460 (Sub-No. 4F), John J. Conahan DBA Central Air, Freight Service, now assigned for continued hearing March 1, 1979, (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

No. MC 128527 (Sub-No. 121F), May Trucking Company now assigned for hearing April 17, 1979 (9 days), at Boise, Idaho in a hearing room to be later designated.

No. MC 8964 (Sub-No. 32). Witte Transportation, Company now assigned for hearing April 17 1979 (9 days), at St. Paul, Minnesota in a hearing room to be later designated.

No. MC 98291 (Sub-No. 3F), Kunkle Transfer & Storage Co., now assigned for hearing April 17, 1979 (9 days) at Phoenix, Az in a hearing room to be later designated.

No. MC 116004 (Sub-No. 49F), Texas Oklahoma Express, Inc., now assigned for hearing April 17, 1979 (2 weeks) at Wichita, Kansas in a hearing room to be later designated.

No. MC 29886 (Sub-No. 350F), Dallas & Mavis Forwarding Co., Inc. now assigned for hearing March 12, 1979 at Washington, D.C. for prehearing conference at the Offices of the Interstate Commerce Commission.

No. MC 114457 (Sub-No. 381F), Dart Transit Company now assigned for hearing May 8, 1979 at Washington, D.C. and will be held at the Offices of the Interstate Commerce Commission.

MC 103066 Sub 66F, Stone Trucking Co., now assigned April 3, 1979, at Houston, Texas, (4 days), and continued to July 10, 1979, (4 days), at Dallas, Texas, hearing rooms to be designated later.

MC 121496 Sub 11F, Cango Corp., now being assigned April 9, 1979, (2

days), at Dallas, Texas, in a hearing room to be designated later.

MC 115826 Sub 299F, W. J. Digby, Inc., now being assigned April 11, 1979, at Dallas, Texas, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3724 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Exception No. 12, Amdt. No. 1, Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332]

ALL RAILROADS

Decided: January 25, 1979.

By the Board:

Upon further consideration of Exception No. 12 and good cause appearing therefor:

It is ordered,

Exception No. 12 to Second Revised Service Order No. 1332 is amended to:

Expire February 2, 1979.

Issued at Washington, D.C., January 25, 1979.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 79-3723 Filed 2-1-79; 8:45 am]

[7035-01-M]

[Volume No. 5]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JANUARY 24, 1979.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 172 (Sub-8) (M1F) (Notice of filing of petition to modify certificate), filed November 3, 1978. Petitioner: ROBERT E. WADE, 1312 Helderberg Avenue, Schenectady, NY 12306. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 172 Sub 8, issued May 3, 1973, authorizing transportation, over irregular routes, (1) *Passengers and their baggage* in round-trip sightseeing and pleasure tours, in special operations, beginning and ending at Schenectady, NY, and extending to points in the United States (except points in NJ, PA, DE, MD, VA, MA, CT, RI, VT, NH, AK, HI, and DC), and (2) *Passengers and their baggage* in the same vehicle with passengers in round-trip charter operations, beginning and ending at Schenectady, NY, and extending to points in the United States (except points in NJ, PA, DE, MD, VA, MA, CT, RI, VT, NH, NC, SC, GA, FL, ME, AK, HI, and DC). By the instant petition, petitioner seeks to modify the above authority by deleting AK from the excluded portion of authority, thereby adding it to the territory.

MC 730 (Sub-266) (M1F) (Notice of filing of petition to modify certificate), filed October 25, 1978. Petitioner: PACIFIC INTERMOUNTAIN EXPRESS CO., A Corporation, P.O. Box 958, Oakland, CA 94604. Representative: A. G. Krebs, (Same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 730 Sub 266 issued March 24, 1977, authorizing transportation, over regular routes, as alternate routes for operating convenience only: as pertinent, of, *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (3) Between Albuquerque, NM, and junction Interstate Hwy 40 and U.S. Hwys. 66 and 89, near Ash Fork, AZ, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving Albuquerque, NM, and junction Interstate Highway 40 and U.S. Hwys 66 and 89 near Ash Fork, AZ, for the purposes of joinder only: From Albuquerque over Interstate Hwy 40 (U.S. Hwy 66) to junction U.S. Hwys 66 and 89, and return over the same route. By the instant petition, petitioner seeks to serve Flagstaff, AZ as an additional point for purpose of joinder only.

MC 30204 (Sub-17) (M2F) (Notice of filing of Petition to modify Certificate), filed October 26, 1978. PETITIONER: HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, MA 02740. Representative Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Petitioner holds a motor *common carrier Certificate in No. MC-30204 (Sub-No. 17)*, served September 5, 1978, authorizing transportation over regular routes as pertinent of REGULAR ROUTES: (A) *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) Between Winchester, VA, and New York, NY, serving all intermediate points; the off-route point of Belvidere, NJ, restricted to the pickup or delivery of traffic moving to or from Celco VA, and Amcelle, MD; and the off-route points of Herndon, VA, Brunswick, MD, Biglerville, Bristol, Catasauqua, Hanover, Lititz, Littlestown, Mercersburg, Northampton, Pen Argyl, and Waynesboro, PA, Carneys Point, Carteret, East Rutherford, Haledon, Harrison, Irvington, Linden, New Brunswick, Parlin, Perth Amboy, and Rahway, NJ, those in the New York, NY Commercial Zone, as defined by the Commission, and those in the Philadelphia, PA Commercial Zone, as defined by the Commission: (a) From Winchester over U.S. Hwy 11 to Chambersburg, PA, then over U.S. Hwy 30 to junction Business Route U.S. Hwy 30 (formerly portion U.S. Hwy 30), then over Business Route U.S. Hwy 30 via Coatesville and Downingtown, PA, to junction U.S. Hwy 30, then over U.S. Hwy 30 to Philadelphia, PA, then over U.S. Hwy 1 to New York, and return over the same route. (b) From Winchester over Virginia Hwy 7 (formerly Alternate U.S. Hwy 340) to Berryville, VA, then over U.S. Hwy 340 to Frederick, MD, then over U.S. Hwy 40 to junction unnumbered hwy west of Ellicott City, MD, then over said unnumbered hwy to Baltimore, MD, then over U.S. Hwy 40 to State Road, DE, then over U.S. Hwy 13 to Philadelphia, PA, then over U.S. Hwy 1 to New York, and return over the same route. (c) From Winchester over U.S. Hwy 50 to Fairfax, VA, then over Virginia Hwy 236 to Alexandria, VA, then over U.S. Hwy 1 to New York, and return over the same route. (d) From Winchester over Virginia Hwy 7 to Falls Church, VA, then over U.S. Hwy 29 to Baltimore, MD, then to New York as specified above, and return over the same route. (2) Between Winchester, VA, and New York, NY, serving all intermediate points be-

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

tween Winchester, VA, and Chambersburg, PA, and between junction of U.S. Hwy 22 and New Jersey Secondary Hwy 567 near Raritan, NJ, and New York, NY: the specific intermediate points of Chambersburg, Harrisburg, Allentown, Bethlehem, and Easton, PA, and Phillipsburg, NJ; the off-route point of Belvidere, NJ, restricted to the pickup or delivery of traffic moving to or from Celco, VA, and Amcelle, MD; and the off-route points of Herndon, VA, Brunswick, MD, Biglerville, Bristol, Catasaugua, Hanover, Lititz, Littlestown, Mercersburg, Northampton, Pen Argyl, and Waynesboro, PA, Carneys Point, Carteret, East Rutherford, Haledon, Harrison, Irvington, Linden, New Brunswick, Parlin, Perth Amboy, and Rahway, NJ, those in the New York, NY Commercial Zone, as defined by the Commission, and those in the Philadelphia, PA Commercial Zone, as defined by the Commission: From Winchester over U.S. Hwy 11 to Harrisburg, PA, then over U.S. Hwy 22 to junction unnumbered hwy, then over unnumbered hwy via Allentown, Bethlehem, and Easton, PA, to junction U.S. Hwy 22, thence over U.S. Hwy 22 to Newark, NJ, then over U.S. Hwy 1 to New York, and return over the same route. (3) Between Lancaster, PA, and Reading, PA, serving no intermediate points: From Lancaster over U.S. Hwy 222 to Reading, and return over the same route. (4) Between Philadelphia, PA, and Easton, PA, serving no intermediate points: From Philadelphia over U.S. Hwy 611 to Easton, and return over the same route. (5) Between Philadelphia, PA, and Allentown, PA, serving no intermediate points: From Philadelphia over U.S. Hwy 309 to Allentown, and return over the same route. (6) Between Philadelphia, PA, and Harrisburg, PA, serving no intermediate points: From Philadelphia over U.S. Hwy 422 to Harrisburg, and return over the same route; RESTRICTION: In connection with the regular routes described in (A) (1) through (6) above, service at the following intermediate and off-route points in PA: those located on U.S. Hwy 30 west of Downingtown, PA, and east of Gettysburg, PA, and Catasaqua, Hanover, Lititz, Northampton, Pen Argyl, Allentown, Reading, Easton, Bethlehem, and Harrisburg, PA, is restricted against shipments destined to or originating at (1) points in the the New York, NY Commercial Zone, as defined by the Commission, (2) the intermediate and off-route points in Passaic, Sussex, Warren, Morris, Essex, Hunterdon, Union, Somerset, and Middlesex Counties, NJ, and (3) those in CT, RI and MA. By the instant petition, petitioner seeks to eliminate the above RESTRICTION from its Certificate.

MC 87205 (M1F) (Notice of filing of petition to modify certificate), filed October 30, 1978. Petitioner: PERKINS TRUCKING CO., INC., 250 Miller Place, Hicksville, NY 11801. Representative: Edward L. Nehez, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds a motor *common carrier* certificate in MC 87205 issued November 6, 1952, authorizing transportation over irregular routes, as pertinent of (1) *General commodities* (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in NY, and NJ within 40 miles of Columbus Circle, New York, NY, and (2) *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between points in the New York, NY Commercial Zone, as defined by the Commission, on the one hand, and on the other, points in Queens, Nassau, and Suffolk Counties, NY. By the instant petition, petitioner seeks to modify the above authority by changing the territorial description to read: (1) Between New York, NY, on the one hand, and, on the other, points in Dutchess, Orange, Putnam, Rockland and Westchester Counties, NY.; Bergen, Burlington, Camden, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, NJ.; and those in Bucks, Montgomery, Northampton, and Philadelphia Counties, PA. (2) Between points in the New York, NY, commercial zone as defined by the Commission, on the one hand, and, on the other, points in Queens, Nassau, and Suffolk Counties, NY, and (3) between points in Dutchess, Orange, Putnam, Rockland, and Westchester Counties, NY, Bergen, Burlington, Camden, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, NJ.; and those in Bucks, Montgomery, Northampton, and Philadelphia Counties, PA, on the one hand, and, on the other, points in Queens, Nassau, and Suffolk Counties, NY.

MC 114301 (Sub-85) (M1F) (Notice of filing of petition to modify certificate), filed October 27, 1978. Petitioner: DELAWARE EXPRESS CO., A Corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1511 K Street, NW, Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 114301 Sub 85 issued August 25, 1976, authorizing transportation, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from the facilities of Union Texas Petroleum Division of Allied Chemical Corporation at Baltimore, MD, to points in PA, NJ, DE, MD, and VA. By the instant petition, petitioner seeks to modify the above authority by deleting the facility reference in the origin description.

MC 118288 (Sub-47) (M1F) (Notice of filing of petition to modify certificate), filed November 6, 1978. Petitioner: FROST TRUCK LINES, INC., P.O. Box 39639, Los Angeles, CA 90039. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Petitioner holds a motor *common carrier* certificate in MC-118288 (Sub-47), issued Sept. 20, 1978, authorizing transportation over irregular routes of: *General commodities* (except those of unusual value, Classes A and B explosives, households goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 402(a)(5) of the Interstate Commerce Act, from Los Angeles, CA, to Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco, and Spokane, WA, Medford, Salem, Eugene, and Portland, OR, and Boise, ID. Petitioner seeks to provide service in both directions by amending the territorial description to read: Between Los Angeles, CA, on the one hand, and Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco and Spokane, WA; Medford, Salem, Eugene and Portland, OR; and Boise, ID on the other hand.

MC 119765 (M1F) (Notice of filing of petition to modify certificate), filed October 30, 1978. Petitioner: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Petitioner holds a motor *common carrier* certificate in MC-119765 issued June 14, 1965. MC-119765 authorizes transportation, over irregular routes of, as pertinent, *twine, farm machinery, farm implements and parts*, from Canton, Chicago, Moline, Rock Falls, and Rock Island, Ill., to points in that part of Iowa, on, west, and south of a line beginning at the Iowa-Missouri State line and extending north along Iowa Highway 25 to Junction U.S. Highway 30, at or near Scranton, Iowa, then west along U.S. Highway 30, to Denison, Iowa, then along Iowa Highway 141, to Ute, Iowa, then along Iowa Highway 183 to Soldier, Iowa, then along Iowa Highway 37 to Onawa, Iowa, then along Iowa Highway 175 to the eastern shore of the Missouri River. By the instant Petition, Petitioner seeks to modify the

commodity description in this certificate to include: "Such commodities as are used in the manufacture and production of farm machinery, farm implements and parts".

MC 124896 (Sub-15) (M1F) (Notice of filing of petition to modify certificate), filed November 2, 1978. Petitioner: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Petitioner holds a motor *common carrier* certificate in MC-124896 (Sub-15) issued September 13, 1977, which authorizes the transportation, as pertinent, of: (a) *Roasted peanuts and peanut products* (except in bulk, in tank vehicles), and (b) *peanuts*, when transported in the same vehicle and at the same time with roasted peanuts and/or peanut products, from the facilities of Seabrook Blanching Corp., at or near Sylvester, GA, to points in AL, AR, CA, CO, FL, IA, IN, KS, KY, MI, MN, MS, MO, OH, OK, OR, PA, TX, UT, WA, WI, and points in IL (except Cook and Du Page Counties), restricted to the transportation of traffic originating at the named origin points and destined to the named destination points. By the instant petition, petitioner seeks to modify the above authority by deleting the words, "except Cook and Du Page Counties".

MC 129424 (M1F) (Notice of filing of petition to modify permit), filed October 25, 1978. Petitioner: FILEX TRUCKING CORP., North Water Street, Ossining, NY 10562. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Petitioner holds a motor *contract carrier* permit in MC 129424 issued October 25, 1978, authorizes transportation, over irregular routes, of *Filing and storage cabinets, desks, and parts thereof*, uncrated, and *filing and storage cabinets, desks, and part thereof*, crated, when moving in mixed loads with filing and storage cabinets, desks, and parts thereof, uncrated, between Ossining, NY, on the one hand, and on the other, points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VA, AL, TN, KY, IN, MI, OH, WV, VT, and DC. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract(s) with Filex Steel Products Company, of Ossining, NY. By the instant petition, petitioner seeks to modify the commodity description to read: *Filing and storage cabinets, desks,* and *parts* thereof.

MC 133146 (Sub-10 and 17) (MIF) (notice of filing of petition to modify permits), filed October 25, 1978. Petitioner: INTERNATIONAL TRANSPORTATION SERVICE, INC., 3300 Northeast Expressway, Suite 1-M, Atlanta, GA 30341. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE, Atlanta, GA 30309 Petitioner holds motor *contract carrier* permits in MC 133146 Subs 10 and 17 issued June 11, 1975 and June 15, 1977, respectively. MC 133146 Sub 10 authorizes transportation, over irregular routes, of Wine (except in bulk, in tank vehicles), from Atlanta, GA, to points in TX and MO, under a continuing contract(s) with Monarch Wine Company of GA. MC 133146 Sub 17 authorizes transportation, over irregular routes, of *Wine* (except in bulk, in tank vehicles), from Atlanta, GA, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV, WI, and DC, under a continuing contract(s) with Monarch Wine Company of GA. By the instant petition, petitioner seeks to modify the above two permits by adding the commodity and territorial descriptions as follows: Sub 10 seeks to have added as part (2) Materials and supplies used in the production and distribution of wine (except in bulk, in tank vehicles), from points in TX and MO to Atlanta, GA; Sub 17 seeks to have added as part (2) Materials and supplies used in the product on and distribution of wine (except in bulk, in tank vehicles), from points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV, WI, and DC to Atlanta, GA.

MC 136155 (Sub-4) (MIF) (notice of filing of petition to modify certificate), filed October 24, 1978. Petitioner: GAY TRUCKING COMPANY, A Corporation, P.O. Box 7179, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* certificate in MC 136155 (Sub-4) issued February 16, 1978, authorizing transportation, over irregular routes, of: *Iron and steel articles*, from the facilities used by National Wire of Georgia, Inc., Valiant Steel & Equipment, Inc., and L. B. Foster Company, at or near Savannah, GA to points in FL, NC, and SC. RESTRICTION: The authority granted herein is restricted against the transportation of shipments in containers or trailers having an immediately prior or subsequent movement by water in foreign commerce. By the instant petition, petitioner seeks to modify the above authority by deleting the words: "the facilities used by National Wire of Georgia, Inc., Valiant Steel & Equipment, Inc., and L.B. Foster Company, at or near."

MC 138069 (Sub-2) (M1F) (Notice of filing of petition to modify certificate), filed October 20, 1978. Petitioner: LUCIUS, INC., 9250 North Wadsworth, Broomfield, CO 80020. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Petitioner holds a motor *common carrier* certificate in MC 138069 Sub 2 issued April 18, 1978, authorizing transportation, over irregular routes, of *Alcoholic beverages* and *non-alcoholic beverage mixes* (except in bulk), (1) From points in MI and LA and St. Louis, MO, to Denver, CO, RESTRICTION: The authority granted under (1) above is restricted to the transportation of shipments originating at the above-described origins and destined to the facilities of Western Distributing Company (doing business as Western-Davis Company, Inc.), which were formerly the facilities of Davis Bros., Inc., and (2) from points in IL, IN, KY, TX (except Houston), and CA to Denver, CO. RESTRICTION: The authority granted under (2) above is restricted to the transportation of shipments originating at the above-described origins and destined to the facilities of Western Distributing Company (doing business as Western-Davis Company, Inc.), which were formerly the facilities of Davis Bros., Inc., or Midwest Liquor & Wine Company at Denver, CO, and (3) from Houston, TX, to Denver, CO, RESTRICTION: The authority granted under (3) above is restricted to the transportation of shipments destined to Denver, CO. By the instant petition, petitioner seeks to modify the above authority by deleting the restrictions in (1) and (2) above.

MC 139495 (Subs 4, 172, and 245) (M1F) (Notice of filing of petition to modify certificates), filed October 31, 1978. Petitioner: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds motor *common carrier* certificates in MC 139495 Subs 4, 172, and 245, issued November 13, 1975, August 5, 1977, and May 17, 1978, respectively. MC 139495 Sub 4 authorizes transportation over irregular routes, of *Lamps*, from the facilities of North American Philips Lighting Corporation, at or near Lynn, MA, to points in CA, CO, IL, IN, MO, NE, OK, OR, TX, WI, NV, TN, and KS. MC 139495 Sub 172 authorizes transportation, over irregular routes, of *Lamps*, from points in Essex County, MA, to points in WA, OR, CA, NV, MT, ID, UT, AZ, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, MD, MO, WI, IA, MI (except Detroit), WV, DE, and DC. MC 139495 Sub 245 authorizes transportation, over irregular routes, of *Light bulbs*, from the facilities used by North American Philips Lighting Corporation, at or near Lynn, MA, to Toledo, OH, and Detroit, MI.

By the instant petition, petitioner seeks to consolidate the above three certificates to read: *Lamps,* from points in Essex County, MA, to points in AZ, CA, CO, DE, IA, ID, IL, IN, KS, MD, MN, MI, MO, MT, NE, ND, NM, NV, OH, OK, OR, SD, TN, TX, UT, WA, WI, WV, WY, and DC.

MC 139495 (Sub-210) (M1F) (Notice of filing of petition to modify certificate), filed October 30, 1978. Petitioner: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* certificate in MC 139495 Sub 210, issued November 23, 1977, authorizing transportation over irregular routes, of *Wheat germ and granola,* (1) from the facilities of International Multifoods Corporation, at or near Manhattan, KS, to the facilities of International Multifoods Corporation, at or near Carrollton, MI, and (2) from the facilities of International Multifoods Corporation, at or near Manhattan, KS, and Carrollton, MI, to points in CT, MD, ME, MA, NH, NJ, NY, RI, and VT. By the instant petition, petitioner seeks to add authority to transport: Wheat germ and granola, from the facilities of International Multifoods Corporation at or near Buffalo, NY, to the facilities of International Multifoods Corporation at or near Carrollton, MI.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 98017 (Sub-6) (Republication), filed February 10, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, as New York Docket No. T-863, and republished this issue. Applicant: SHAY'S SERVICE, INC., North Main Street, Dansville, NY 14437. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13203. A Decision of the Commission, Review Board Number 4, decided January 8, 1979, and served January 16, 1979, finds that the applicant may conduct operations in interstate or foreign commerce within limits which do not exceed the scope of the intrastate operations for which applicant holds Certificate No. 2880, embraced in the order dated September 26, 1978, extended and reissued by the New York State Department of Transportation, which authorized operations as a common carrier, by motor vehicle, solely within the State of New York in the transportation of (A) *Paper and paper machines,* from the Village of Dansville (Steuben County) and Perkinsville (Steuben County), NY, to all points in the State, (B) *waste paper,* from all points in the State to the Village of Dansville (Livingston County), (C) *general commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York, between all points in the Counties of Allegany, Erie, Ontario, Broome, Genesee, Schuyler, Cattaraugus, Livingston, Steuben, Chautauqua, Monroe, Tioga, Chemung, Niagara, Wyoming; and (D) *general commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York, except as otherwise authorized herein, between Livingston County, on the one hand, and, on the other, all points in the following counties, Orleans, Wayne and Yates. Restrictions: The authority contained herein is limited as follows, (1) to all traffic having prior or subsequent movement at all points in Livingston County by interlining common, contract or private carriage; and (2) the authority granted herein shall not be combined with any other operating authority now held by the applicant. The provisions of Section 831.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York shall not be deemed applicable to the authority granted herein. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 108375 (Sub-39) (2nd Republication), filed October 31, 1977, published in the FEDERAL REGISTER issues of December 22, 1977 and March 9, 1978, and republished this issue. Applicant: LEROY L. WADE & SON, INC., P.O. Box 27053, 10550 I Street, Omaha, NE 68127. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. A Decision of the Commission, by the Initial Decision of Administrative Law Judge Harold J. Sarbacher, served November 9, 1978, becomes effective January 3, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Power generating equipment,* the transportation of which because of size or weight requires special equipment, between points in NE, restricted to shipments having an immediately prior or subsequent movement by rail or water; and (2) *used power generating equipment,* the transportation of which because of size or weight requires special equipment, (a) between points in Douglas, Sarpy, Cass, Otoe, Pawnee, Richardson, Nemaha, Burt, Colfax, Dodge, Johnson, Saunders, and Washington Counties, NE, on the one hand, and, on the other, Oklahamo City, OK, and (b) between points in NE and IA, on the one hand, and, on the other, points in KS and MO, and those points in IL which are in the St. Louis, MO, Commercial Zone, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 113678 (Sub-731F) (Republication), filed March 22, 1978, published in the FEDERAL REGISTER issue of May 18, 1978, and republished this issue. Applicant: CURTIS, INC. P.O. Box 16004 Stockyard Station, Denver, CO 80216. Representative: Roger M. Shaner (same address as applicant). A Decision of the Commission, Review Board Number 4, decided December 28, 1978, and served January 16, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Citrus and pineapple products* (except commodities in bulk, in tank vehicles), from Weslaco and Harlingen, TX; to points in AZ, CA, CO, IN, IA, KS, MI, MN, NE, and WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity description and indicate Weslaco and Harlingen, TX, as origin points in lieu of Cameron, Willacy, Starr, Hidalgo, and Nueces Counties, TX.

MC 134730 (Sub-5) (M1F) (REPUBLICATION OF NOTICE OF FILING PETITION FOR MODIFICATION OF PERMIT), filed May 10, 1978, published in the FEDERAL REGISTER issue of August 3, 1978 and republished this issue. Applicant: METALS TRANSPORT, INC., 528 South 108th Street, West Allis, WI 53214. Representative: M. H. Dawes (same address as petitioner). A Decision of the Commission, Review Board Number 3, decided January 8, 1979, and served January 11, 1979, finds that the present and future public convenience and necessity require modification of Permit No. MC 134730 (Sub-No. 5), issued February 11, 1976, authorizing transportation over irregular routes of (1) *Material handling equipment, parts and accessories* for material handling equipment, and *materials, parts, supplies,* and *equipment* used in the manufacturer and repair of material handling equipment, between points in the United States (including AK but excluding HI), under a continuing contract, or contracts, with Vulcan Materials Co., of Birmingham, AL; and (2) *waste water treatment equipment and parts, materials, equipment, and supplies* (except commodities in bulk), used in the manufacture of waste water treatment equipment between the facilities of Autotrol Corporation, at Oak Creek, WI, on the one hand, and, on the other, points in AR, IA, IL, IN, KS, KY, ME, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, SD, TN, VT, VA, and WV, under contract with Autotrol Corporation, of Oak Creek, WI. Petitioner will be consistent with the public interest and the national transportation policy, is fit, willing, and able properly to perform such service and to comform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate petitioner's actual grant of authority.

MC 143032 (Sub-3) (REPUBLICATION), filed November 7, 1977, published in the FEDERAL REGISTER issue of December 29, 1977, and republished this issue. Applicant: THOMAS J. WALCZYNSKI, d/b/a Walco Transport, 607 North 27th Avenue West, Duluth, MN 55806. Representative: James B. Hoverland, P. O. Box 1637, 414 Gate City Building, Fargo, ND 58102. A Decision of the Commission, Division 1, decided December 28, 1978, and served January 16, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Heating briquets,* from Superior, WI, to points in the United States (except AK, CO, HI, IL, IN, IA, MI, MN, NE, NY, ND, OH, SD, and WI; and (2) *coke,* from Superior, WI, to points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144264 (Republication), filed January 30, 1978, published in the FR issue of March 9, 1978, and republished this issue. Applicant: MOHR TRUCKING CO., INC., Route 1, Box 198, Barboursville, WV 25504. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. A Decision of the Commission, Review Board Number 2, decided November 7, 1978, and served January 9, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Crushed limestone aggregate, limestone sand, railroad ballast, and agricultural lime,* in bulk, from points in Adams County, OH, to points in Boyd, Carter, Greenup, Lawrence, and Martin Counties, KY, and Boone, Cabell, Jackson, Kanawah, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt, and Wood Counties, WV, under continuing contract(s) with Plum Run Stone Division of Davon, Inc. of Hillsboro, OH, and (2)(a) *rock dust, agricultural lime, limestone, slag, aggregates, limestone sand, coarse sand, and railroad ballast,* in bags in bulk, from points in Adams, Jackson, Lawrence, Muskingum and Scioto Counties, OH, to points in Boyd, Carter, Greenup, Lawrence and Martin Counties, KY, and Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt, and Wood Counties, WV; and (b) *crushed limestone, agricultural lime, and slag,* in bags and in bulk, from points in Boyd, Carter, and Greenup Counties, KY, to points in Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt and Wood Counties, WV, under continuing contract(s) in (2) (a) and (b) with M&M Supply, Inc., of Barboursville, WV, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosectute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 135684 (Sub-85F) (correction), filed December 27, 1978, previously noted in FEDERAL REGISTER of January 18, 1979 and republished this issue. Applicant: BASS TRANSPORTATION CO., INC. P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Hervert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk, between points in the United States (except AK and HI).

Note—The purpose of this republication is to indicate the territorial scope of the application. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979

MC 139495 (Sub-402F) (correction), filed December 27, 1978, previously noted in FEDERAL REGISTER of January 18, 1979, and republished this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk, between points in the United States (except AK and HI).

NOTE.—The purpose of this republication is to indicate the territorial scope of the application. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before March 2, 1979. Such protest shall comply with special rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the energy Policy and Conversation Act of 1975.

MC-F-13831F (correction) (REPUBLIC VAN AND STORAGE CO., INC.—PURCHASE (portion)—WESTERN GILLETTE, INC.), published in the December 14, 1978, issue of the FEDERAL REGISTER, on page 58465. The following errors appeared in the publication: 1) Column 3, Line 31: This line presently reads "* * * unnumbered highway between junction * * *". The phrase "* * * near Marble Canyon, AZ, those on unnumbered highway * * *" should be inserted after "highway" and before "between". Line 31, therefore, should read "* * * unnumbered highway near Marble Canyon, AZ, those on unnumbered highway between * * *". 2) Column 3, Line 36: U.S. Highway 66 should be changed to U.S. Highway 466.

MC-F-13835F. Authority sought for purchase by HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101, of the operating rights of Heimberg Cartage Co., Inc., 3420 W. 60th Street, Chicago, IL 60629 and for Thomas L. Hilt, individually and as trustee of the stock of Robert L. Hilt, and Sandra M. Norris, both of P.O. Box 988, D.T.S., Omaha, NE 68101, for control of such rights through the transaction. Applicants' attorney: James C. Hardman, Suite 2108, 33 N. LaSalle Street, Chicago, IL 60602. Operating rights sought to be transferred: *General commodities*, within a Fifty (50) mile radius of 2738 S. Wells Street, Chicago, Illinois and to transport such property to or from any point outside of such authorized area of operation, for a shipper or shippers within such area; also, *feed*, to or from any point or points within the State of Illinois. Transferee is authorized to operate as a common carrier in all states except AK and HI. Application has been filed for temporary authority under Section 210a(b) of the Act. (Hearing site: Chicago, IL.)

NOTE.—MC 124211 (Sub-346F) is a directly related matter.

MC-F-13840F. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Representative: Rex Eames, Eames, Petrillo & Wilcox, 900 Guardian Building, Detroit, MI 48226. Authority sought for control and merger by Associated Truck Lines, Inc., 200 Monroe Avenue, N.W.—6th Floor, Grand Rapids, MI 49503, of the operating rights and properties of The Depenthal Truck and Storage Company, 857 Matzinger Road, Toledo, OH 43612, and for acquisition of control of such rights and property directly by Associated Freightways, Inc., 200 Monroe Avenue, N.W.—6th Floor, Grand Rapids, MI 49503 and, in turn, by American Natural Resources Company, One Woodward Avenue, Detroit, MI 48226 through the transaction. Operating authority of The Depenthal Truck and Storage Company sought to be transferred: *Property* from and to: Toledo, OH, and also to transport household goods, office furniture and fixtures upon and over irregular routes from and to any point in Lucas County, OH. RESTRICTED: Against transporting household goods, office furniture and fixtures from or to any locality in Lucas County, OH, from or to which van equipment is operated by a Certificated operator there located, unless such movements originate at or are destined to Toledo, OH.

Vendee is authorized to operate as a common carrier within the States of KY, MI, OH, PA, WV, and WI.

Temporary authority under 210a(b) has been sought. (Hearing site: Columbus, OH or Detroit, MI.)

NOTE.—MC 69833 (Sub-139F) is a directly related matter.

MC-F-13863F. Authority sought for purchase by WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121, of all of the operating rights of Albany Frozen Express, Inc., 510 West Mill Blvd., Suite 2F, Vancouver, WA 98660, and for acquisition by William Everett, 1559 Cottonwood Lane, Mt. Vernon, WA, and Walter T. Detrick, 2002 Highway 9, Mt. Vernon, WA 98273, of control of such rights through the purchase. Transferee's Attorney: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Transferor's Attorney: Same.

Operating rights sought to be purchased: Frozen fruits, frozen berries, and frozen vegetables, (1) from points in that part of Oregon west of U.S. Highway 97, to points in California and points in that part of Washington west of U.S. Highway 97; (2) From points in Washington to points in California and points in that part of Oregon west of U.S. Highway 97, and (3) From points in California to points in those parts of Oregon and Washington west of U.S. Highway 97. Vendee is authorized to operate as a common carrier within the states of OR, WA, and CA. Application has been filed for temporary authority under Section 210a(b).

MC-F-13873F. Authority sought for purchase by B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055, of the operating rights of Moeller Trucking Co., Post Office Box 359, North Lima, Ohio 44452, and for acquisition by The Capitol Corporation, 1984 Coffman Road, Newark, Ohio 43055, of control of such rights through the transaction. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be purchased: *General commodities* as a *common carrier,* over irregular routes, between Steubenville, OH on the one hand, and, on the other, points in OH. Vendee is authorized to operate as a *common carrier* in all states except AK and HI. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC 123255 (Sub-95F) is a directly related matter.

MC-F-13888F. Authority sought for purchase by TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050, of a portion of the operating rights of Herrett Trucking Company, Inc., 204 Butterfield Road, P.O. Box 1436, Yakima, WA 98907, and for control of the rights sought to be purchased by Gerald V. Smith, 1825 De La Cruz Blvd., Santa Clara, CA 95050. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Operating rights sought to be purchased and controlled: *Wooden shakes, shingles, and trim,* over irregular routes, from points in OR and WA to points in CA, AZ, and NV in docket MC 30092, Sub No. 17. Vendee is authorized to operate pursuant to various subs to certificate number MC 126327 and to permit number MC 138299 as a common and contract carrier in the states of AZ, CA, ID, MT, NV, NM, OR, TX, UT, WA and WY. Gerald V. Smith also controls Bakersfield Express, Inc., a motor contract carrier operating under permit number MC 136013 and subs thereto. Dual operations and common control have previously been approved in MC 136013 Sub 1 and MC-F-13272. There is no duplicating authority involved. Application has not been filed for temporary authority under 49 USC 11349 [Section 210a(b) of the former Interstate Commerce Act]. (Hearing site: San Francisco, CA.)

MC-F-13889F. Authority sought for the purchase by Penn Yan Express, Inc., 100 West Lake Road, Pen Yan, NY 14527, of a portion of the operating rights of B&P Motor Express, Inc., 720 Gross Street, Pittsburgh, PA 15224, and for acquisition by Robert L. Hinson, 100 West Lake Road, Penn Yan, NY 14527, of control of such rights through the purchase. Applicants' attorneys: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312 and Maxwell A. Howell, 1120 Investment Building, 1511 K Street, N.W. Washington, D.C. 20005. Operating rights sought to be purchased: *General commodities,* with exceptions, as a *common carrier* over regular routes between (1) Baltimore, MD and Washington, D.C. over U.S. Hwy 1, serving all intermediate points, (2) Philadelphia, PA and Washington, D.C. over U.S. Hwy 13 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Baltimore, then over U.S. Hwy 1 to Washington, D.C., serving all intermediate points, (3) Richmond, VA and Baltimore, MD over U.S. Hwy 1, serving all intermediate points and the off-route points of Amphill, Richmond General Depot and Richmond Deepwater Terminal, VA, (4) junction U.S. Hwy 1 and Interstate Hwy 95 near the VA-D.C. line and junction of U.S. Hwy 1 and Interstate Hwy 95 north of Woodbridge, VA over Interstate Hwy 95 as an alternate route only, and (5) junction of U.S. Hwy 1 and Alternate U.S. Hwy 1 north of Fredericksburg, VA and junction of U.S. Hwy 1 and Alternate U.S. Hwy 1 south of Fredericksburg, over Alternate U.S. Hwy 1 as an alternate route only. Penn Yan Express, Inc. is authorized to operate as a *common carrier* in the States of CT, DE, MD, NJ, NY, PA, and D. of C. Application has been filed for temporary authority under section 210a(b).

NOTE—MC 105902 (Sub-20F) is a directly related matter.

MC-F-13890F. Authority sought for transfer to Bakersfield Express, Inc., 1825 De La Cruz Blvd., Santa Clara, CA 95050, of a portion of the operating rights of Trails Trucking, Inc. (same address) and of control of the rights through the transfer by Gerald V. Smith (same address). Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Operating rights to be transferred: *Mineral wool and mineral wool products, insulating material, insulated air ducts, and products* utilized in the installation of the above described commodities, over irregular routes, from La Mirada and Union City, CA to points in AZ, ID, MT, NV, NM, OR, TX, UT, WA, and WY. The operations authorized are limited to a transportation service to be performed under a continuing contract(s) with Certain-Teed Products Corporation of Valley Forge, PA and are described in permit number MC 138299 Sub 5. Transferee operates as a motor contract carrier, over irregular routes, in permit numbers MC 136013 Subs 1 and 3 under contract(s) with Mobil Chimical Company. Transferee's operations are conducted in the same states as listed above. Common control by Gerald V. Smith of transferor and transferee and approval of dual operations have previously been authorized in MC-F-13272 and MC 136013 (Sub-1). Approval of the transaction will not result in any duplicating authority. Application has not been filed for temporary authority under 49 USC 11349 [Section 210a(b) of the former Interstate Commerce Act]. (Hearing site: San Francisco, CA.)

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before March 2, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 69833 (Sub-139F), filed November 29, 1978 Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW, Grand Rapids, MI 49503. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226.

Authority sought as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). I. Over irregular routes: (A) Between Toledo, OH, on the one hand, and, on the other, points in OH, (B) Between points in OH. II. Over regular routes: (A) (1) between the OH-IN State line and the OH-PA State line over U.S. Hwy. 20 and return over the same route; (2) between Toledo, OH and Cleveland, OH over OH State Hwy. 2 and return over the same route; (3) between Conneaut, OH and junction OH Hwy. 7 and OH Hwy. 14 over OH Hwy. 7 and return over the same route; (4) between the OH-PA boundary lines and the junction of OH Alt. Hwy. 14 and OH Hwy. 14, over OH Hwy. 14 and return over the same route; (5) between the junction of OH Alt. Hwy. 14 and U.S. Hwy. 62 and the junction of U.S. Hwy. 62 and Interstate Hwy. 77 over U.S. Hwy. 62 and return over the same route; (6) between OH-PA State line and Cleveland, OH over U.S. Hwy. 422 and return over the same route; (7) between Cleveland, OH and Cambridge, OH over Interstate Hwy. 77 and return over the same route; (8) between OH-IN State line and Cambridge, OH over U.S. Hwy. 40 and return over the same route; (9) between OH-IN State line and junction Interstate Hwy. 70 and Interstate Hwy. 77 over Interstate Hwy. 70 and return over the same route; (10) between Cleveland, OH and Cincinnati, OH over Interstate Hwy. 71 and return over the same route; (11) between Cleveland, OH and Cincinnati, OH over U.S. Hwy. 42 and return over the same route; (12) between Columbus, OH and Cincinnati, OH over OH Hwy. 3 and return over the same route; (13) between Toledo, OH and Cincinnati, OH over Interstate Hwy. 75 and return over the same route; (14) between OH-IN State line and Canton, OH over U.S. Hwy. 30 and return over the same route; (15) between OH-IN State line and Toledo, OH over U.S. Hwy. 24 and return over the same route; (16) between Norwalk, OH and junction U.S. Hwy. 250 and Interstate Hwy. 77 over U.S. Hwy. 250 and return over the same route; (17) between Toledo, OH and Columbus, OH over Interstate Hwy. 280 to junction OH Hwy. 51, then OH Hwy. 51 to unnumbered hwy. at or near Millbury, OH, then unnumbered hwy. to junction U.S. Hwy. 23, then U.S. Hwy. 23 to Columbus, OH and return over the same route. Serving all intermediate points on the routes named above and serving as off-route points all points in OH north of a line commencing at the KY-OH boundary at Cincinnati, OH and extending along OH Hwy. 3 to junction with Interstate Hwy. 70, then along Interstate Hwy. 70 to junction with Interstate Hwy. 77, then along Interstate Hwy. 77 to U.S. Hwy. 62, then along U.S. Hwy. 62 to junction with Alt. OH Hwy. 14, then along Alt. OH Hwy. 14 to OH Hwy. 14, then along OH Hwy. 14 to the OH-PA boundary line. (Hearing site: Detroit, MI, Columbus, OH, or Washington, D.C.)

NOTE.—This application is directly related to the finance transaction involved in Associated Truck Lines, Inc.—Purchase—The Depenthal Truck & Storage Co., MC-F-13840F. By this application Associated Truck Lines, Inc. seeks to convert the Certificate of Registration sought to be acquired in such finance proceeding. Applicant seeks either the authority sought in (A) or (B) above and, in addition, the authority sought in (C).

Applicant proposes to tack the authority requested in (A) or (B) above to two existing irregular route authority grants found in Applicant's Sub-No. 57 authority:

(1) The requested irregular route authority in (A) or (B) above to Applicant's authority to transport Metals used in manufacturing, Metal Products, in Bulk and Heavy Construction, Excavating and Mill Machinery that authorizes transportation of such commodities between Detroit, MI and points in MI within 100 miles of Detroit, on the one hand, and on the other, points in a prescribed area in northern OH, including Toledo, OH. Through the proposed tacking, Applicant will be authorized to transport such commmodities between Detroit, MI and points in MI within 100 miles of Detroit, on the one hand, and, on the other, all points in OH.

(2) The requested irregular route authority in (A) or (B) above to Applicant's authority to transport Building Materials that authorizes transportation of such commodities between Detroit, MI, and points in MI within 8 miles of Detroit, on the one hand, and, on the other, points in a prescribed area in northern OH, including, Toledo, OH. Through the proposed tacking, Applicant will be authorized to transport such commodities between Detroit, MI, and points in MI within 8 miles of Detroit, on the one hand, and, on the other, all points in OH. MC-F-13840F is published in a previous section of this FR issue.

MC 105902 (Sub-20F), filed January 12, 1979. Applicant: Penn Yan Express, Inc., 100 West Lake Road, Penn Yan, NY 14527. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Philadelphia, PA and Binghamton, NY: From Philadelphia over Interstate Hwy 76 to junction Interstate Hwy 276, then over Interstate Hwy 276 to junction Pennsylvania Hwy 9, then over Pennsylvania Hwy 9 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Binghamton, and return over the same route, serving no intermediate points but serving the junction of Interstate Hwy 81 and U.S. Highway 6 for joinder only; (2) between Philadelphia, PA and Elmira, NY: From Philadelphia over Pennsylvania Hwy 309 to junction Pennsylvania Hwy 378, then over Pennsylvania Hwy 378 to junction U.S. Hwy 22, then over U.S. Highway 22 to junction Pennsylvania Hwy 33, then over Pennsylvania Hwy 33 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 380, then over Interstate Hwy 380 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction U.S. Hwy 6, then over U.S. Highway 6 to junction U.S. Hwy 220, then over U.S. Hwy 220 to New York Hwy 17, then over New York Hwy 17 to Elmira, and return over the same route, serving no intermediate points but serving the junction of Interstate Hwy 81 and U.S. Hwy 6 and the off-route point of Wind Gap, PA, for joinder only; and (3) between Philadelphia, PA and Elmira, NY, as follows: From Philadelphia over Interstate Hwy 76 to junction Interstate Hwy 176, then over Interstate Hwy 176 to junction U.S. Hwy 422, then over U.S. Hwy 422 to junction U.S. Hwy 322, then over U.S. Hwy 322 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction Pennsylvania Hwy 14, then over Pennsylvania Hwy 14 to junction New York Hwy 14, then over New York Hwy 14 to Elmira and return over the same route, serving no intermediate points. (Hearing site: Washington, D.C. or Rochester, NY.)

NOTE.—The purpose of this application is to convert applicant's existing irregular-route authority between Philadelphia, PA and Binghamton, NY, and Elmira, NY, serving points beyond Elmira and Binghamton through joinder at Binghamton and Elmira with applicant's existing regular route authority. This application is directly related to a finance proceeding docketed MC-F-13889F, published in a previous section of this FEDERAL REGISTER issue.

MC 123255 (Sub-95F), filed January 2, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Steubenville, OH on the one hand, and, on the other, points in OH, and (2) between points in OH on the one hand, and, on the other, points in

MD, PA, and DC. (Hearing site: Columbus, OH.)

NOTE.—This application is directly related to MC-F-13873F, B & L Motor Freight, Inc.—Purchase—Moeller Trucking Co. Part (1) seeks to convert a certificate of registration to a certificate of public convenience and necessity, and part (2) seeks to eliminate the gateway of Steubenville, OH. MC-F-13873F is published in a previous section of this FEDERAL REGISTER issue.

MC 124211 (Sub-346F), filed November 21, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: James C. Hardman, Suite 2108, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except classes A and B explosives) (a) Between points in Cook, De Kalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, IL; and (b) Between points in the IL counties named in (1)(a) above, on the one hand, and, on the other, points in IL. (2) *Feed*, between points in IL. (3) *Pipe, conduit*, and *tubing* (except oil field commodities as described by the Commission in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459), from points in the IL Counties named in (1) above, to points in CA, CO, ID, KS, MT, MN, NE, OK, TX, UT, and WY. (Gateway eliminated: Fairbury, IL): (4) *Pipe and pipe fittings* (except iron and steel pipe, and commodities as described in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459 and 103 M.C.C. 823), from points in IL, to points in Adams County, NE. (Gateway eliminated: Lake and Madison Counties, IL). (5) *Sugar* and *dry fish meal*, from points in IL, to points in ID, IA, KS, MN, MO, MT, NE, ND, SD, UT, WI, and WY. (Gateway eliminated: East St. Louis, IL). (6) *Steel*, between points in IL, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), (Gateway eliminated: Fairbury and Sterling, IL). (7) *Cordage, bags, paper, paper products, twine*, and *yarn*, from Omaha, NE, to Monmouth, IL, and points in IL within the Chicago Commercial Zone, as defined by the Commission. (Gateway eliminated: points in IL (except Monmouth and Chicago). (8) *Metals, junk, scrap*, and *waste materials* (except waste materials in bulk), between points in Douglas and Sarpy Counties, NE, on the one hand, and, on the other, points in IL within the Chicago, IL Commercial Zone, as defined by the Commission. (Gateway eliminated: Moline, IL). (9) *Petroleum products* (except in bulk, in tank vehicles), from points in the IL Counties named in (1) above, to points in AZ and NM. (Gateway eliminated: Vermillion County, IL). (10) *Fungicides, herbicides, insecticides*, and *petroleum products* (except in bulk, in tank vehicles), from points in the IL Counties named in (1) above, to points in NE. (Gateway eliminated: Vermillion County, IL). (11) *Beverages*, from points in IL, to points in the United States on and west of U.S. Hwy. 61 (except AK and HI). (Gateway eliminated: Chicago, IL and East St. Louis, MO). (12) *Drugs* and *health aids* (except in bulk), (a) from points in IL, to points in CA, and (b) from points in NE, to points in IL. (Gateway eliminated: Chicago, IL). (13) *Television sets, radio, phonographs, recorders, players, loudspeakers, sound systems*, and *related stands, tables, parts*, and *accessories*, and *those commodities* used in the manufacture, production, and distribution of the aforesaid commodities (except in bulk, in tank vehicles), between Smithfield and Jacksonville, NC, and Batavia and Seneca Falls, NY, on the one hand, and, on the other, points in IL within the Chicago, IL Commercial Zone. (Gateway eliminated: points in IL (except Chicago). (14)(a) *Cellular products, rubber products, and accessories*, and (b) *commodities* used in the production, distribution and sale of commodities named in (14)(a) above (except commodities in bulk), between points in the IL Counties named in (1) above, on the one hand, and, on the other, points in the United States (except AK and HI). (Gateway eliminated: Mt. Vernon, IL). (15) *Junk materials*, between points in IL, on the one hand, and, on the other, points in NM, OK, and TX. (Gateway eliminated: East St. Louis, IL). (16) *Carpeting, carpet padding*, and *plastic mats*, (a) from points in IL, to points in the United States (except AK and HI), and (b) from Anaheim, CA, Cartersville, Calhoun and Dalton, Ga, Chattanooga, TN, and Norfolk, VA, to points in IL. (Gateway eliminated: Lake County, IL (Ozite plantsite)). (17) *Glassware, closures* for glass containers, and paper cartons used in the packing or shipping of glass articles, from points in IL, to points in CO, KS, MT, NE, ND, SD, and WY. (Gateway eliminated: Gurnee, IL). (18) *Materials, supplies* and *equipment* used in the manufacture of glassware, from points in CO, KS, MT, NE, ND, SD, and WY, to points in IL. (Gateway eliminated: Gurnee, IL). (19) *Plumbing fixtures, materials, supplies*, and *accessories* (except commodities in bulk), (a) from points in IL Counties named in (1) above, to points in that part of the United States in and west of U.S. Hwy 71, and (b) between points in IL within the Chicago, IL Commercial Zone as defined by the Commission, on the one hand, and, on the other, North Sioux City, SD. (Gateway eliminated: Knox County, IL). (20) *Toilet preparations*, and *cleaning* and *polishing compounds* (except commodities in bulk), from points in the IL Counties named in (1) above, to points in AZ, CA, CO, ID, KS, NE, NV, OR, UT, and WA. (Gateway eliminated: Ft. Madison, IA Commercial Zone). (21) *Pallets*, (a) from points in CO, ID, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, WY, and the lower peninsula of MI to points in IL, and (b) from points in NV, OR, and UT, to points in IL Counties named in (1) above, (Gateway eliminated: Chicago and Peoria, IL). (22) *Agricultural machinery*, between points in IL, on the one hand, and, on the other, Big Springs, Brule, Grand Island, Ogallala, and Sutherland, NE, (Gateway eliminated: Chicago, IL). (23) *Macaroni, noodles, grain products, bakery products, beverages, pancake flour, spaghetti*, and *vermicelli* (except in bulk), between points in IL, on the one hand, and, on the other, points in CO, IA, KS, and MO. (Gateway eliminated: Chicago, IL). (24) *Empty containers*, (a) from points in IL to points in CA, CO, KS, MT, NE, ND, SD, TX, WY, and Sioux City, IA, (b) from points in the IL Counties named in (1) above to points in IA (except Sioux City), MN, MO, OK, OR, and WA. (c) from points in ID, MT, NE, NM, ND, OK, SD, and TX, to points in IL, and (d) from points in AZ, CA, CO, NV, OR, UT, WA, and WY, to points in the IL Counties named in (1) above. (Gateway eliminated: Chicago, Alton and Quincy, IL), (25) *Foods, foodstuffs*, and *grain products*. (a) Between points in IL, on the one hand, and, on the other, points in the United States in and west of ND, SD, NE, KS, OK, and TX (except CO, OR, WA, and WY), and (b) from points in IL, to points in OR, WA, and WY. (Gateway eliminated: Chicago, Moline, and Quincy, IL). (26) *Groceries* and *grocery store supplies* (except commodities in bulk), between points. (27) *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between points in the IL Counties named in (1) above, on the one hand, and, on the other, points in the United States (except AK and HI), (Gateway eliminated: Paducah, KY Commercial Zone). (28) *Candy, steel, machinery, foods*, and *automotive equipment* (except commodities in bulk), between points in IL. (Gateway eliminated: Cook County, IL). (29)(a) *Iron* and *steel* and *iron* and *steel articles*; and (b) *Commodities* used in the manufacture, distribution, sale, and erection of commodities described in (29)(a) above (except commodities in bulk, and commodities in dump vehicles, between points in the IL Counties named (1) above, on the one hand, and, on the

other, points in the United States in and west of MN, IA, MO, AR, and LA. (Gateway eliminated: Sterling, IL). (30) *Plastic materials* and *plastic products* (except in bulk, in tank vehicles), from points in IL, to points in CA. (Gateway eliminated: McHenry County, IL). (31)(a) *Zinc oxide* (except in bulk), from points in the IL Counties named in (1) above, to points in the United States (except AK and HI). (b) *Materials, equipment,* and supplies used in the production or manufacture of zinc oxide (except in bulk), from points in the destination states named in (31)(a) above, to points in the IL Counties named in (1) above. (Gateway eliminated: Hillsboro, IL). (32) *metals* and *metal articles* (except in bulk, in dump vehicles), from points in the IL Counties named in (1) above, to points in the United States in and west of MT, WY, NE, CO, and NM (except AK and HI). (Gateway eliminated: East St. Louis, IL.) (Hearing site: Chicago, IL.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity in (1) and (2) above and to eliminate the gateways as shown in (3)-(32). The requests for elimination of gateways in (6), (29), (31), and (32) involve tacking with authority still pending before the Commission. This application is a directly related matter to MC-F-13835F, published in a previous section of this FEDERAL REGISTER issue.

MC 127602 (Sub-17F), Filed November 8, 1978. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., P.O. Box 996, 5555 E. 58th Ave., Denver, CO 80201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Denver, CO and Phoenix, AZ from Phoenix over Interstate Hwy 17 to Flagstaff, AZ, then over U.S. Hwy 89 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Durango, CO, then over U.S. Hwy 550 to Montrose, CO, then over U.S. Hwy 550 to Grand Junction, CO, and then over Interstate Hwy 70 to Denver, CO and retrun over the same route, serving the intermediate points of Montrose and Delta, CO, and Kayenta and Mexican Water, AZ, and the off-route points of Aneth, UT and Farmington, NM. (Hearing site: Denver, CO, Phoenix, AZ, or Grand Junction, CO.)

Note.—This application is filed as a directly related application to finance proceeding docket Mc-F-13723F. The purpose of this application is to enable applicant to provide a through service between Phoenix, AZ, and Denver, CO and in conjunction therewith serve the additional intermediate points of Kayenta and Mexican Water, AZ, and the off-route points of Aneth, UT and Farmington, NM. MC-F—13723F is published in a previous section of the FEDERAL REGISTER issue of September 21, 1978.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 78786 (Deviation No. 15). PACIFIC MOTOR TRUCKING COMPANY, 1766 El Camino Real, Burlingame, Calif. 94010, filed January 16, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Santa Ana, CA, over Interstate Hwy. 5 to San Diego, CA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Santa Ana, CA, over Interstate Hwy. 5 to junction CA Hwy. 60 at Los Angeles, CA, then over CA Hwy. 60 to junction Interstate Hwy. 10 near Beaumont, CA, then over Interstate Hwy. 10 to junction CA Hwy. 86 near Indio, CA, then over CA Hwy. 86 to El Centro, CA, then over Interstate Highway 8 to San Diego, CA and return over the same route.

MC 109533 (Deviation No. 20). OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, Richmond, Virginia 23209, filed January 19, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Birmingham, AL., over Interstate Hwy 65 to Nashville, TN. and return over same route for operating convenience only. This notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, AL. over U.S. 11 to Chattanooga, TN., then over U.S. Highway 41 to Nashville, TN., and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastrate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* by addressed to or filed with the Interstate Commerce Commission.

Maine Docket No. X-139 (amendment), filed January 2, 1979. Applicant: FRANLKIN W. POWELL, d/b/a SWAN'S EXPRESS, P.O. Box 124, Fryeburg, ME 04307. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, providing both a pickup and delivery service between the cities and town as follows: Transportation of: *General commodities,* between Bridgton, E. Fryeburg, Moose Pond, Standish, Brownfield, E. Hiram, Naples, Step Falls, Casco, Fryeburg, N. Fryeburg, Stow, Center Lovell, Fryeburg Center, N. Lovell, Sweden, Cornish Station, Gorham, Portland, W. Baldwin, Denmark, Harbor, Raymond, W. Gorham, E. Baldwin, Harrison, Scarborough*, Westbrook, E. Brownfield, Hiram, Sebago, Windham, E. Denmark, Lovell, and S. Portland, ME. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Main Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-2153 (amendment), filed September 15, 1978. Applicant: TACY'S EXPRESS, INC., P.O. Drawer 191, Rensselaer, NY

*Only service provided is interlining of shipments with carriers whose terminals are in Scarborough. The applicant seeks to transport on an interline basis in connection with such intrastate operations traffic moving in interstate and foreign commerce. Intrastate, interstate and foreign commerce authority sought.

12144. Representative: Martin Werner, 888 Seventh Avenue, New York, NY 10019. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between all points in Albany, Montgomery, Columbia, Rensselaer, Dutchess, Saratoga, Fulton, Schenectady, Greene, and Schoharie Counties, NY, on the one hand, and, on the other, the City of New York. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5317 (Sub-3), filed December 29, 1978. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: (1) *Such commodities* as are dealt in by printers and publishers, including *materials and supplies* used by printers and publishers, from Dresden, TN via TN Hwy 22 to junction with U.S. Hwy 79, thence via U.S. Hwy 79 to junction with U.S. Hwy 45E, thence via U.S. 45E to junction with U.S. Hwy 45, thence via U.S. Hwy 45 to Jackson, and return over the same route, serving no intermediate points; and (2) from Dresden, TN via TN Hwy 54 to junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to junction with U.S. Hwy 45, thence via U.S. Hwy 45 to Jackson, and return over the same route, serving no intermediate points. Intrastate, interstate and foreign commerce sought. HEARING: March 27, 1979, at 9:30 A.M., Commission's Hearing Room, C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3246 Filed 2-1-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, February 6, 1979.

PLACE: 2033 K Street, NW., Washington, D.C. Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Update of long-term planning projections and priorities:
   Standards for regulatory improvement.
   The transition to oversight: A three phased approach.
2. Commodity option pilot program.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-220-79 Filed 1-31-79; 10:39 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., February 6, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters/consideration of civil actions in U.S. district courts.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-221-79 Filed 1-31-79; 10:39 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., February 9, 1979.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-222-79 Filed 1-31-79; 10:39 am]

[6355-01-M]

4

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 1:15 p.m., Commission meeting, Monday, February 5, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

ITEM TO BE DISCUSSED: Power lawn mowers:

The Commission will decide on a FEDERAL REGISTER document concerning a safety standard addressing blade-contact hazards associated with walk-behind power lawn mowers. The Commission determined at a January 25, 1979 meeting that it would not consider the standard promulgated until ten days after it is published in the FEDERAL REGISTER.

(Agenda approved Jan. 31, 1979. The Commission has determined that agency business requires holding this meeting without 7 days notice.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-226-79 Filed 1-31-79; 3:08 pm]

[6720-01-M]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., February 7, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of regulations and statement of policy implementing the change in Savings and Loan Control Act of 1978.

Concurrent consideration of limited facility applications—(1) State Federal Savings & Loan Association, Nuckolls County, Beatrice, Nebr.; (2) State Federal Savings & Loan Association, Furnas County, Beatrice, Nebr.; and, (3) State Federal Savings & Loan Association, Red Cloud, Beatrice, Nebr.

Branch office application—Brookfield Federal Savings & Loan Association, Brookfield, Ill.

Application for insurance of accounts—Gregg County Savings & Loan Association, Longview, Tex.

Branch office application—First Savings & Loan Association, of Galion, Galion, Ohio.

Termination for insurance of accounts and withdrawal from bank membership—First Chartered Savings & Loan Association, Port Jervis, N.Y.

Withdrawal from bank membership—The Baltimore Savings & Loan Co., Cincinnati, Ohio.

Application for permission to organize a new Federal—Gilbert Tong et al., San Francisco, Calif.

Amendment of charter—United Federal Savings & Loan Association, San Francisco, Calif.

Application for bank membership—Rochester Savings Bank, Rochester, N.Y.

Merger application—United Federal Savings & Loan Association of South St. Paul, South St. Paul, Minn., into First Federal Savings & Loan Association of Minneapolis, Minneapolis, Minn.

Application for permission to increase insurable accounts by merger of the insured subsidiaries of First Texas Financial Corp., Dallas, Tex.—Survivor to be First Texas

Savings Association of Gainesville, Gainesville, Tex.

Applications for bank membership and insurance of accounts—Local Savings & Loan Association, San Luis Obispo, Calif.

Branch office application—First Savings & Loan Association of Council Bluffs, Council Bluffs, Iowa.

Branch office application—First Federal Savings & Loan Association of Chickasha, Chickasha, Okla.

Preliminary application for conversion into a Federal mutual association—Morsemere Savings & Loan Association, Fort Lee, N.J.

Branch office application—First Federal Savings & Loan Association of Pittsburgh, Pittsburgh, Pa.

Branch office application—Coral Gables Savings & Loan Association, Coral Gables, Fla.

Termination of FSLIC insurance and bank membership—Hallowell Savings & Loan Association, Hallowell, Maine.

Voluntary termination of insurance of accounts and withdrawal from bank membership—The Home Savings & Loan Co., Columbiana, Ohio.

Preliminary application for conversion into a Federal mutual association—Kings Mountain Savings & Loan Association, Kings Mountain, N.C.

Bank membership and insurance of accounts applications—Mother Lode Savings & Loan Association, Sacramento, Calif.

Insurance of accounts application—Caddo Savings Association, Marshall, Tex.

Consideration of proposed merger—Berwyn Building & Loan Association, Berwyn Pa., into Malvern Federal Savings & Loan Association, Paoli, Pa.

Voluntary termination of insurance of accounts and withdrawal from bank membership—Southern Ohio Savings Association, St. Bernard, Ohio.

[S-228-79 Filed 1-31-79; 3:54 pm]

[6720-01-M]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., February 7, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of application to employ person previously convicted of criminal offense—Section 407(p)(2) of National Housing Act.

Consideration of petition for revocation of bank board resolution removing an individual from participation in the affairs of an association.

Consideration of 1979 Office of Finance Budget.

Consideration of recommendation of designation of a supervisory agent.

No. 216, January 31, 1979.

[S-229-79 Filed 1-31-79; 3:54 pm]

[6730-01-M]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 7, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10160-1: Application for extension of the Polarctic Joint Service Agreement for 3 years.
2. Agreement No. 10347: Cooperative working arrangement between Deutsche Dampfschifffahrts-Gesellschaft "Hansa" and Nedlloyd Lijnen B.V.
3. Delegation of authority to the managing director to administer special permission applications under the Ocean Shipping Act, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-219-79 Filed 1-31-79; 10:39 am]

[6735-01-M]

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., January 31, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: These proceedings may be closed.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

2. *Rogers* v. *Anschutz*, Docket No. DENV. 76X-138.
3. *Kenny Richardson* v. *Secretary of Labor*, Docket BARB 78-600-P.

It was determined by unanimous vote of the Commissioners that Commission business required that these matters be added to the agenda for the January 31, 1979 Commission meeting and that no earlier announcement of this action was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-215-79 Filed 1-31-79; 3:54 pm]

[6210-01-M]

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, February 7, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed system for rating the performance and financial condition of bank holding companies.
2. Board's regulatory improvement program: Further consideration of Regulation V (Guarantee of Loans for National Defense Work).
3. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 30, 1979.

GRIFFITH GARWOOD,
Secretary.

[S-217-79 Filed 1-31-79; 10:39 am]

[7020-02-M]

10

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 11 a.m., Tuesday, February 13, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: (a) Coke (Docket No. 554).
5. Leather wearing apparel from Colombia and Brazil (Inv. 303-TA-6 and -7)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-224-79 Filed 1-31-79; 11:05 am]

[6325-01-M]

11

MERIT SYSTEMS PROTECTION BOARD.

NOTICE OF MEETING POSTPONEMENT

The organizational meeting of the Merit Systems Protection Board scheduled for Friday, February 2, 1979, at 10 a.m. has been postponed for 1 week.

Therefore, in accordance with 5 U.S.C. § 552b announcement is made of the following meeting:

Name: Merit Systems Protection Board.
Date and Time: Friday, February 9, 1979 at 10 a.m.
Place: Offices of the Merit Systems Protection Board, Room 762, 1717 H Street NW., Washington, D.C.
Subject: Organizational meeting of Merit Systems Protection Board.

The meeting will be open to the public. Estella Michura (653-7101) will respond to requests for information about the meeting.

RUTH T. PROKOP,
Chair, Merit Systems Protection Board.

[S-218-79 Filed 1-31-79; 10:39 am]

[7555-01-M]

12

NATIONAL SCIENCE BOARD.

DATE AND TIME: February 15, 1979 9 to 10 a.m. Open session; February 16, 1979 9 a.m. Closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

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: Portion open to the public.

1. Minutes—open session—203rd meeting.
2. Chairman's report.
3. Director's report: (a) Report on grant and contract activity—January 18—February 14, 1979; (b) Organizational and staff changes; (c) Congressional and legislative matters; and (d) NSF budget for fiscal year 1980.
4. Board committees—Reports on meetings.
5. Board representation at future meeting.
6. Other business.
7. Next meetings: (a) National Science Board—March 15-16, 1979; (b) NSB committees; and (c) Program review.
8. Perspective and overview of fiscal year 1981 planning and budgeting process.

Balance of day devoted to working group meetings not open to the public.

Portion closed to the public:

A. Minutes—closed session—203rd meeting.
B. NSB nominees.
C. NSB annual reports.
D. NSF budgets for fiscal year 1981 and subsequent years.
E. Reports of working groups 1 and 2.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-227-79 Filed 1-31-79; 3:21 pm]

[7590-01-M]

13

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

TIME AND DATE: February 1 and 2, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

Thursday, February 1 (Replacement item)

10:30 a.m. (approximately): 2. Briefing on waste management program (approximately 1 hour, public meeting) (replaces "Briefing on Upgrade Rule" which is *Cancelled*).

Friday, February 2 (Additional item)

9:30 a.m.: 1. Discussion of merits in Tarapur export license (XSNM-1222) (approximately 2 hours, closed—exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

[S-223-79 Filed 1-31-79; 10:39 am]

[8010-01-M]

14

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 5, 1979, at High Ridge Park, Stamford, Connecticut, and in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, February 6, 1979 at 10:00 a.m., Wednesday, February 7, 1979 at 2:30 P.M., and on Thursday, February 8, 1979 following the 2:30 P.M. open meeting. Open meetings will be held on Monday, February 5, 1979 at 1:30 P.M. in the Board Room of the Financial Accounting Standards Board located at High Ridge Park, Stamford, Connecticut, on Wednesday, February 7, 1979 at 10:00 A.M., and on Thursday, February 8, 1979 at 2:30 P.M. in the Commission meeting room in Washington, D.C.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 6, 1979, will be:

Formal orders for investigation.
Access to investigative files by Federal, state or self-regulatory authorities.
Order compelling testimony.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matters bearing enforcement implications.
Subpoena enforcement actions.
Institution of injunctive actions.
Institution of injunctive action and regulatory matter bearing enforcement implications.
Litigation matter.
Institution and settlement of administrative proceeding of an enforcement nature and settlement of an injunctive action.

The subject matter of the closed meeting scheduled for Wednesday, February 7, will be:

Regulatory matter bearing enforcement implication.

The subject matter of the closed meeting scheduled for Thursday, February 8, 1979, will be:

Post oral argument discussion.
Opinion.

The subject matter of the open meeting scheduled for Monday, February 5, 1979 at 1:30 P.M., in Stamford, Connecticut, will be:

Joint meeting of the Securities and Exchange Commission Commissioners and the Financial Accounting Standards Board to discuss topics of mutual interest including the conceptual framework project, foreign currency translation and the Financial Accounting Standards Board proposal dealing with industry accounting matters and ques-

tions of limited application. For further information, please contact Steve Golub at (202) 755-1177.

The subject matter of the open meeting scheduled for Wednesday, February 7, 1979, will be:

1. Consideration of a request by RCA Corporation that the Commission review the Division of Corporation Finance's determination concerning a shareholder proposal submitted to the Company by the Synanon Committee for Responsible American Media. For further information, please contact William E. Morley at (202) 755-1240.

2. Consideration of a release which would (1) request comment on proposed amendments to Rule 10f-3 under the Investment Company Act which would (a) add municipal securities to the class of securities which may be purchased under the Rule; (b) replace the requirement that the directors of the investment company approve each transaction in advance with requirements that both the disinterested directors and the board as a whole establish procedures reasonably designed to insure that any purchases will be made in compliance with the substantive provisions of the Rule and that the directors review any such transaction at least quarterly; (c) replace the Rule's specific percentage limitations on the commission, spread or profit to be received by the principal underwriters with a requirement that any such commission, spread or profit be reasonable and fair compared to that received by other such persons in connection with similar securities being purchased during a comparable period of time; (d) add a requirement to subsection (c) of Rule 10f-3 to require that municipal securities purchased pursuant to the rule be of investment grade quality; (e) establish recordkeeping and reporting requirements; and (2) amend Form N-1Q to require that any acquisition pursuant to Rule 10f-3 be indicated therein. For further information, please contact Mark B. Goldfus at (202) 755-0230.

3. Consideration of whether to remove the thirty-year restricted-access classification assigned to information obtained from institutional investors in connection with the Commission's Institutional Investor Study in 1971. The data is stored on computer tapes in the custody of the National Archives. The Commission will also consider whether to grant the request of Mr. Pat Fishe for access to the data on the condition that he agree to treat the information confidentially until final action lifting the restriction is taken. For further information, please contact Julie Allecta at (202) 755-1335.

4. Consideration of an amendment to Section 201.26(b) of the Commission's Rules of Practice, 17 CFR 201.26(b), which provides for Commission review of determinations made at a delegated level. For further information, please contact Larry R. LaVoie (202) 376-8016.

5. Consideration of the request of Beverly Enterprises that its financial statements for the year ended December 31, 1978, be accepted by the Commission without being restated to reflect the effect of capital leases. In ASR No. 225 (August 31, 1977) the Commission announced its requirement that financial statements for fiscal years ending after December 24, 1978 be requested to reflect early application of the accounting requirements of Financial Accounting Standards Board Statement No. 13, "Accounting for Leases." Beverly Enterprises, Inc., has claimed that compliance with Statement No. 13 in its 1978 financial statements would be a hardship on the company, and has requested Commission consideration of the the matter. For further information, please contact Clarence M. Staubs at (202) 755-0222.

The subject matter of the open meeting scheduled for Thursday, February 8, 1979, will be:

Oral argument in broker-dealer proceedings on a petition by Richard O. Bertoli and Arnold L. Froelich, for review of the adverse initial decision of an Administrative Law Judge.

FOR FURTHER INFORMATION, CONTACT:

Beverly C. Rubman, 202-755-1103.

JANUARY 30, 1979.

[S-225-79 Filed 1-31-79; 12:36 am]

federal register

FRIDAY, FEBRUARY 2, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

STATE MEDICAL FACILITIES PLAN

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 124]

STATE MEDICAL FACILITIES PLAN

Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice sets forth proposed regulations governing the development and contents of the State medical facilities plans required by section 1603(a) of the Public Health Service Act. These plans, when approved by the Secretary, will enable the Department to approve assistance to medical facility projects under Title XVI of the Act.

DATE: Comments must be received on or before April 3, 1979.

ADDRESS: Written comments and recommendations should be submitted to: Krys Krystynak, Ph.D., Acting Director, Office of Program Development, Bureau of Health Facilities Financing, Compliance and Conversion, Center Building, room 6-27, 3700 East-West Highway, Hyattsville, Maryland 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Krys Krystynak, Ph.D., Acting Director, Office of Program Development, Bureau of Health Facilities Financing, Compliance and Conversion, at the above address, telephone (301) 436-7704.

SUPPLEMENTARY INFORMATION: The National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641, January 4, 1975) added to the Public Health Service Act (hereinafter referred to as "the Act") a new Title XV, "National Health Planning and Development," and a new Title XVI, "Health Resources Development." Among other things, the new Title XV authorizes the Secretary to designate and provide grant assistance to a State health planning and development agency (State Agency) for each State and to a health systems agency (HSA) for each of 205 health service areas established under section 1511 of the Act. Each HSA is required to develop a health systems plan (HSP) and an annual implementation plan (AIP), and each State Agency is required to develop a preliminary State health plan, made up of the HSPs of the HSAs within the State, for the review and use by the Statewide Health Coordinating Council (SHCC) in establishing the State health plan (SHP).

Title XVI of the Act provides assistance, through grants, loans, and loan guarantees and interest subsidies for projects for the (1) modernization of medical facilities, (2) construction of new outpatient medical facilities, (3) construction of new inpatient medical facilities in areas which have experienced recent rapid population growth, and (4) conversion of existing medical facilities for the provision of new health services. Project grant assistance is also provided for construction and modernization projects in public or quasi-public medical facilities designed to prevent or eliminate safety hazards or to avoid noncompliance by those facilities with State or voluntary licensure or accreditation standards.

Section 1603(a) of the Act requires that a State Agency develop and submit to the Secretary and have approved by him a State medical facilities plan (SMFP) before an application for assistance under Title XVI (other than for projects for modernization designed to prevent or eliminate safety hazards or to avoid noncompliance with licensure or accreditation standards under section 1625 of the Act) for a medical facility project may be approved. Under section 1603(a) the SMFP must set forth, in accordance with criteria prescribed by the Secretary and on the basis of a statewide inventory of existing medical facilities, a survey of need, and the plans of HSAs within the State, (1) the numbers and types of medical facilities (inpatient, outpatient, and others) and medical facility beds needed to provide adequate inpatient, outpatient, and public health services to people residing in the State, (2) a plan for the distribution of medical facilities and beds in health service areas within the State, and (3) the extent to which existing medical facilities are in need of modernization or conversion to new uses. Section 1603(a) further prescribes that the SMFP must: (1) Prescribe that the State Agency shall administer or supervise the administration of the plan and contain satisfactory evidence that the State Agency has the necessary authority to carry out the plan; (2) prescribe that the SHCC of the State shall advise and consult with the State Agency in carrying out the plan; (3) be approved by the SHCC as consistent with the State health plan developed under section 1524(c)(2) of the Act; (4) set forth a program for the State for assistance under Title XVI for projects for modernization, construction, and conversion, and the type of assistance which should be made available to each project; (5) set forth priorities for the provision of assistance under Title XVI for projects in the State's program for assistance; (6) provide minimum requirements for the maintenance and operation of facilities assisted under Title XVI, and provide for the enforcement of such standards; (7) provide for affording every applicant for assistance for a Title XVI medical facilities project an opportunity for a hearing before the State Agency; and (8) provide that the State Agency will, at least annually, review the plan and submit necessary modifications to the Secretary. In addition, section 1602(5) requires that the SMFP must also provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor.

Section 1603(b) requires the Secretary to approve any SMFP, and any modification thereof, which complies with the provisions of section 1603(a) if the State Agency, as determined under the review made under section 1535(d) of the Act, is organized and operated in the manner prescribed under section 1522 and is carrying out its functions under section 1523 in a manner satisfactory to the Secretary. The Secretary will determine whether or not these requirements have been met in approving or disapproving an SMFP submitted by a State. If the Secretary disapproves any SMFP or modification thereof which has been submitted by a State for failure to comply with the SMFP requirements, the Secretary must, upon request of the State Agency, afford it an opportunity for a hearing.

The purposes of these proposed regulations are to (1) set forth the requirements for the development and content of the SMFP; (2) set forth the criteria which the State Agency must consider for determining the need for medical facilities and medical facility beds and plans for their distribution; (3) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization; (4) prescribe the minimum content of a statewide inventory of existing medical facilities; (5) prescribe the general manner in which the State Agency shall conduct a survey of need; (6) prescribe the general manner in which a State shall determine its program for assistance and the priorities for the provision of assistance; and (7) prescribe minimum considerations for the review of the SMFP by the State Agency.

The Secretary wishes to highlight several aspects of these proposed regulations, including (1) the methods for determining need for medical facilities

and medical facility beds, (2) the relationship of the State medical facilities plan to the State health plan and health systems plans, and (3) the content of the statewide inventory of existing medical facilities.

On August 9, 1977, the Department published in the FEDERAL REGISTER (42 FR 40252) a Notice concerning the availability of draft guidelines for the development of the State medical facilities plan for a 45-day public comment period. Among other things, the draft guidelines included specific formulas to be used by the States in determining the need for acute care medical facility beds. The Department received approximately 150 comments in response to the proposed guidelines, many of which objected to the continued use of a formula for determining medical facility bed needs on the grounds that (1) the formula assumed that the current utilization of the facility should continue into the future, (2) the assignment of a standard occupancy ratio to all facilities regardless of size was inappropriate, (3) the geographical origins of patients were not taken into account, (4) the formula was inconsistent with the utilization rates encouraged by the Department in other policy issuances, and (5) it was inconsistent with the concepts embodied in population based planning.

The Secretary has decided that the draft guidelines should e substantially revised in view of the merits of much of the criticism that has been received. However, he has directed that before that revision, the Department will proceed with the publication of this Notice of Proposed Rulemaking, which embodies an approach to the development of the State medical facilities plan which is integrated with the plans development process prescribed in Title XV of the Act.

In contrast to previous regulations (e.g., 42 CFR Part 53—Grants, Loans, and Loan Guarantees for Construction and Modernization of Hospitals and Medical Facilities) and in keeping with the current population based planning approaches, the emphasis in the regulations is on the application of proposed maximum or minimum resource levels to a population as specified in the National Guidelines for Health Planning issued by the Secretary under section 1501 of the Act, (42 FR 13040) rather than to specific formulas or processes with uncertain outcome. Methodologies for assessing demand and need are not specified, but criteria for application in determining need by the State are prescribed.

The Secretary does not propose to use these regulations to establish national resource standards in subject areas in which the National Guidelines for Health Planning are so far silent, e.g., long-term care and ambulatory care facilities in various settings. This position is based on the Department's view that national policy in these areas needs to be developed through a single set of regulations to ensure sufficient policy consistency and well-focused public attention. The National Guidelines for Health Planning regulations offer the appropriate arena for this policy development.

In the interim, the Secretary has specified criteria which apply to the development of all medical facilities for which assistance is provided under Title XVI of the Act. These criteria are consistent with the Department's policy to encourage less costly methods of care where medically appropriate, the need to consider innovative systems for providing care, and the need to address problems of maldistribution of medical facilities.

The Secretary is requiring that the SMFP be consistent with the standards for the supply, distribution, and organization of health resources specified in the National Guidelines for Health Planning, taking into account the adjustments provided for in those National Guidelines. This position is consistent with the intent of the National Health Planning and Resources Development Act which provides that the Secretary establish national resource standards and health planning goals while allowing area-level flexibility in health planning and resources development.

The relationship of the State medical facilities plan to the other plans required by the Act, i.e., the State Health plan, health systems plans, and annual implemenation plans, merits discussion. The HSPs and AIPs developed by HSAs include discussion of the health service area's current resources and the resources required to achieve the goals, objectives, and recommended actions contained in the HSPs and AIPs. The HSAs also recommend to the State Agency, under section 1513(h) of the Act, projects for the modernization, construction, and conversion of medical facilities in the agencies' health service areas which will move toward achievement of the goals and objectives in their HSPs and AIPs, and priorities among such projects. Since much of the work required to identify current and required resources will have been completed by the HSAs, the Secretary expects that the State Agency, in developing the SMFP, will rely heavily on the information and recommendations contained in the HSPs and AIPs. In fact, it was the anticipation of the House Committee on Interstate and Foreign Commerce on Pub. L. 93-641 that "this work will be done primarily by the HSAs under the requirement of section (1513(h)) and that the state agency will change the recommendations made under section (1513(h)) only to the extent that it finds it necessary to coordinate the recommendations of the different HSAs or to merge into a single statewide priority listing the priorities of the HSAs." H.R. Rep. No. 1382, 93rd Cong., 2nd Sess. 96 (1974).

The State health plan, established by the SHCC, is made up of the HSPs and is a statement of the State's policies and priorities for the health status of its residents and for the desired performance of the health systems within the State. The resources requirements discussed in the SHP for achieving its goals, objectives, and recommended actions should be the basis for the development of the State medical facilities plan. Indeed, the SMFP must be developed in conjunction with the SHP and it may be developed as the medical facilities portion of the SHP. If developed as a part of the SHP, it should, however, be a section physically separable from the SHP, in order to be submitted to the Secretary for approval.

Since the SHP is made up of the HSPs within the State, and since the SMFP must be based in part on the HSPs, the Secretary expects that the resources described as needed in the SMFP will support the health planning programs of the HSAs as well as the State. Additionally, the Secretary has determined that the SMFP must go through the same public hearing requirement as prescribed in the Act for the HSP and the SHP. The Secretary believes that this is in accordance with the intent of the Act, which seeks to provide substantial public participation in the health planning process. The health plans developed for each area and State will affect the residents of those areas and States significantly, and thus extensive public participation in the development of all plans must be ensured.

The Secretary expects that the statewide inventory of existing medical facilities and medical facility beds will be a comprehensive inventory containing information on the services offered by medical facilities, utilization statistics, and other general information (such as accreditation status) in addition to a count of medical facilities and medical facility beds and their location. This information will be useful to all agencies concerned with health planning, since it will present a useful picture of the types of facilities and services available, and it will enable a better determination of the types of facilities and services that are needed. A comprehensive inventory of facilities, services available, and their utilization experience will provide information required by the State in its conduct of a survey of need, determin-

ing the extent to which existing medical facilities are in need of modernization or conversion to new uses, and determining priorities for the provision of assistance to medical facility projects. In addition, the availability of a central source of medical facilities information will be of use to the health systems agencies and other health and health-related agencies of the State.

The Secretary encourages the State Agency to conduct site visits to medical facilities during the development of the inventory of medical facilities. This site visit should include representatives from the appropriate health systems agency. The Secretary is, however, aware that medical facilities are subject to numerous surveys by various divisions of the Department of Health, Education, and Welfare and by other entities. This repetition, albeit sometimes for differing purposes, adds to the cost of health care. Thus, the Secretary is anxious to make the evaluation of facilities more efficient. For example, the State Agency could coordinate its site visit activities during the conduct of the inventory with the certification surveys for the Medicare program. The Department will be working toward the further coordination of the standards used in these and other surveys, especially those concerning need for modernization. Suggestions for improving medical facility surveys are welcomed and will be considered in the development of the final regulations on the State medical facilities plan.

The Secretary notes that federally operated facilities (Veterans Administration, Public Health Srevice, and Department of Defense hospitals, at a minimum) are to be inventoried by the State to add to the completeness of the statewide inventory of existing medical facilities and beds. This information on Federal facilities should, however, be readily identifiable and should identify federally operated facilities that provide substantial services to local residents.

Attention is drawn to the proposed § 124.107(a) concerning the reporting period during which data for the inventory should obtained. The Secretary notes the importance of having a common reporting period for medical facilities data. Howerver, he is cognizant of the burden which other reporting requirements, which may cover different time periods, impose on medical facilities. The Secretary would like to keep this burden to a minimum and is interested in receiving comments on this section of the proposed regulations.

The Secretary expects tha State Agencies will have written agreements with the Cooperative Health Statistics Systems (CHSS) provided for under section 306(e) of the Act, and that they will coordinate their data collection activities with that system. In those States in which the CHSS has an operational facilities component, the data needed to meet the inventory requirement can be obtained through the existing mechanism. Since the information needed for a full medical facilities inventory as required in these proposed regulations will be greater than that required in the federally supported minimum data set under section 306(e), it is expected that the State Agency will ensure that the additional required data will be obtained in collaboration with the CHSS entity.

Written comments concerning the proposed regulations set forth below are invited from interested person. Inquires may be addressed, and data, views, and arguments relating to the proposed regulation, may be presented in writing to the office and at the address indicated above.

It is therefore proposed to amend Title 42, Code of Federal Regulations, as set forth below.

The Department of Health, Education, and Welfare has determined that this doucment does not contain a major proposal requiring a regulatory analysis under the provisions of Executive Order 12044.

Dated: September 18, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: December 22, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

Part 124 of Title 42, CFR, is amended by adding thereto a new Subpart B, to read as follows:

Subpart B—State Medical Facilities Plan

Sec.
124.101 Definitions.
124.102 Purpose and applicability.
124.103 Development of the State medical facilities plan.
124.104 Content of the State medical facilities plan.
124.105 Criteria for determining need for medical facility beds and medical facilities and plans for their distribution.
124.106 Criteria for determining the extent to which existing medical facilities are in need of modernization.
124.107 Statewide inventory of existing medical facilities.
124.108 Survey of need.
124.109 Program for assistance.
124.110 Priorities for the provision of assistance.
124.111 Review and modification of the State medical facilities plan.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216), sec. 1602 of the Public Health Service Act, 88 Stat. 2258 (42 U.S.C. 300o-1); sec. 1603 of the Public Health Service Act, 88 Stat. 2259 (42 U.S.C. 300o-2).

Subpart B—State Medical Facilities Plan

§ 124.101 Definitions.

Terms used in this subpart shall have the meaning given them in Subpart A (Purpose and Definitions) of this Part.

§ 124.102 Purposes and applicability.

(a) Section 1603(a) of the Act requires that a State health planning and development agency (State Agency) develop and submit to the Secretary for approval a State medical facilities plan (SMFP). An SMFP approved by the Secretary is required before an application for assistance under Title XVI of the Act (other than applications for assistance under section 1625 of the Act) for a medical facility project described in section 1601 of the Act may be approved. The purpose of this subpart is to set forth the requirements for the content of an SMFP and the process for its development.

(b) The purpose of the SMFP is to guide the development of medical facilities and medical facility beds within the State in a manner which is consistent with the health planning program of the State. Section 1603(a)(3) of the Act requires that the SMFP must be approved by the Statewide Health Coordinating Council (SHCC) as consistent with the State health plan (SHP). In addition, the SMFP must be based in part on the plans of the health systems agencies within the State (see section 1603(a)(4) of the Act), which plans are also used by the State Agency in developing its SHP.

§ 124.103 Development of the State medical facilities plan.

(a) The SMFP shall be viewed as part of an integrated health planning system, and its development as one part of the overall process of developing the SHP. To ensure consistency with the SHP, the SMFP shall be developed in conjunction with, or as the medical facilities part of, the SHP. Since the SMFP may be the medical facilities portion of the SHP, and, if not, must be consistent with it, and the SHP is made up of the health systems plans of the health systems agencies within the State, the State Agency shall use the health systems plans and annual implementation plans as well as the SHP in the development of its SMFP.

(b) The State Agency, in the development of its SMFP, shall give appropriate consideration to the National Guidelines for Health Planning (National Guidelines) issued by the Secretary under section 1501 of the Act, and

the SMFP shall be consistent with the standards respecting the appropriate supply, distribution, and organization of health resources specified in those National Guidelines, taking into account the adjustments provided for in the National Guidelines (see 42 CFR Part 121, Subpart (C)). To document this consistency, the State Agency shall indicate in the SMFP how the proposed projects will help achieve the standards in the National Guidelines as set forth in the SHP.

(c) The State Agency shall develop and issue a detailed planning process document for its own use and the use of the health systems agencies in the development and implementation of the SMFP. To reduce the potential for conflict and to ensure compatibility between the processes of planning for medical facilities at the local and State levels, the State Agency shall consult with the health systems agencies within the State and with the SHCC in the development of the process document. The process document shall set forth the following planning guidance:

(1) A description of the roles and responsibilities of the health systems agencies, State Agency, and SHCC in the development and implementation of the SMFP;

(2) A statement of statewide needs and State priorities for actions to achieve consistency with the standards in the National Guidelines and which take into account the goals in the National Guidelines and the national health priorities set forth in section 1502 of the Act, especially as those standards, goals, and priorities pertain to facilities;

(3) Procedures for coordinating SMFP development with neighboring States and health systems agencies within interstate areas, if any; and

(4) Procedures for resolving differences between health systems agencies and the State Agency concerning data, recommendations, and priorities in the SMFP.

(d) At least sixty days prior to the submission of the SMFP or any modification thereof to the Secretary, the State Agency shall publish in one or more newspapers of general circulation in the State:

(1) A general description of the proposed plan or modification;

(2) A notice stating that the SMFP and the SHP are available at specified addresses for examination and comment by interested persons; and

(3) A notice of a public hearing to be held at least thirty days prior to the submission of the SMFP, or any modification thereof, to the Secretary.

§ 124.104 Content of the State medical facilities plan.

To be approved by the Secretary, an SMFP for a State must:

(a) Prescribe that the State Agency of the State will administer, or supervise the administration of, the SMFP;

(b) Contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the SMFP in conformity with Title XVI of the Act and the regulations of this Part;

(c) Provide that the SHCC will advise and consult with the State Agency in carrying out the SMFP;

(d) Be approved by the SHCC as consistent with the SHP;

(e)(1) Set forth (i) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of those beds and facilities in health service areas throughout the State, (ii) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of those facilities in health service areas throughout the State, and (iii) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

(2) The information described in paragraph (e)(1) of this section shall be set forth (i) in accordance with the criteria established under § 124.105 and § 124.106, and (ii) on the basis of (A) a statewide inventory of existing medical facilities conducted under § 124.107, (B) a survey of need conducted under § 124.108, and (C) the plans of the health systems agencies within the State;

(f) Set forth a program for the State for assistance under this Part for projects described in section 1601 of the Act, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need required by paragraph (e) of this section;

(g) Set forth, in accordance with § 124.110, priorities for the provision of assistance under this Part for projects in the program set forth under paragraph (f) of this section;

(h) Provide minimum requirements (to be fixed at the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this part, and provide for the enforcement of such requirements;

(i) Provide for the establishment of such rules and regulations as will provide an opportunity for an appeal to and a fair hearing before the State Agency to every applicant for assistance for a medical facilities project under this part which is dissatisfied with any action of the State Agency regarding its application;

(j) Provide that the State Agency will from time to time, but not less often than annually, review the SMFP and submit to the Secretary either:

(1) Any modifications to the SMFP which the State Agency considers necessary; or

(2) A certification that no modifications are required;

(k) Provide for adequate medical facilities for all persons residing in the State and for adequate facilities to furnish needed health services for persons unable to pay therefor.

§ 124.105 Criteria for determining need for medical facility beds and medical facilities and plans for their distribution.

(a) In general, the criteria for determining need for all medical facility beds and medical facilities shall:

(1) Include special consideration of the need for the types of facilities listed in section 1602 of the Act;

(2) Include consideration of the following factors: (i) The geographical origins of the patients of each institution, (ii) estimates of each institution's market share of the population, (iii) effect of in-migration and out-migration from the hospital service areas, the health service areas, and the State, and (iv) for each institution, (A) the number of admissions, (B) length of stay, (C) number of arrivals, and at a minimum distribution of arrivals by the day of week, and (D) assumptions concerning waiting time, the proportion of demand which is uncontrollable, and the optimal size of the facility; and

(3) Be based on estimates of future utilization of medical facility beds and medical facilities, according to various levels and types of care, which estimates shall be developed by considering current utilization of these facilities and beds as adjusted to consider: (i) The need to encourage (where medically appropriate) use of the least costly settings and methods of care (e.g., home health care and nursing home care rather than hospital inpatient care), (ii) the need to foster development and implementation of innovative methods of health care delivery (e.g., health maintenance organizations), (iii) the need to achieve equality of access, such as by redressing identified problems of maldistribution of facilities, (iv) anticipated population shifts, including shifts in the size, age, and geographic distribution of population groups, that may affect utilization, (v) anticipated changes in the availability of services (e.g., the closure of a hospital) or changes in practice patterns (e.g., due to Profes-

sional Standards Review organizations, utilization reviews) which may affect utilization, (vi) estimates of how efficiently and effectively existing health services are being utilized, and (vii) anticipated changes in the availability to the population of services provided by Federal medical facilities;

(b) In addition to the general criteria of paragraph (a) of this section, the State Agency may not determine that new acute care inpatient hospital beds are needed unless the ratio of the total of acute care inpatient hospital beds (including the projected beds) to the population would be less than the maximum number of such beds specified in the National Guidelines issued under section 1501 of the Act, taking into account the adjustments provided for in the National Guidelines.

(c) The criteria for developing plans for the distribution of medical facilities and medical facilities beds shall:

(1) Be based on the relative need of different areas within the State for medical facilities and medical facilities beds; and

(2) Provide for adequate medical facilities and medical facilities beds for all persons residing in the State, after consideration of the availability and accessibility of medical facilities and medical facilities beds to the State's population and the resources requirements identified in the health systems plans and the SHP.

§ 124.106 Criteria for determining the extent to which existing medical facilities are in need of modernization.

(a) The criteria for determining the extent to which existing medical facilities are in need of modernization shall be determined for each category of facilities and shall be based upon specific standards of plant evaluation which shall include:

(1) Imminent or actual safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations;

(2) Noncompliance with State or voluntary licensure or accreditation standards; and

(3) Design and structure factors affecting the function of the facility and its service departments;

(b) Based upon the criteria, medical facility beds and medical facilities shall be classified as conforming or nonconforming. Those beds and facilities which are classified as nonconforming shall represent the beds and facilities in need of modernization.

§ 124.107 Statewide inventory of existing medical facilities.

(a) The State Agency shall conduct a statewide inventory of existing medical facilities and medical facilities beds, including each hospital, public health center, outpatient medical facility, rehabilitation facility, and facility for long-term care in the State. Data shall be reported for a reporting year that begins October 1 and ends the following September 30;

(b) The inventory shall include non-Federal medical facilities and medical facility beds and shall also identify Federal medical facilities and medical facility beds including at a minimum those which are in Veterans' Administration, Public Health Service, and Department of Defense hospitals;

(c) Whenever practicable, the inventory shall include listings of medical facilities beds, utilization figures, and occupancy rates for the following major services; medical/surgical, obstetrical, pediatrics and psychiatric;

(d) The hospital inventory shall also include information on at least the following for the facility as a whole:

(1) The numbers and types of beds which are (i) licensed and unlicensed, (ii) set up and staffed for use, (iii) conforming and nonconforming as determined under § 124.106 of this subpart, and (iv) short and long-term;

(2) Occupancy rates;

(3) Admission restrictions;

(4) Services offered, including, at a minimum, separate identification of the specific services identified in the National Guidelines and identification of those services by level of care where so specified in the National Guidelines;

(5) Number of admissions and discharges;

(6) Patient days of care;

(7) Bassinets; and

(8) Number of live births;

(e) The facility for long-term care inventory shall include information on at least the following:

(1) The numbers and types of beds which are (i) licensed and unlicensed, (ii) set up and staffed for use, and (iii) conforming and nonconforming as determined under § 124.106;

(2) Occupancy rates;

(3) Admissions restrictions;

(4) Services offered;

(5) Number of admissions and discharges; and

(6) Patient days of care;

(f) The outpatient medical facility inventory (which includes outpatient facilities located in or apart from a hospital), the public health center inventory, and the rehabilitation facility inventory shall include information on at least the following:

(1) The type of facility;

(2) The types of services offered; and

(3) Patient encounters;

(g) The State Agency may conduct site visits for purposes of conducting the inventory. The State Agency shall be responsible for conducting or supervising any of these site visits with its own staff or, by agreement, by another agency of the State. The appropriate health systems agency shall be given an opportunity to participate as part of the visit team;

(h) Whenever particable, the acquisition of data shall be coordinated with the Cooperative Health Statistics System under section 306(e) of the Act.

§ 124.108 Survey of need.

(a) The State Agency shall conduct a survey of need for medical facilities and medical facilities beds, including hospitals, public health centers, outpatient medical facilities, rehabilitation facilities, and facilities for long-term care which shall be based on the criteria for determining need under § 124.105;

(b) The survey of need shall include the need for non-Federal medical facilities and medical facility beds, taking into account the availability of Federal medical facilities and medical facility beds;

(c) Whenever practicable, the survey of need shall be differentiated by the following services: Medical/surgical, obstetrical, pediatric and psychiatric, including separate identification of the specific services identified in the National Guidelines and identification of these services by level of care where so specified on the National Guidelines;

(d) The survey of need shall include an analysis of data on the geographical origins of patients, which data shall be obtained within five years of the effective date of these regulations and within each seven-year period thereafter. The analysis of the data on the geographical origins of patients shall be used to define service areas and to make appropriate adjustments for estimating bed population ratios;

(e) The survey of need for inpatient hospital beds shall include a determination of the need for construction of new acute care inpatient beds, in areas which have experienced recent rapid population growth and which have inadequate existing inpatient facilities;

(f) Whenever practicable, the acquisition of the survey of need data shall be coordinated with the Cooperative Health Statistics System under section 306(e) of the Act.

§ 124.109 Program for assistance.

(a) In establishing the program for assistance under this Part for the modernization, construction, and conversion of medical facilities, the State Agency shall consider the recommendations of the appropriate health systems agency submitted under section 1513(h) of the Act;

(b) The program for assistance shall list the criteria developed by the State Agency for determining the amount of the Federal share to approvable pro-

jects located in urban or rural poverty areas;

(c) In determining the program for assistance for the modernization or conversion of existing medical facilities, the State Agency shall use the criteria developed under § 124.106 and data from the site visit, if any, conducted under § 124.107(g);

(d) The program for assistance may not include assistance for the modernization or conversion of existing medical facilities if the existing supply of medical facility beds exceeds the limits established in the applicable health systems plan, unless the effect of the modernization or conversion is to reduce the number of beds in the facility, upgrade other services, or produce alternative services;

§ 124.110 Priorities for the provision of assistance.

(a) Priorities for the provision of assistance shall be based on the relative need of the different areas within the State for such projects as determined by the State Agency. In determining the priority among projects for the modernization, construction, and conversion of medical facilities in a health service area, the State Agency shall consider the recommendations of the health systems agency for that health service area submitted under section 1513(h) of the Act. The general manner in which the State Agency shall determine for the SMFP the priority among projects in the State program for assistance shall:

(1) Be in accordance with the applicable provisions of section 1602(1) of the Act;

(2) Take into account the National Guidelines and the national health priorities under section 1502 of the Act; and

(3) Be consistent with the resource standards specified in the National Guidelines;

(b) The State Agency shall develop a construction schedule in such manner as the Secretary may prescribe. Modernization, construction and conversion projects shall be listed in accordance with the priorities established under section 1601, 1602(1) and 1603(a)(5) of the Act and § 124.104, § 124.106, § 124.108 and § 124.109 and in accordance with the requirements of section 1611(d) of the Act.

(c) In determining priorities among projects the State Agency shall, whenever medically appropriate, give priority to the development of health services which are the least costly.

§ 124.111 Review and modification of the State medical facilities plan.

(a) In conducting its review of the SMFP, as required by section 1603(a)(9) of the Act (see § 124.104(j); the State Agency shall consider at a minimum:

(1) Changes in the designation or authority of the State Agency;

(2) Changes in (i) the population of the State, (ii) the health status of the residents of the State, and (iii) the methods of delivery of health services in the State;

(3) Recommendations by the SHCC concerning statewide health needs and areas for coordination;

(4) Any pertinent data developed since either the initial establishment or the last review of the SMFP, whichever is applicable;

(5) National priorities as set forth in section 1502 of the Act; and

(6) The National Guidelines that relate to medical facilities and services;

(b) In its review of the SMFP, the State Agency shall also evaluate;

(1) Progress toward achievement of projects considered by the existing SMFP to be of high priority, as measured by an analysis of the current status and cost of the projects; and

(2) Progress towards the reduction of resources that the existing SMFP indicates needs to be reduced;

(c) After any final modifications have been incorporated into the SMFP and approved by the SHCC as consistent with the SHP (see § 124.104(d), the SMFP shall be submitted to the Secretary. Amendments to the SMFP may be submitted to the Secretary for his approval at any time.

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FEDERAL REGISTER

FRIDAY, FEBRUARY 2, 1979
PART III

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTON

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Florida—FL79-1019.

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.

Colorado:	
CO78-5132	Nov. 17, 1978
Idaho:	
ID78-5120	Sept. 8, 1978
Illinois:	
IL78-2126; IL-2128	Oct. 27, 1978
IL78-2143	Dec. 8, 1978
IL78-2144	Dec. 1, 1978
Indiana:	
IN78-2162	Dec. 8, 1978
IN78-2163	Dec. 1, 1978
Iowa:	
IA78-4100; IA78-4101; IA78-4102; IA78-4103; IA78-4104; IA78-4105; IA78-4106; IA78-4107; IA78-4108; IA78-4109; IA78-4110; IA78-4111; IA78-4112	Nov. 24, 1978
Kansas:	
KS78-4008; KS78-4009	Feb. 3, 1978
Louisiana:	
LA79-4001; LA79-4002	Jan. 5, 1979
Mississippi:	
MS77-1078	June 17, 1977
Texas:	
TX78-4095	Sept. 22, 1978
TX78-4114	Oct. 20, 1978
TX79-4003; TX79-4011	Jan. 5, 1978
Vermont:	
VT78-2091	Oct. 6, 1978

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL78-1057 (AL79-1015)	July 21, 1978
Arkansas:	
AR77-4072 (AR79-4025)	Apr. 1, 1977
Florida:	
FL77-1146 (FL79-1025)	Mar. 24, 1978
FL77-1149 (FL79-1024)	Feb. 24, 1978
Kentucky:	
KY78-1029 (KY79-1022); KY78-1033 (KY79-1023)	Apr. 7, 1978
KY77-1108 (KY79-1018)	Aug. 26, 1977
KY77-1128 (KY79-1021)	Sept. 30, 1977
New Mexico:	
NM78-4046 (NM79-4022)	May 5, 1978
Oklahoma:	
OK78-4060 (OK79-4024); OK78-4061 (OK79-4023)	June 16, 1978
Pennsylvania:	
PA77-3134 (PA79-3001)	Sept. 9, 1977
South Carolina:	
SC77-1019 (SC79-1020)	Feb. 11, 1977
SC77-1070 (SC79-1016)	May 20, 1977

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 26th day of January, 1979.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[4510-27-C]

NEW DECISION

STATE: Florida
DECISION NUMBER: FL79-1019
DESCRIPTION OF WORK: Heavy Construction

COUNTIES: See below*
DATE: Date of Publication

*Baker, Clay, Duval, Flagler, Nassau and St Johns

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CARPENTERS	$9 17	.62	.50		.05
CONCRETE FINISHERS	7.27				
ELECTRICIANS	10 00	.50	3% + .81	.81	.07
LABORERS, unskilled	5.32	.20	.20		
POWER EQUIPMENT OPERATORS:					
Cranes	9.68	.55	.40		.05
Oilers	6.41	.55	.40		.05
Piledrivers	9.68	.55	.40		.05

MODIFICATIONS P 1

DECISION NO. CO78-5132 - Mod #1
(43 FR 53966 - Nov 17, 1978)
Statewide, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
LINE CONSTRUCTION:					
Cable Splicer	$12 78	45	3% + 35		3/4%
Journeyman Lineman Cableman	11 97	45	3% + 35		3/4%
Journeyman Lineman	11 90	45	3% + 35		3/4%
Line Equipment Maintenance Man	10 13	45	3% + 35		3/4%
Line Equip Operator, Class I: Crawler Equipment, wire equip pullers, tensioners, cranes over 8 tons, heavy pole trucks (such as diesel, twin screws), all bucket trucks-75 ft reach and over, trenchers 4ft & over, and backhoes	10 13	45	3% + 35		3/4%
Line Equip, Operator, Class II: Trenchers under 4 ft depth, hydro cranes under 8 tons, bobcats, trucks under 3 tons G T M Classification	9 05	45	3% + 35		3/4%
Groundman	8 35	45	3% + 35		3/4%

MODIFICATIONS P 2

DECISION #ID78-5120 - Mod. #5
(43 FR 40176 - September 8, 1978)
Statewide Idaho

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Bricklayers; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	$12 15	75	$1 10		
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	11 15	55	45		
Marble Setters:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	12 15	75	1 10		
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	8 92	55	45		
Terrazzo Workers & Tile Setters:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	11 90	.75	1 10		
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	8 92	55	45		

MODIFICATIONS P 3

DECISION #IL78-2128 - MOD #2
(43 FR 50323 - October 27, 1978)
Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash and Wayne Counties
Illinois

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos Workers:					
Remainder of Counties	$11 20	45	1 00		03

DECISION #IL78-2126 - MOD #1
(43 FR 50414 - October 27, 1978)
Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside adn Winnebago Counties,
Illinois

CHANGE:					
Sheet Metal Workers:					
Boone, DeKalb, Lee, Ogle, Whiteside, Winnebago, Carroll (Eastern ½ of County) and JoDaviess & Stephenson Counties	$11 23	55	1 04	50	07

MODIFICATIONS P 4

DECISION #IL78-2143 - MOD #1
(43 FR 57781 - December 8, 1978)
Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St Clair and Washington Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
Linemen:					
Monroe & St Clair Cos Okawville & Vehdy Twps in Washington Co ; Portion East of Rountree, Irving & East Fork Twps in Montgomery Cos & Remainder of Macoupin & Madison Counties, Western ½ of Bond County					
Linemen	$13 35	4%	3%		5%
Groundmen Equipment Operator	11 60	4%	3%		
Groundmen Truck Drivers:					
W/Winch & WO/Winch	9 43	4%	3%		5%
Pick-Up-Jeeps	8 79	4%	3%		5%
Groundmen	8 73	4%	3%		5%

DECISION #IL78-2144 - MOD #2
(43 FR 56379 - December 1, 1978)
Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, and Williamson Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
Linemen:					
Red Bud Twps in Randolph Co :					
Linemen	$13 35	4%	3%		5%
Groundmen Equipment Operator	11 60	4%	3%		5%
Groundmen - Truck Drivers					
W/Winch & WO/Winch	9 43	4%	3%		5%
Pick-Up-Jeep	8 79	4%	3%		5%
Groundmen	8 73	4%	3%		5%

MODIFICATIONS P 5

DECISION NO. IN78-2102 - MOD #1
(43 FR 57789 - December 8, 1978)
Lake, LaPorte, Porter & St Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
CARPENTERS:					
St. Joseph County:					
Heavy & Highway Construction: Carpenters	$10 91	80	80		05
OMIT:					
Line Construction schedule					
ADD:					
Line Construction schedule					

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
EXCLUSIVE OF CALUMET AREA					
Linemen; Technicians	$11 42	45	3%		5%
Equipment Operators	8 92	45	3%		5%
Powder and Equipment Mechanic	8 72	45	3%		5%
Senior Groundman Truck Driver w/w	7 45	45	3%		5%
Groundman Truck Driver with winch	7 16	45	3%		5%
Groundman Truck Driver w/o winch	6 28	45	3%		5%
Senior Groundman after 5 years	7 15	45	3%		5%
Senior Groundman after 12 months	6 96	45	3%		5%
Groundman 0-12 months	5 89	45	3%		5%
CALUMET AREA					
Linemen; Technicians	11 99	45	3%		5%
Equipment Operators	9 37	45	3%		5%
Powderman and Equipment Mechanic	9 16	45	3%		5%
Senior Groundman Truck Driver w/w	7 82	45	3%		5%
Groundman Truck Driver with winch	7 52	45	3%		5%
Groundman Truck Driver w/o winch	6 59	45	3%		5%
Senior Groundman after 5 years	7 51	45	3%		5%
Senior Groundman after 12 months	7 31	45	3%		5%
Groundman 0-12 months	6 18	45	3%		5%

DECISION NO. IN78-2163 - MOD #1
(43 FR 56382 - December 1, 1978)
Statewide, except Lake, LaPorte, Porter & St Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
CARPENTERS:					
Elkhart County	$10 91	80	80		05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Counties	11 71	75	60		08
Remainder of State of Indiana	10 96	60	60		05
OMIT:					
Line Construction schedule (Statewide, except Clark, Crawford, Dearborn, DuBois, Floyd, Fountain, Gibson, Harrison, Jackson, Jefferson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Scott, Spencer, Switzerland, Vanderburgh, Vermillion, Warren, Warrick, Washington, & Clinton (Frankfort) Counties)					
ADD:					
Line Construction schedule (Statewide, except Clark, Crawford, Dearborn, DuBois, Floyd, Fountain, Gibson, Harrison, Jackson, Jefferson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Scott, Spencer, Switzerland, Vanderburgh, Vermillion, Warren, Warrick, Washington, & Clinton (Frankfort) Counties)					

DECISION NO. IN78-2163 (CONT'D)

IND-IC-AREA 1

LINE CONSTRUCTION

EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Linemen; Technicians	$11 42	45	3%		5%
Equipment Operators	8 92	45	3%		5%
Powder and Equipment Mechanic	8 72	45	3%		5%
Senior Groundman Truck Driver w/w	7 45	45	3%		5%
Groundman Truck Driver with winch	7 16	45	3%		5%
Groundman Truck Driver w/o winch	6 28	45	3%		5%
Senior Groundman after 5 years	7 15	45	3%		5%
Senior Groundman after 12 months	6 96	45	3%		5%
Groundman 0-12 months	5 89	45	3%		5%
CALUMET AREA					
Linemen; Technicians	11 99	45	3%		5%
Equipment Operators	9 37	45	3%		5%
Powderman and Equipment Mechanic	9 16	45	3%		5%
Senior Groundman Truck Driver w/w	7 82	45	3%		5%
Groundman Truck Driver with winch	7 52	45	3%		5%
Groundman Truck Driver w/o winch	6 59	45	3%		5%
Senior Groundman after 5 years	7 51	45	3%		5%
Senior Groundman after 12 months	7 31	45	3%		5%
Groundman 0-12 months	6 18	45	3%		5%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision #IA78-4100-Mod. #1 (43 FR 55161-November 24,1978) Building Black Hawk County, Iowa					
CHANGE:					
Elevator Constructor	$10 66	745	56	a+b	025
Elevator Constructor Helper	70%JR	745	56	a+b	025
Ironworkers	11 23	45	50		06
Lathers	10 24	45			
Roofers	9 20				
Sheet Metal Workers	10 95	75	22		02
Line Construction					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
FOOTNOTE: a- Employer contibutes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit b-Paid Holidays-New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4101-Mod. #1 (43 FR 55162-November 24,1978) Building Cerro Gordo Cty, Iowa					
CHANGE:					
Carpenters	9 36	45	30	40	
Millwrights & Piledrivermen	9 61	45	30	40	
Glaziers	9 87	70	35	4 35%+a	
Ironworkers	10 675	61	92		03
Line Construction					
GROUP 1-	10 92	45	7%	b	½%

IA78-4101 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Soft Floor Layers	9 36	45	30	40	
FOOTNOTE: a- 6 paid holidays A thru F b- 7 paid holidays A thru G Paid Holidays- A- New Year's Day; B- Memorial Day; C- Independence Day; D- Labor Day; E- Thanksgiving Day; F- Christmas Day; G- Friday after Thanksgiving					
ADD:					
Lathers	10 24	45			
Decision #IA78-4102-Mod. #1 (43 FR 55164-November 24,1978) Building Clinton County, Iowa					
CHANGE:					
Bricklayers & Stonemasons	11 25		75		
Cement Masons	10 75		75		
Electricians	12 49	55	7 5%		03
Ironworkers	12 97	75	375		11
Millwrights	12 60	60	1 00		25
Painters:					
Brush	10 62	.55	85		18
Spray; Structural steel	11 12	55	85		18
Plasterers	11 25		75		
Plumbers & Pipefitters	11 75	61	60		10
Roofers	12 65		80		
Sheet Metal Workers	11 23	55	95		12
Decision #IA78-4103-Mod. #1 (43 FR 55165-November 24,1978) Building Des Moines Cty, Iowa					
CHANGE:					
Carpenters	10 75	75	90		04
Millwrights & Piledriverman	11 45	75	90		04

MODIFICATIONS P 10

IA78-4103 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Soft Floor Layers	10 75	75	90		04
Line Construction:					
GROUP 1-	10 92	45	7%	a	½%
GROUP 2-	7 10	45	7%	a	½%
GROUP 3-	7 32	.45	7%	a	½%
GROUP 4-	8 74	45	7%	a	½%
GROUP 5-	6 01	45	7%	a	½%
FOOTNOTE: a- seven paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day Christmas Day					
Decision #IA78-4104-Mod. #1 (43 FR 55166-November 24,1978) Building Dubuque County, Iowa					
CHANGE:					
Bricklayers & Stonemasons	10 21	45	25		
Elevator Constructors	10 66	745	56	a	025
Elevator Constructors Helpers	70%JR	745	56	a	025
Ironworkers:					
Southeast portion of county	12 97	75	375		11
Remainder of county	11 23	45	50		06
Common Laborer	8 30	30	30		
Marble Setters	9 96	45	25		
Terrazzo Workers	9 96	45	25		
Tile Setters	9 96	45	25		
FOOTNOTE: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit 7 paid holidays Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; & Friday after Thanksgiving					

MODIFICATIONS P 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision #IA78-4105-Mod. #1 (43 FR 55168-November 24,1978) Building Johnson County, Iowa					
CHANGE:					
Elevator Constructor	10 66	745	56	a+b	025
Elevator Constructor Helper	70%JR	745	56	a+b	025
Ironworkers	11 23	45	50		06
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	.45	7%	b	½%
FOOTNOTE: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit b- Paid holidays- New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4106-Mod. #1 (43 FR 55169-November 24,1978) Building Linn County, Iowa					
CHANGE:					
Asbestos Workers	12 07	45	85		10
Elevator Constructor	10 66	745	56	a+b	025
Elevator Constructor Helper	70%JR	745	56	a+b	025
Ironworkers	11 23	45	50		06

MODIFICATIONS P 12

IA78-4106 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Painters:					
Brush & Rollers	10 50				03
Paperhangers	10 75				03
Spraying	11 15				03
Plumber and Pipefitters	12 29	55	66		10
Tile Setters	10 21		55		
Footnote:					
a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit					
b- Paid holidays- New Year's Day Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4107-Mod. #1 (43 FR 55171-November 24,1978) Building Polk County, Iowa					
CHANGE:					
Elevator Constructor	10 97	745	35	a+b	02
Elevator Constructor Helper	70%JR	745	35	a+b	02
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Roofers	9 62	80	45		

MODIFICATIONS P 13

IA78-4107 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Footnote:					
a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit					
b-Paid holidays- New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4108-Mod. #1 (43 FR 55173-November 24,1978) Building Pottawattamie Cty, Iowa					
CHANGE:					
Cement Masons	10 37	57	55		
Electricians	13 16	68	3%+ 65		07
Elevator Constructor	11 56	745	56	a+b	025
Elevator Constructor Helper	70%JR	745	56	a+b	025
Glaziers	11 16	55	50		01
Ironworkers	10 04	67	75	1 00	05
Laborers:					
Common	8 29	67	45		05
Mason Tenders,Mortar Mixers	8 445	67	45		05
Pipelayers	8 59	67	45		05
Plasterer Tenders	8 635	67	45		05
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Painters:					
Brush, Paperhangers	9 10		25		
Highwork, Spray, stage,structural	9 65		25		
Plasterers	11 03	57	50		

MODIFICATIONS P. 14

IA78-4108 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Footnote: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit b- Paid holidays- New Year's Day; Memorial Day, Independence Day; Labor Day, Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4109-Mod. #1 (43 FR 55174-November 24,1978) Building Scott County, Iowa					
CHANGE:					
Carpenters	10 56	45	60		04
Piledrivermen	10 81	45	60		04
Millwrights	12 60	60	1 03		04
Cement Masons	10 37	50	60		
Electricians	12 09	55	7 5%		03
Cable Splicers	13 09	55	7 5%		03
Ironworkers	12 97	75	375		11
Painters:					
Brush, roller	10 62	55	85		18
Spray,Structural steel	11 12	55	85		18
Roofers	12 65		80		
Sheet Metal Workers	11 23	.55	95		12
Soft Floor Layers	10 56	45	60		04
Decision #IA78-4110-Mod. #1 (43 FR 55175-November 24,1978) Building Story County, Iowa					
CHANGE:					
Bricklayers	10.72		.80		

MODIFICATIONS P. 15

IA78-4110 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Millwrights	10 23		75		
Electricians	12 53	40	3%+ 80		3/4%
Elevator Constructors	10 97	745	35	a+b	02
Elevator Constructors Helpers	70%JR	745	35	a+b	02
Glaziers	9 12	70	25	4 35%	005
Ironworkers	10 675	61	92		03
Lathers	11 435				
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Plumbers and Pipefitters	11 40	60	85		10
Roofers	9 62	80	45		
Soft Floor Layers	9 93	60	75		08
Footnote: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit b-Paid holidays- New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4111-Mod. #1 (43 FR 55177-November 24,1978) Building Webster County, Iowa					
CHANGE:					
Elevator Constructors	10 97	745	35	a+b	02
Elevator Constructors Helpers	70%JR	.745	35	a+b	02
Ironworkers	10 675	61	92		03
Lathers	10.24	45			
Line Construction:					

MODIFICATIONS P 16

IA78-4111 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Plumbers and Pipefitters	11 40	60	85		10
Footnote: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit b- Paid holidays- New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					
Decision #IA78-4112-Mod. #1 (43 FR 55178- November 24,1978) Building Woodbury County, Iowa					
CHANGE:					
Cement Masons	11 215				
Electricians:					
Within 15 mile radius of Sioux City and all electrical contracts over $300,000.00	12 01	50	3%+ 50		3/4%
All contracts $300,000 00 and under outside 15 mile radius of Sioux City	5 50	50	3%+ 50		3/4%
Elevator Constructors	9 65	545	35	a+b	02
Elevator Constructors Helpers	70%JR	545	35	a+b	02

MODIFICATIONS P 17

IA78-4112 Continued	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Line Construction:					
GROUP 1-	10 92	45	7%	b	½%
GROUP 2-	7 10	45	7%	b	½%
GROUP 3-	7 32	45	7%	b	½%
GROUP 4-	8 74	45	7%	b	½%
GROUP 5-	6 01	45	7%	b	½%
Painters	9 83	77	50		
Plasterers	9 20				
Sheet Metal Workers	10 78	75	66		04
Footnote: a- Employer contributes 8% of basic hourly rate for over 5 year's service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. b- Paid holidays- New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Friday after Thanksgiving					

Decision #KS78-4008-Mod. 3
(43 FR 4812-February 3, 1978)
Building Sedgwick County Kansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
Asbestos Workers	12 11	945	85		02
Carpenters	9 90	50			05
Millwrights & Piledrivermen	10 20	50			05
Ironworkers	10 48		50	53	02
Plasterers	10 00				
Plumbers & Pipefitters	11 97	80	85		.04

Decision #KS78-4009-Mod. #4
(43 Fr 4814-February 3, 1978)
Building Shawnee County, KS

CHANGE:					
Bricklayers & Stonemasons	10 69	40	25		05
Carpenters	9 60	40	35		05
Millwrights	10 10	40	35		05
Piledrivermen	9 975	40	35		05
Electricians	12 75	45	3%+ 65		05
Cable Splicer	14 025	45	3%+ 65		05
Glaziers	9 98	61	81	2 03	04
Lathers	10.40		20		
General Laborers	7 95	40	50		05
Power Tool Operators, Compactors, Concrete Breakers, Chipping Tools, Drilling Tools, Concrete Saws, Mechanicall Operated Georgia Buggy	8 15	40	.50		.05
Mason Tenders, Plaster Tenders, Mortar Mixers for Plasterers, Masons and Cement Finishers, All Stocking Scaffold, Clean up for Masons (Building & Wrecking)	8 25	40	50		05
Sand and Concrete Gun Nozzleman, Powderman	8 35	40	50		05
Plumbers & Pipefitters	$12 23	75	65		04
Roofers	11 46		60	a	
Sheet Metal Workers	11 21	3%+ 50	1 29		04

Footnote:
a-after 6 months of employment $.26; after 5 years $ 52

DECISION #LA79-4001 - Mod. #2
(44 FR 1634 - January 5, 1979)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Carpenters (Building Construction):					
Zone 1 - Carpenters	$ 9 65	.50			
Millwrights	10 37	.50			
Piledrivermen	10.55	.50			
Sheet metal workers - Zone 3	11.87	.55	.80		.14
Asbestos workers - Zone 3	10.50	.55	1.20		.05
Truck Drivers (Building Construction):					
Zone 1 - Group 1	8.61				
Group 2	9 09				
Group 3	9 32				
Group 4	9 11				
Group 5	9.21				
Group 6	9.13				
Group 7	9.55				
Zone 3 - Group 1	7 17				
Group 2	7 25				
Group 3	7 50				
Group 4	7.65				
Group 5	7 80				
Group 6	8.00				
Group 7	8.35				
Add:					
Truck Drivers (Building Construction):					
Zone 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes:					
Group 1 - up to but not including 1½ tons	8.14	.45			
Group 2 - 1½ tons up to but not including 3 tons	8.75	.45			
Group 3 - 3 tons up to but not including 5 tons	8.80	.45			
Group 4 - 5 tons & over, including Euclids, winch truck, Dempsey dumpsters, lowboys, semi-trailers, fork lifts	9.06	.45			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #LA79-4002 - Mod. #1 (44 FR 1650 - January 5, 1979) Bossier, Caddo, Calcasieu Parishes, Louisiana					
Change:					
Truck drivers:					
Bossier & Caddo Parishes:					
Group 1	$ 7.17				
Group 2	7 25				
Group 3	7 50				
Group 4	7 65				
Group 5	7.80				
Group 6	8 00				
Calcasieu Parish:					
Group 1	8 61				
Group 2	9.09				
Group 3	9.32				
Group 4	9 11				
Group 5	9.21				
Group 6	9.13				
Group 7	9 55				
Decision # MS77-1078 - Mod. #5 (42 FR-31044 - June 17, 1977) Lowndes County (excluding Columbia Lock and Dam and Tenhessee Tombigbee Project), Mississippi					
CHANGE:					
Ironworkers, reinforcing	$10 75	60	.815		06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #TX78-4095 - Mod. #5 (43 FR 43241 - September 22, 1978) Ector & Midland Cos., Texas					
Change:					
Painters; Brush	$ 8 59				
Spray & sandblasters	9 34				
DECISION #TX78-4114 - Mod. #5 (43 FR 49208 - October 20, 1978) Lubbock County, Texas					
Change:					
Painters: Brush	8 59				
Spray; sandblasters	9.34				
DECISION #TX79-4003 - Mod. #1 (44 FR 1671 - January 5,1979) Brazos County, Texas					
Change:					
Sheet metal workers	11 81	.425	.695	.42	.06
DECISION #TX79-4011 - Mod. #1 (44 FR 1683 - January 5, 1979) Galveston & Harris Cos., Texas					
Change:					
Sheet metal workers:					
Galveston County	11 02	.80	.50	75	.10
Harris County	11.81	.425	.695	.42	.06
DECISION #VT78-2091 - MOD #2 (43 FR 46490 - October 6, 1978) Bennington, Caledonia, Essex, Lamoille, Orange, Rutland, Washington, Windham and Windsor Counties, Vermont					
CHANGE:					
Laborers:					
Bennington County	$ 3.95	15	15		
Drillers:					
Bennington County	4 85			a	
ADD:					
Bennington County					
Compactor	6 80				
Crane	8 20	35	50	b	05
Spreader	6 89				
Truck Crane	6 88				

STATE: Alabama COUNTY: Madison
DECISION No : AL79-1015 DATE: Date of Publication
Supersedes Decision No : AL78-1057 dated July 21, 1978 in 43 FR-31549
DESCRIPTION OF WORK: Building construction(does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos workers	10 51	45	40		05
Boilermakers	9 95	1 05	1 00		02
Bricklayers	10.50				
Carpenters	8 60	45	35		03
Cement masons	9 75				
Electricians: Linemen	11 05	50	3%+ 50		1%
Glaziers	6 00				
Ironworkers:					
Reinforcing	9 805	60	60		08
Structural	9 805	60	60		08
Laborers:					
Laborers, Mason tenders					
Air tool op (jackhammer, vibrator), Mortar mixers	5 46	.30	45		
Millwrights	9 24	45	35		03
Painters:					
Commercial	8.25	.40	25		05
Industrial	9 00	40	25		05
New Industrial	9.25	40	25		05
Plasterers	10 00				
Plumbers Pipefitters	10 80	55	55		15
Sheet metal workers	10 35	69	82		09
Tile setter	10 25				
POWER EQUIPMENT OPERATORS:					
Group A	10 58	45	45		
Group B	9 24	45	45		
Group C	8 52	.45	45		

AL79-1015 Cont'd

POWER EQUIPMENT OPERATORS:
(CONT'D)

Group A - Backhoe, bulldozers, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge drill, elevating, grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer mechanic, motor patrol, mucking mechanic piledriver, post hole digger, scraper (pull type & self prop), shovel, sweeper, tractor (spec equip ,) trenching machine, well point & winch truck operators

Group B - bituminous dist , central air comp , concrete mixer (port) fireman floating equip , front end loader, rubber tire, ½ cu yd & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 tons crane & over) outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

Group C - Air compressor (port) conveyor, fireman stationary equip , oiler, outboard motor boat & pump operators

Oiler driver - additional $ 10 per hour

All cranes, derricks & gantry operators such equipment with an overall height of 150', including jibs; all scrapers operators in tandem - additional $ 25 per hour.

STATE: Arkansas SUPERSEDEAS DECISION COUNTY: Statewide
DECISION NO AR79-4025 DATE: Date of Publication
Supersedes Decision No AR77-4072 dated April 1, 1977 in 42 FR 17754
DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, and water and sewer utilities, (but does not include building structures on highway rest areas)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Bricklayers	$5 20				
Carpenters	5 20				
Concrete finisher	5 20				
Ironworkers:					
Structural	4 50				
Reinforcing	3 75				
Laborers:					
Air tool operator	3 65				
Asphalt heater operator	3 65				
Asphalt raker	4 20				
Carpenter helper	3 75				
Chain saw operator	3 75				
Checker grade	3 75				
Concrete finisher helper	3 75				
Concrete joint sealer	3 75				
Concrete saw operator	3 75				
Form setter	3 90				
Laborer	2 90				
Pipelayer	3 75				
Powderman	4 50				
Vibratorman	3 50				
Painter	4 50				
Pile driver leadman	4 50				
POWER EQUIPMENT OPERATORS:					
Aggregate spreader operator	4 00				
Asphalt plant fireman	3 25				
Asphalt plant drier operator	3 25				
Batch plant operator	4 00				
BULLDOZER OPERATOR:					
Finish	5 00				
Rough	4 28				
Bull float operator	4 00				
Concrete curing machine operator	4 25				
Concrete mixer operator (less than 5 sacks)	3 75				
Concrete mixer operator (5 sacks or over)	4 50				
Backhoe, operator - rubber tired (1 yard or less)	4 25				
Cherry picker operator	4 25				

DECISION NO. AR79-4025 Page 2

Power Equipment Operators (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Concrete paver operator	$4 75				
Concrete spreader operator	4 75				
Crane, derrick, dragline, shovel, backhoe operator (1½ yd or less)	5 00				
Crane, derrick, dragline, shovel, backhoe opr (over 1½ yd)	5 25				
Crusher operator	4 00				
Distributor operator	4 00				
Drill operator (wagon or truck)	4 30				
Elevating grader operator	4 75				
Euclid or like equipment operator (bottom or end dump)	3 85				
Finishing machine operator	3 85				
Forklift operator	3 55				
Form grader operator	3 55				
Front end loader operator:					
Finish	4 75				
Rough	4 30				
Hydro seeder operator	3 85				
Mechanic	5 00				
Mechanic helper	4 00				
Motor Patrol Operator:					
Finish	5 00				
Rough	4 25				
Mulching machine operator	3 85				
Oiler and greaser	3 75				
Pile driver operator	4 40				
Pub mill operator	3 55				
Roller operator (self-propelled)	3 85				
Scraper Operator:					
Finish	5 00				
Rough	4 25				
Sod slicing machine operator	3 50				
Stabilizer mixing machine opr	4 00				
Tractor operator (crawler type)	3 85				
Tractor operator (farm & wheel)	3 55				
Tractor operator wheel type (with attachments 1 yd or under)	4 00				
Trenching machine operator	4 00				
Stonemasons	5 20				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Truck Drivers:					
Distributor truck driver	$3.90				
Semi-trailer	3 90				
Lowboy driver	4 30				
Transit mix truck driver	3 90				
Truck driver (heavy-maximum pay load in excess of 3000 lbs)	3 60				
Truck driver (light-maximum pay load 3000 lbs)	3 50				
Welder, finish	5 00				
Welder, rough	4 25				
Well driller	5 00				
Well driller helper	4 25				
Electricians	6 50				
Electricians helper	5 00				

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Alachua
DECISION NUMBER: FL79-1024 DATE: Date of Publication
Superseden Decision No : FL77-1149 dated February 24, 1978 in 43 FR 7912.
DESCRIPTION OF WORK: Building Construction (does not include single family homes or garden type apartments of four stories or less)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$11.29	.45	.55		.08
BOILERMAKERS	11.00	.75	1.10		.02
BRICKLAYERS	7.65	.30	.30		.02
CARPENTERS	9.17	.62	.50		.05
CEMENT MASONS	7.30	.30	.30		.02
ELECTRICIANS:					
Commercial:					
Wiremen	8.90	.50	3%		1%
Cable Splicers	9.79	.50	3%		1%
Industrial:					
Wiremen	10.75	.50	3%		1%
Cable Splicers	11.825	.50	3%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.785	.745	.56	4% +a&b	.025
Helpers	6.85	.745	.56	4% +a&b	.025
Probationary Helpers	4.89				
GLAZIERS	8.00		20		
IRONWORKERS	9.20	.65	.85		.02
LABORERS:					
Air tool operators; Mortar Mixers; Pipelayers (concrete & clay)	4.90	.20			
Unskilled	4.80	.20			
LATHERS	7.95				
MARBLE SETTERS	7.30	.30	.30		.02
MILLWRIGHTS	9.58	.62	.50		.05
PAINTERS:					
Brush	7.01	.10			.05
Paperhangers	7.51	.10			.05
Structural Steel	7.51	.10			.05
Spray	7.51	.10			.05
Swing Stage	7.51	.10			.05
Boatswain's Chair	7.51	.10			.05
PILEDRIVERS	9.17	.62	.50		.05
PLASTERERS	7.65	.30	.30		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Pipefitters; and Steamfitters	$10.30	.20	.25		.10
ROOFERS:					
Roofers	9.16	.50	.25		.025
Kettlemen	6.84	.50	.25		.025
SHEET METAL WORKERS	9.48	3% + .85	.66		.125
SOFT FLOOR LAYERS	9.17	.62	.50		.05
SPRINKLER FITTERS	10.61	.75	1.05		.10
STONE MASONS	7.65	.30	.30		.02
TILE & TERRAZZO WORKERS	7.30	.30	.30		.02
WELDERS - Rate for craft to which welding is incidental.					

PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% or regular rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.68	.55	.40		.05
GROUP II	8.50	.55	.40		.05
GROUP III	6.41	.55	.40		.05

GROUP I

Crane or derrick operator, clam shell operator, dragline operator, piledriver operator including Auger & Boring Machine operator for drilling in piling, backhoe operator, hydra crane operator, grade all operator, shovel operator, patrol operator, cable ways operator, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), side boom cat operator, multi-drum hoist operator for rigging work, mechanic (heavy equipment), tower crane operator (stationary, climbing, and traveling), gantry crane operator, locomotive crane operator, bridge crane operator (over 20 ton capacity), concrete pump with boom (mobile) operator, high lift or fork lift operator (10' or higher), locomotive engineer (for job use that does not infringe upon the rights of Railroad Unions)

GROUP II

Bulldozer operator, bridge crane operator (20 tons & under), highlift or Forklift operator (less than 10'), straddle buggy operator, hoist operator (other than rigging work) including winch truck operator where winch truck is not mobile and used as a hoist, trenching machine operator (ladder & wheel type) over 6' cut and over 24" in width, concrete paver operator, scraper operator, front end loader operator, fireman-floating equipment, mobile winch truck operator, self propelled sub-grader operator, asphalt paving machine operator, lubricating engineer (mobile plant), pavement breaker operator

GROUP III

Tractor operated sweeper operator, trenching machine operator (ladder and wheel type) maximum cut 6' and maximum width 24", fireman, self propelled roller operators, wellpoint pump operator & supervise installation (one operator for 3 pumps, not including standby units, within 300 ft radius), asphalt distributor operator, water truck drive, motor boat operator, oiler, pumpman (other than wellpoint) up to and including pumps within 300 ft radius, conveyors operator (motor operated), welding machine operator (3 or more combustion type), pulver mixer operator, compressor operator (from 1 up to and including 3 compressors) within 300 ft. radius, self propelled sweeper operator, combination pump, compressor & combustion type welding machine operator (any group of 3 units) with 300 ft radius, concrete mixer operator, concrete pump operator, tractor operator, street sweeping machine operator.

SUPERSEDEAS DECISION

STATE: Florida
COUNTY: Orange
DECISION NUMBER: FL79-1025
DATE: Date of Publication
Superseden Decision No : FL77-1146 dated March 24, 1978 in 43 FR 12535
DESCRIPTION OF WORK: Building construction (Does not include single family homes or garden type apartments of four stories or less)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos workers	$11.28	.50	35		06
Boilermakers	11.00	.75	1.10		02
Bricklayers:					
Bricklayers	8 70	.50	40		03
Stonemasons	8 70	.50	40		.03
Marble masons	8 70	.50	40		03
Plasterers	8 70	50	40		03
Cement masons	8 70	50	40		03
Carpenters; Soft Floor Layers	9.05	.50	.50		05
Electicians:					
Electrical contracts less than $20,000	7 50	55	3%		1%
All other work	10 30	55	3%		1%
Elevator constructors:					
Mechanics	9 41	745	56	4%+a&b	025
Helpers	6 59	.745	56	4%+a&b	025
Probationary helpers	4 705				
Glaziers	7 60	.25	.20		.01
Ironworkers:					
Structural & ornamental	9 33	65	.60	65	05
Reinforcing	9 33	.65	.60	.65	05
Laborers:					
Air tool operators	6.92	25	10		
Laborers	6.77	25	10		
Mason tenders	6.92	25	10		
Mortar mixers	6.92	.25	.10		
Pipelayers (concrete & clay)	6.92	.25	.10		
Plasterers tenders	6.92	.25	10		
Lathers	8.88	.35	25		15
Linemen:					
Linemen	9 61	.40	3%		½ of 1%
Cable splicers	10.31	.40	3%		½ of 1%
Groundmen:					
Up to 1 year experience	3.92	.40	3%		½ of 1%
Over 1 year experience	5.55	.40	3%		½ of 1%

FL79-1025 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Linemen (Cont'd):					
Heavy equipment operator	9 61	40	3%		½ of 1%
Winch truck operator	7 68	.40	3%		½ of 1%
Pick up of flat bed operator	6 28	.40	3%		½ of 1%
Millwrights	9 42	55	70		08
Painters:					
Brush	8.05	.40	40		06
Spray	8.55	40	.40		06
Paperhangers	8.55	40	.40		06
Sandblasters	8.55	40	40		06
Pileidrivers	9.35	50	50		05
Plumbers	9.59	50	.22+ 40	50	12
ROOFERS:					
Roofers	7.65	.35	25		
Kettlemen	6.20	.35	.25		
Sheet metal workers	10.24	3%+.30	30	50	04
Sprinkler fitters	10.61	75	1.05		.10
Tile & terrazzo workers	8.70	.50	40		.03
Welders - receive rate for craft to which welding is incidental					

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, 2% of regular hourly rate for employee who has worked in business less than 5 years

PAID HOLIDAYS (WHERE APPLICABLE):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FL79-1025 cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP I	9 68	55	40		05
GROUP II	8 50	55	40		05
GROUP III	6 41	.55	40		05

GROUP I

Crane or derrick operator, clam shell operator, dragline operator, piledriver operator including Auger & Boring Machine operator for drilling in piling, backhoe operator, hydra crane operator, grade all operator, shovel operator, patrol operator, cable ways operator, tug boat captain (150 H P or more), multi-bowl operator (similar to R G LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), side boom cat operator, multi-drum hoist operator for rigging work, mechanic (heavy equipment), tower crane operator (stationary, climbing, and traveling), gantry crane operator, locomotive crane operator, bridge crane operator (over 20 ton capacity), concrete pump with boom (mobile) operator, high lift or fork lift operator (10' or higher), locomotive engineer (for job use that does not infringe upon the rights of Railroad Unions)

GROUP II

Bulldozer operator, bridge crane operator (20 tons & under), highlift or Forklift operator (less than 10'), straddle buggy operator, hoist operator (other than rigging work) including winch truck operator where winch truck is not mobile and used as a hoist, trenching machine operator (ladder & wheel type) over 6' cut and over 24" in width, concrete paver operator, scraper operator, front end loader operator, fireman-floating equipment, mobile winch truck operator, self propelled sub-grader operator, asphalt paving machine operator, lubricating engineer (mobile plant), pavement breaker operator

GROUP III

Tractor operated sweeper operator, trenching machine operator (ladder and wheel type) maximum cut 6' and maximum width 24", fireman, self propelled roller operators, wellpoint pump operator & supervise installation (one operator for 3 pumps, not including standby units, within 300 ft radius), asphalt distributor operator, water truck drive, motor boat operator, oiler, pumpman (other than wellpoint) up to and including pumps within 300 ft radius, conveyors operator (motor operated), welding machine operator (3 or more combustion type), pulver mixer operator, compressor operator (from 1 up to and including 3 compressors) within 300 ft radius, self propelled sweeper operator, combination pump, compressor & combustion type welding machine operator (any group of 3 units) with 300 ft radius, concrete mixer operator, concrete pump operator, tractor operator, street sweeping machine operator

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: FAYETTE
DECISION NUMBER: KY79-1018 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY77-1108, dated August 26, 1977, in 42 FR 43334
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$12 85	60	1 00		
BOILERMAKERS	10 70	1 05	1 10		02
BRICKLAYERS & STONE MASONS	10.80	.40	50		
CARPENTERS & SOFT FLOOR LAYERS	10 95	50	30		
CEMENT MASONS	11 70				
ELECTRICIANS	12 45	45	3% + 50		0025
ELEVATOR CONSTRUCTORS:					
Mechanics	11 41	745	56	a + b	025
Helpers	7 99	745	.56	a + b	.025
Probationary helpers	5 705				
GLAZIERS	11 75				
IRONWORKERS	11 45	1 15	1 20		06
LATHERS	9 74		10		
LINE CONSTRUCTION:					
Linemen & equipment operators	13 00	60	3%		½ of 1%
Cable splicers	13 25	60	3%		½ of 1%
Groundman-truck drivers	10 40	60	3%		½ of 1%
Groundmen	9 75	60	3%		½ of 1%
MARBLE, TILE, & TERRAZZO WORKERS	9 65	45	50		01
MILLWRIGHTS & PILEDRIVERMEN	11 45	50	30		
PAINTERS:					
Brush, drywall finishers, paperhangers	9 30	.45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height above permanent working floor area, steam cleaning	9 80	45			
Sandblasting & spray	10 05	45			
PLASTERERS	9.65				
PLUMBERS & PIPEFITTERS	11 70	45	85		02
ROOFERS	8 50	.55			02
SHEET METAL WORKERS	11.65	1.102	1 05		14
SPRINKLER FITTERS	12 10	75	1 05		08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
b Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service

DECISION NO. KY79-1018

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP I	$ 7 60	35	47		
GROUP II	8.00	35	47		
GROUP III	8 20	.35	47		
GROUP IV	8 30	.35	47		
GROUP V	8.80	.35	.47		
GROUP VI	9 10	35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric buck and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflex burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, screw man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools.

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air) sand hog or mucker (pressure or free air.

DECISION NO KY79-1018

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CLASS A	$11 00	60	50		05
CLASS B	8.41	60	50		.05
CLASS C	7.69	60	50		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu ft or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hepto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Rose carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu ft per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: FRANKLIN
DECISION NUMBER: KY79-1021 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY77-1128, dated September 30, 1977, in 42 FR 53053
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$12 85	60	1 00		
BOILERMAKERS	10 70	1 05	1.10		02
BRICKLAYERS & STONE MASONS	10 80	40	50		
CARPENTERS & SOFT FLOOR LAYERS	10 95	50	,30		
CEMENT MASONS	11 70				
ELECTRICIANS	12 60	45	3% + 50	-	0025
ELEVATOR CONSTRUCTORS:					
Mechanics	11 41	745	56	a + b	025
Helpers	7 99	745	56	a + b	025
Probationary helpers	5 705				
GLAZIERS	11 75				
IRONWORKERS	11.45	1 15	1 20		06
LATHERS	9 74		10		
LINE CONSTRUCTION:					
Linemen & equipment operators	13 00	60	3%		½ of 1%
Cable splicers	13 25	60	3%		½ of 1%
Groundmen-truck drivers	10 40	60	3%		½ of 1%
Groundmen	9 75	60	3%		½ of 1%
MARBLE, TILE, TERRAZZO WORKERS	9 65	45	50		01
MILLWRIGHTS & PILEDRIVERMEN	11 45	50	30		
PAINTERS:					
Brush, drywall finishers, paperhangers	9 65	45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height from permanent work floor area, steam cleaning	10 15	45		-	
Sandblasting & srpaying	10 40	.45			
PLASTERERS	9 65				
PLUMBERS & PIPEFITTERS:					
Western 3/4 of County, including the City of Frankfort:					
Plumbers	12 76	80	1 24	77	15
Pipefitters	13 47	75	1 40		.10
Remainder of County	12 45	45	85		02
ROOFERS:					
Roofers	8 50	65	45		
Slate, tile, & precast concrete slab	8 90	65	45		
SHEET METAL WORKERS	11 65	1 102	1 05		14
SPRINKLER FITTERS	12 10	75	1 05		08
WELDERS - Rate for craft					

FOOTNOTES:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day
b Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service

DECISION NO. KY79-1021

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP I	$ 7.60	35	47		
GROUP II	8.00	35	47		
GROUP III	8.20	35	47		
GROUP IV	8.30	.35	47		
GROUP V	8.80	35	47		
GROUP VI	9 10	35	47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman

GROUP IV - Powderman and Blaster

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air) sand hog or mucker (pressure or free air

DECISION NO. KY79-1021

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CLASS A	$11.00	.60	50	-	.05
CLASS B	8 41	60	.50		.05
CLASS C	7.69	.60	.50		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hepto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: HARDIN, JEFFERSON MEADE

DECISION NO.: KY79-1022 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY78-1029, dated April 7, 1978, 43 FR 14859

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$12.85	.60	1.00		
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS & STONE MASONS	10 94	.50	.40		.01
CARPENTERS	10.35	.50	.50		.05
CEMENT MASONS	9.68	.90	.60		.04
ELECTRICIANS	13 30	.50	3% + .60		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.41	.745	.56	a + b	.025
Helpers	7.99	.745	.56	a + b	025
GLAZIERS	8.90	.35	.45		
IRONWORKERS:					
Structural, ornamental, reinforcing, riggers, fence erectors, shoeters, machinery movers, and conveyormen	11.45	1.15	1.20		.06
LATHERS	11.29		.20		.01
LINE CONSTRUCTION:					
Linemen, line truck operators, & hole diggers	13.30	.50	3% + .60		½ of 1%
MARBLE MASONS	10.60	.50	.40		
MARBLE FINISHERS	8.60				
MILLWRIGHTS	11.75	.50	.65		.05
PAINTERS:					
AREA 1 - 35 mile radius from the Jefferson County Courthouse, Louisville, Ky.:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	9.02	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack work over 50' in height	9.37	.35	.20		.03
Spray	9.47	.35	.20		.03

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DECISION NO KY79-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PAINTERS - AREA 1 (Cont'd)					
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	$ 8 43	.35	20		03
Spray	8 88	35	20		03
AREA 2 - over a 35 mile radius from the Jefferson County Courthouse, Louisville, Ky :					
Brush, roller, drywall painting, taping & finishing, and paperhanging	9 37	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack over 50' in height	9 72	35	.20		03
Spray	9.82	35	20		.03
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	8 78	35	20		.03
Spray	9 23	.35	20		.03
PILEDRIVERMEN	10 60	50	50		.05
PLASTERERS	10 85				
PLUMBERS & PIPEFITTERS:					
AREA 1 - Jefferson County:					
Plumbers	12.06	80	1.24	77	.15
Pipefitters	12 77	.75	1.40		.10
AREA 2 - Hardin (northern portion of county up to but not including Elizabethtown) and Meade Counties:					
Plumbers	12.51	.80	1 24	77	15
Pipefitters	13.22	.75	1.40		.10
AREA 3 - Hardin (remainder of county) County:					
Plumbers	12 76	80	1.24	77	15
Pipefitters	13 47	75	1 40		.10

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DECISION NO KY79-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ROOFERS:					
Roofers	$ 8 50	.65	.45		
Slab, tile & precast concrete slab	8 90	.65	45		
SHEET METAL WORKERS	11.65	1 102	1 25		14
SOFT FLOOR LAYERS	10.35	.50	.50		.05
SPRINKLER FITTERS	12 10	.75	1 05		.08
TERRAZZO WORKERS	10 60	.50	40		
TERRAZZO FINISHERS	8 60				
TILE LAYERS	10 60	.50	.40		
TILE FINISHERS	8.60				
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					
TRUCK DRIVERS:					
Truck helper & warehouseman	8 36	d	e	f	
Driver, 3 tons and under, greaser, tire changer and mechanic helper	8.48	d	e	f	
Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, farm tractor when used to pull building material or equipment	8 59	d	e	f	
Driver, concrete mixer trucks (all types, hauling only on jobsites)	8.66	d	e	f	
Driver, Euclid & other heavy earth moving equipment and low boy, winch truck and A-frame & monorail truck when used to transport building materials	8 76	d	e	f	

DECISION NO KY79-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS:					
Group 1	$ 7 93	35	.47		
Group 2	8.13	.35	47		
Group 3	8.28	35	47		
Group 4	8.43	.35	47		
Group 5	9.13	35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers, mobile sweepers;

Group 2 - Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air, diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker;

Group 3 - Air track driller, mason tender, side rail setter (metal), stackman;

Group 4 - Powderman, introflax burning rod, gunnite nozzle man operator, sewer & tunnel laborers (free air), sand hog or mucker (free air);

Group 5 - Holeman drilled, piers, augured caissons, sand miner (tunnel free air), caisson workers

DECISION NO. KY79-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS:					
CLASS A	$11.00	.60	.50		.05
CLASS B	8 41	60	.50		.05
CLASS C	7.69	.60	.50		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu ft or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu ft per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, drill helper.

DECISION NO KY79-1022

FOOTNOTES:

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 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

d Employer contributes $21 00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

e Employer contributes $20 00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period

f Employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year shall receive vacation and pay equal to 40 hours

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: BOYD
DECISION NO.: KY79-1023 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY78-1033, dated April 7, 1978, in 43 FR 14865.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$13.10	.50	.70		.03
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS & STONE MASONS	12 23				
CARPENTERS	10 67	.55	1 00		.03
CEMENT MASONS	11.92		60		
ELECTRICIANS:					
Wiremen	11.82	50	3% + .82;	1 02	.04
Cable splicers	12.41	50	3% + 82;	1 02	.04
ELEVATOR CONSTRUCTORS:					
Mechanics	11.465	.745	56	4%+a+b	025
Helpers	8.025	745	56	4%+a+b	025
GLAZIERS	11.30		80		
IRONWORKERS - Structural, Ornamental & Reinforcing	11.92	90	1.20		01
LATHERS	11.725		.10		
LINE CONSTRUCTION:					
Linemen	12 73	.60	3% + .52;	.92	of 1%
Cable splicers	14.00	.60	3% + .52;	92	of 1%
Groundmen	8 27	.60	3% + .52;	92	of 1%
Mechanical equipment operators	10.18	.60	3% + .52;	.92	of 1%
MILLWRIGHTS	10.79	40	.37		.03
PAINTERS:					
Brush & paperhanging	8.88		.50		
Roller, drywall, & saping	9 04		.50		
Spray	9 40		.50		
Steamcleaning	9 62		.50		
Mittens or rags	9 93		.50		
Sandblasting	10 09		.50		
Drywall machine operator	10.30		.50		
PILEDRIVERMEN	10.96	.55	1.00		.03
PLASTERERS	11.92		.60		

DECISION NO KY79-1023

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS & PIPEFITTERS:					
Area 1 - within a 5 mile radius of 17th St. and Winchester Ave , Ashland	$11.22	.60	85	1 00+d	
Area 2 - over 5 miles and within a 15 mile radius of 17th St and Winchester Ave Ashland	11.42	.60	.85	1.00+d	
Area 3 - over 15 miles and within a 30 mile radius of 17th St and Winchester Ave Ashland	11 62	60	.85	1 00+d	
Area 4 - over a 30 mile radius of 17th and Winchester Ave , Ashland	11.72	.60	.85	1 00+d	
ROOFERS:					
New construction	11.55		.50		
Re-roofing	8.10		.50		
SHEET METAL WORKERS	11.80	1 07	.725		.085
SOFT FLOOR LAYERS	10.67	.55	1.00		.03
SPRINKLER FITTERS	12.10	.75	1.05		.08

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. KY79-1023

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS:					
Group 1	$ 7 86	35	47		
Group 2	8 01	35	47		
Group 3	8 03	.35	47		
Group 4	8 06	35	.47		
Group 5	8 11	35	47		
Group 6	8 36	35	47		
Group 7	8 56	35	47		
Group 8	9 06	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - Laborers, carpenter tenders, concrete men, wreckers, wall men, handlers of empty oxygen and acetylene bottles;
Group 2 - Hod carriers, mortar men, cement finisher tenders, lather and plaster tenders;
Group 3 - Wrapping, heating and applying hot and cold tar on all pipes, applying tape on pipes and operating of a Ttester;
Group 4 - Deck hand and scow men;
Group 5 - Jackhammer and electrical, gas or air power driven tools, burning torch, wagon drill operators, handling of all creosote material, signal men, and asphalt rakers;
Group 6 - Rock and powder men;
Group 7 - Sand hog or muckers, and tunnel miners
Group 8 - Caisson workers

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CLASS A	$11 00	60	50		05
CLASS B	8 41	.60	50		.05
CLASS C	7 69	.60	.50		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu ft or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair),)hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu ft per min), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Group 1	$ 9 77	e	f		
Group 2	9 87	e	f		
Group 3	10 02	e	f		
Group 4	10 07	e	f		
Group 5	10.12	e	f		
Group 6	10.17	e	f		
Group 7	10 42	e	f		

CLASSIFICATIONS DEFINITIONS

Group 1 - Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flat-body material trucks (straight jobs), greasers, washers, tiremen, dump trucks (up to 5 cu yds);
Group 2 - Tank trucks (straight);
Group 3 - Dump trucks (5 cu yds or over), semi-dump trucks, semi-trailers (whether flat, rack or pole and hauled or pushed by trucks or tractors), agitator or mixer trucks (up to 5 cu yds), tank trucks (semi);
Group 4 - Lowboy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck cranes, monirail trucks;
Group 5 - Material checkers & receivers, mechanics helpers;
Group 6 - Agitator or mixer trucks (5 cu yds. and over);
Group 7 - Tri-axle dump trucks, hydraulic lifts, tailgate trucks, farm type tractors, ross carriers, athey wagons or similar equipment, A-frame, hydro-lifts, dual purpose trucks, end dumpsters, mechanics

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FOOTNOTES:

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 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

d. Two Paid Holidays: Independence Day and Christmas Day.

e. Employer contributes $93.17 per month per employee employed 30 days or more

f. Employer contributes $60.67 per month per employee employed 30 days or more.

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO NM79-4022 DATE: Date of Publication
Supersedes Decision No NM78-4046 dated May 5, 1978 in 43 FR 19559
DESCRIPTION OF WORK: Sewer & Water & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CARPENTERS:					
Carpenters	$ 5 26	10	20	10	04
Power saw operator-saw filer	5 41	10	20	10	04
Millwrights & Piledriver	5 51	10	20	10	.04
CEMENT MASONS	4 94	.26			
IRONWORKERS:					
Reinforcing	5 05	25	25		
Structural	7.99	.50	75		04
PAINTERS:					
Brush	4 57	35	20		01
Spray	5 54	10	.30		.04
LABORERS:					
Commonlaborer; carpenter tenter concrete buggy opr. (hand); concrete workers	2 90	20	15		
Wagon, air track, drill & diamond drillers' tender (outside)	2 95	20	15		
Air & powr tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touchup-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier;mortar mixer and mason tender; powderman or blaster helper; scaler; sandblaster helper; vibrator compactor (hand type); vibratorman (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)	2.95	.20	.15		
Gunite pumpcreteman & nozzleman; multiplate setter; pipelayer	3 35	20	.15		
Manhole builder	3.35	20	15		
Powderman-blaster-make up	3 35	.20	.15		

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Group I	4 88	15	10		01
Group II	5 08	15	10		01
Group III	5 66	15	.10		.01
Group IV	5 68	15	10		01
Group V	5 68	15	.10		01
Group VI	5 83	15	10		01
Group VII	5.88	15	10		.01
Group VIII	6 03	15	.10		01
Group IX	6 53	15	.10		01
Group X	7.33	15	10		01

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Concrete paving curing machine

GROUP II - Belt type conveyors (material & concrete); broom (self-propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brakeman; frant end loader (2 cy or less); fireman;oiler screedman; roller (pull type); mulching machine; roller (self-propelled)

GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV - Bulldozer (including self-propelled roller with dozer attachment); batch or continous mix plant (concrete soil-cement, or asphalt); roller (steel wheel); front end loader (2 cy thru 10 cy); scraper operator; motor grader

GROUP V - Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching machine; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (1 drum); industrial locomotive motorman; lumber stacker; tractor(50 drawbar HP or over)

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION (CONT'D)

GROUP VI - Concrete paver mixer; host (2 drum and over); sideboom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; front end loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)

GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concrete paving longitudinal float; gunite machine; refrigerator; jombo formor drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 cy); cranes (crawler or mobile) over 40 tons

GROUP IX - Belt loader (CMI types) operator; derrick, cableway

GROUP X - Pipemobile operator; mole operator

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Distributor (asphalt)	$4.57	26			
Dumpster of dumptor	4 65	26			
Dump or batch truck:					
Under 8 cy	4 36	26			
8 cy and under 16 cy	4 46	26			
16 cy and under 20 cy	4 60	26			
20 cy and over	4 65	26			
Diesel-powered transport (non-self-loading) 10 yds & over)	4 88	26			
Flatbed:					
1-½ ton	4 36	26			
Over 1-½ ton	4 51	26			
Lumber carrier	4 39	26			
Lowboy, heavy equipment	4 98	26			
Lowboy, light equipment	4 60	26			
Off-highway hauler	4 63	26			
Pick-up truck 3/4 ton or under	4 21	26			
Service station attendant	4 25	26			
Spreader box	4 30	26			
Spreader box (self-propelled)	4 54	.26			
Swamper or rider helper	4 17	26			
Tank Truck:					
3,000 gal or under	4 44	26			
3,001 gal to 6,000 gal	4 54	26			
6,001 gal and over	4 64	26			
Teamster, 2 or 4 or more	4 17	26			
Trailer or semi-trailer dump	4 73	26			
Transit mix	4 60	26			
Warehousemen	4 35	26			

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LINE CONSTRUCTION AREA & ZONE DEFINITIONS

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisozo - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION :					
ZONE I					
Linemen - Technicians	11 75	60	3%+ 70		½%
Cable splicers	12 93	60	3%+.70		½%
Equipment Operator (includes Helicopter op)	11.16	60	3%+ 70		½%
Equipment mechanic (includes Helicopter mechanic)	10 22	.60	3%+ 70		½%
Powderman	10.22	60	3%+.70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	6 35	.60	3%+.70		½%
2nd 6 months	7.05	.60	3%+ 70		½%
Experienced	8.34	60	3%+.70		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
LINE CONSTRUCTION (CONT'D):					
ZONE II					
Linemen - Technicians	12.57	60	3%+ 70		½%
Cable splicers	13 75	60	3%+ 70		½%
Equipment Operator (includes Helicopter op)	11.98	.60	3%+ 70		½%
Equipment Mechanic (includes Helicopter mechanic)	11 04	.60	3%+ 70		½%
Powderman	11.04	60	3%+.70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	7 17	60	3%+ 70		½%
2nd 6 months	7 87	60	3%+ 70		½%
Experienced	9 16	60	3%+ 70		½%
ZONE III					
Linemen - Technicians	13 28	60	3%+.70		½%
Cable splicers	14 46	60	3%+ 70		½%
Equipment Operator (includes Helicopter op)	12 69	60	3%+ 70		½%
Equipment mechanic (includes Helicopter mechanic)	11 75	60	3%+ 70		½%
Powderman	11 75	60	3%+ 70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	7 88	60	3%+ 70		½%
2nd 6 months	8.58	.60	3%+ 70		½%
Experienced	9 87	60	3%+ 70		½%
ZONE IV					
Linemen - Technician	14 10	60	3%+ 70		½%
Cable splicers	15 28	60	3%+ 70		½%
Equipment Operator (includes Helicopter op)	13.51	.60	3%+ 70		½%
Equipment Mechanic (includes Helicopter mechanic)	12 57	.60	3%+ 70		½%
Powderman	12.57	.60	3%+ 70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	8 70	60	3%+ 70		½%
2nd 6 months	9 40	60	3%+ 70		½%
Experienced	10.69	.60	3%+.70		½%
Los Alamos County - Use Zone III Rates					

LINE CONSTRUCTION AREA & ZONE DEFINITION

Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area with a ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ZONE I					
Linemen - technicians	9 60	30	3%		½%
Cable splicers	9 85	30	3%		½%
Equipment operator (includes Helicopter operator)	9 12	30	3%		½%
Equipment mechanic (includes helicopter mechanic)	8 40	30	3%		½%
Powderman	8 40	30	3%		½%
Groundman & Jackhammer Oprs.					
1st 6 months	5 18	30	3%		½%
2nd 6 months	5 86	30	3%		½%
Experienced	6 82	30	3%		½%
ZONE II					
Linemen - technicians	11 05	30	3%		½%
Cable splicers	11 30	30	3%		½%
Equipment operator (includes Helicopter operator)	10 50	30	3%		½%
Equipment mechanic (includes helicopter mechanic)	9 67	30	3%		½%
Powderman	9 67	30	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	5 97	30	3%		½%
2nd 6 months	6 74	30	3%		½%
Experienced	7 85	30	3%		½%

LINE CONSTRUCTION AREA & ZONE DEFINITION:
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs and Lovington
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 - 40 miles
Zone D - 40 miles and beyond

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION WORK CONT'D):					
ZONE A					
Linemen - technician	10 95	60	3%		½%
Cable splicers	11 30	60	3%		½%
Equipment Operator (includes helicopter operator)	10 36	60	3%		½%
Equipment mechanic (includes helicopter mechanic)	9 58	60	3%		½%
Powderman	9 58	60	3%		½%
Groundman & Jackhammer Oprs.:					
1st 6 months	5 91	60	3%		½%
2nd 6 months	6 68	60	3%		½%
Experienced	7 77	60	3%		½%
ZONE B					
Linemen - technician	11 30	60	3%		½%
Cable splicers	11 65	60	3%		½%
Equipment Operator (includes helicopter operator)	10 71	60	3%		½%
Equipment mechanic (includes helicopter mechanic	9 93	60	3%		½%
Powderman	9 93	60	3%		½%
Groundman & Jackhammer Oprs.:					
1st 6 months	6 26	60	3%		½%
2nd 6 months	7 03	60	3%		½%
Experienced	8 12	60	3%		½%
ZONE C					
Linemen - technician	11 45	60	3%		½%
Cable splicers	11 80	60	3%		½%
Equipment Operator (includes helicopter operator)	10 86	60	3%		½%
Equipment mechanic (includes helicopter mechanic)	10 08	60	3%		½%
Powderman	10 08	60	3%		½%
Groundman & Jackhammer Oprs.:					
1st 6 months	6 41	60	3%		½%
2nd 6 months	7 18	60	3%		½%
Experienced	8 27	60	3%		½%

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LINE CONSTRUCTION WORK CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
ZONE D					
Linemen - technician	11 70	60	3%		½%
Cable splicers	12 05	60	3%		½%
Equipment operator (includes helicopter operator	11 11	60	3%		½%
Equipment mechanic (includes helicopter mechanic)	10 33	60	3%		½%
Powderman	10 33	60	3%		½%
Groundman & Jackhammer Oprs.:					
1st 6 months	6 66	60	3%		½%
2nd 6 months	7 43	60	3%		½%
Experienced	8 52	60	3%		½%

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO OK79-4023 DATE: Date of Publication
SUPERSEDES DECISION NO OK78-4061 dated June 16, 1978 in 43 FR 26269
DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$11 63	55	1 00		04
BOILERMAKERS	10 55	80	1 00		02
BRICKLAYERS-Stonemasons	9 91	62	40		12
CARPENTERS:					
Carpenters	8 20	45	25		04
Millwrights-Piledrivermen	8 70	45	25		04
Power saw operator	8 325	45	25		04
CEMENT MASONS	8 10				
ELECTRICIANS	10.25	40	3%		½%
ELEVATOR CONSTRUCTORS	10 11	545	35	2½%+a+b	½%
ELEVATOR CONSTRUCTORS HELPER	70%JR	545	35	2½%+a+b	02
ELEVATOR CONSTRUCTORS HELPER (Probationary)	50%JR				
IRONWORKERS	10 60	45	65		12
LABORERS:					
Group I	6 30	25	40		
Group II	6 55	25	40		
Group III	7.05	25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping testing and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating and sand blaster, except nozzle; signal men cutting torch operators in connection with laborers' work; concrete grader

GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION:					
Linemen	10 60		3%		½%
Cable splicers	11 29		3%		½%
Hole digger operator	9 62		3%		½%
Heavy equipment operators (or pole cat equivalent)	9 62		3%		½%
Line truck driver (winch op)	8 71		3%		½%
Jack hammerman	7 93		3%		½%
Powdermen	9 62		3%		½%
Groundmen, 1st year	5 51		3%		½%
Groundmen	7 07		3%		½%
Truck driver (flat bed, ton and half and under)	7 55		3%		½%
MARBLE SETTERS	10 05		30		
PAINTERS:					
Brush and roller	8 40		25	70	05
Brush & roller (structural steel)	8 65		25	70	05
Spray	9 05		25	70	05
Swing stage, bosun chair work	8 65		25	70	05
Taping & bedding (hand tools)	8 70		25	70	05
Sandblasting	8 75		25	70	05
PLASTERERS	8 85				
PLUMBERS & PIPEFITTERS	11 67	60	85		10
POWER EQUIPMENT OPERATORS:					
GROUP I	11 25	45	50		12
GROUP II	11 00	45	50		12
GROUP III	10 75	45	50		12
GROUP IV	10 50	45	50		12
GROUP V	10 25	45	50		12
GROUP VI	10 00	45	50		12
GROUP VII	9 75	45	50		12
GROUP VIII	9 35	45	50		12
GROUP IX	8 75	45	50		12
GROUP X	8 75	45	50		12
GROUP XI	8 75	45	50		12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 250' of boom or over (including jib)
GROUP II - All crane type equipment with 200' of boom or over (including jib)
GROUP III - All crane type equipment with 150 - 200' of boom (including jib)
GROUP IV - All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu yd. or more (as rated by mfg), sideboom (booms 30' and over), guy derrick
GROUP V - Heavy duty mechanic, welder, crane-hood and overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd and over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI - Motor patrol (blade), fork lift (35' & over), dozer (engine h p 65 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h p 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications
GROUP VII - Locomotive engineer, boring machine, tug boat, mixer, 18 cu ft and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu ft & under, air compressor, over 500 cu ft (1) pumps, battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec , winch truck with a-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of operating engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, conveyor-operator duel, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications
GROUP VIII - Greaser, tilt top trailer operator
GROUP IX - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu ft , air compressor, 500 cu ft , and under (1 or 2), welding machine (1 or 2) pump (lor 2), fuelman, conveyor operator-single-continous belt bulk handling
GROUP X - Asphalt lay machine back end man, mechanic helper and welder helper
GROUP XI - Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ROOFERS	9 65	60	25		04
SHEET METAL WORKERS	10 82	50	84		07
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	9 60	50		.25	03
SPRINKLER FITTERS	11 60	.75	1 05		.08
TERRAZZO WORKERS:					
Terrazzo workers	10 73		30		
Terrazzo workers finishers	6 98				
Terrazzo workers floor machine operator	7 08				
Terrazzo base machine operator	7 28				

DECISION NO. OK79-4023 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
TILE LAYERS	10 73		30		
TILE & MARBLE HELPERS (EXPER)	6 65				
TRUCK DRIVERS:					
Group I	6 92				
Group II	6 92				
Group III	6 62				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch & floats
GROUP II - Heavy earth moving equipment such as dump trucks and euclids
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

WELDERS - receive rate prescribed for craft to which welding is incidental
FOOTNOTES:
a - 1st 6 mos. to 5 yrs 6%; over 5 yrs 8% of basic hourly rate
b - Paid Holidays, A through F
PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Garfield
DECISION NO : OK79-4024 DATE: Date of Publication
SUPERSEDES DECISION NO OK78-4060 dated June 16, 1978 in 43 FR 26263
DESCRIPTION OF WORK: Building Construction (but does not including single family homes and garden type apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$11.75	.45	1.00		.02
BOILERMAKERS	10 55	.80	1 00		02
BRICKLAYERS-Stonemasons	9 20		.30		
CARPENTERS:					
Carpenters	8 35	45	25		05
Millwrights-Piledriverman	9 90	45	60		09
CEMENT MASONS	7.50				
ELECTRICIANS:					
ZONE I	11 35	70	3%+ 50		1%
ZONE II	11 60	70	3%+ 50		1%
ZONE III	11 85	70	3%+.50		1%
CABLE SPLICERS:					
ZONE I	11 60	70	3%+ 50		1%
ZONE II	11 85	70	3%+ 50		1%
ZONE III	12 10	70	3%+ 50		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITION

Zone I - the area within the twelve mile radius of the main Post Office located in the City of Enid
Zone II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 Post Office, except where zone 2 intercepts another zone 1 area
Zone III - the area outside zone 1 and 2 within the local union area

ELEVATOR CONSTRUCTORS	10 11	.545	35	2½%+a+b	02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	545	35	2½%+a+b	02
ELEVATOR CONSTRUCTORS' HELPERS (Probationary)	50%JR				
GLAZIERS	9 30				
IRONWORKERS	10 60	45	65		12
LABORERS:					
Group I	6 15	25	40		
Group II	6.40	25	40		
Group III	7 00	.25	40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handlin of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping teating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previouly used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating and sand blaster, except nozzle; signal men cutting torch operators in connection with laborors' work; concrete grader

GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION:					
Linemen	10.60		3%		½%
Cable splicers	11 29		3%		½%
Hole digger operator	9 62		3%		½%
Heavy equipment operators (or pole cat equivalent)	9 62		3%		½%
Line truck driver (winch op)	8 71		3%		½%
Jack hammerman	7 93		3%		½%
Powdermen	9 62		3%		½%
Groundman	7 07		3%		½%
Truck driver (flat bed, ton and half and under)	7 55		3%		½%
MARBLE SETTERS	10 05		30		
PAINTERS:					
Group I	6 25				
Group II	6 75				
Group III	7 75				
Group IV	7 25				
Group V	7 60				
Group VI	8 25				
Group VII	8 60				

PAINTERS CLASSIFICATION DEFINITIONS

Group I - Brush and tapers
Group II - Sandblasterers
Group III - Swinging stage or chair up to 40 ft ; structural steel; tanks and towers 25 ft and up to 40 feet (brush paid from ground)
Group IV - Sandblasters, on work over 40 ft (paid from ground)
Group V - Spray painting
Group VI - Swinging stage or chair over 40 feet
Group VII - Spray painting, swinging stage or chair over 40 feet structural steel and over 40 feet paid from ground

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS:					
GROUP I	11 25	45	50	-	.12
GROUP II	11 00	45	50		12
GROUP III	10 75	45	50		12
GROUP IV	10 50	45	50		12
GROUP V	10 25	45	50		12
GROUP VI	10 00	45	50		12
GROUP VII	9 75	.45	50		12
GROUP VIII	9 35	45	50		12
GROUP IX	8 75	45	50		12
GROUP X	8 75	45	50		12
GROUP XI	8 75	45	50		12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 250' of boom or over (including jib)
GROUP II - All crane type equipment with 200' of boom or over (including jib)
GROUP III - All crane type equipment with 150 - 200' of boom (including jib)
GROUP IV - All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu yd or more (as rated by mfg), sideboom (booms 30' and over), guy derrick
GROUP V - Heavy duty mechanic, welder, crane-hood and overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd and over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP VI - Motor patrol (blade), fork lift (35' & over), dozer (engine h p 65 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper tyoe equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h p 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII - Locomotive engineer, boring machine, tug boat, mixer, 18 cu ft and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu ft & under, air compressor, over 500 cu ft (1) pumps, battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec , winch truck with a-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of operating engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, conveyor-operator dual, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII - Greaser, tilt top trailer operator

GROUP IX - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu ft , air compressor, 500 cu ft , and under (1 or 2), welding machine (1 or 2) pump (1or 2), fuelman, conveyor operator-single-continous belt bulk handling

GROUP X - Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI - Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ROOFERS	9 65	60	25		04
SHEET METAL WORKERS	10 82	40	84		.07
SOFT FLOOR LAYERS (RESILIENT FLOOR LAYERS & CARPET LAYERS)	9 10	50		.25	03
SPRINKLER FITTERS	11 60	75	1 05		08
TERRAZZO WORKERS	10 05		.30		
TERRAZZO WORKERS FINISHERS	6 98				
TERRAZZO WORKERS FLOOR MACHINE OPERATOR	7.08				
TERRAZZO WORKERS BASE MACHINE OP.	7 28				
TILE LAYERS	10 05		.30		
TILE & MARBLE EXPERIENCED FINISHERS	6 65				
TRUCK DRIVERS:					
Group I	6 92				
Group II	6 92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch & floats

GROUP II - Heavy earth moving equipment such as dump trucks and euclids

GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

WELDERS - receive rate prescribed for craft to which welding is incidental

FOOTNOTES:

a - 1st 6 mos to 5 yrs 6%; over 5 yrs 8% of basic hourly rate

b - Paid Holidays, A through F

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Northampton
DECISION NO : PA79-3001 DATE: Date of Publication
Supersedes Decision No PA77-3124, dated September 9, 1977, in 41FR 45618.
DESCRIPTION OF WORK: Building construction, (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos Workers	11 21	87	90		01
Boilermakers	13 775	1 075	1 00		02
Bricklayers & Stonemasons	11 19	60	66		01
Carpenters	10 70	64	72		01
Cement Masons	10 69	60	60		01
Electricians:					
Allen, Hanover, Lehigh, Bath, Freemansburg, Hellertown and Bethlehem	11 25	50	3%+ 80		02
Remainder of County	11 80	7%	3%+1.00		02
Glaziers	9 19	40	40		01
Ironworkers	12 45	1 14	1 36		
Laborers:					
Laborers & Window Cleaners	7 55	62	59		
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the same and cofferdams (below 10')	7 80	62	59		
Wagon drills and men handling burning torches in the wrecking of buildings	8 30	62	59		
Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tanders, gunniting and molded-D and sandblaster helpers power buggies, all floor hardner and "cure" application shall be the work of the mason tender All pump such as the concrete, plaster,					

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Laborers Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Mortar and water, installing plastic or other non-solid rafractory materials in connection with the boiler work	7.95	62	59		
Barko Tamper Operator	8 57	62	59		
Lathers	10 61	65	35		01
Lead burners	10 75	40	25	b	01
Line Construction:					
Linemen	13 12	45	3%		3/8 of 1%
Cable Splicer	13 12	45	3%		3/8 of 1%
Groundman	7 87	45	3%		3/8 of 1%
Winch truck operator	9 18	45	3%		3/8 of 1%
Millwrights	11 10	64	72		01
Painters (Bethlehem):					
Brush	8.95	1 23	70		
Structural Steel	9 95	1 23	70		
Spray	9 95	1 23	70		
Painters, Remainder of County:					
Brush	9 30	1 00	60		
Structural Steel	10 05	1 00	60		
Spray	11 01	1 00	60		
Piledrivermen	11 12	2 32	1 35	a	12
Plasterers	10 50	60	66		01
Plumbers	12 37	81	1 30		14
Roofers, Composition, Slate & Tile	11 78		1 05		
Roofers, Helpers	7 21		1 05		
Sheet Metal Workers	10 47	1 40	1 18		13
Soft Floor Layers	9 30	44	72	45	
Sprinkler Fitters	12 31	75	1 05		08
Steamfitters	12 26	80	1 45		01
Terrazzo Workers	10 09	60	66		01
Truck Drivers:					
Class I					
Helper, Stake Body Truck (single axle), Dumpster	8 97				

Truck Drivers (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Class II Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	9 04				
Class III Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	9 53				

Welder - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day

b 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
GROUP 1	$12 44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10 3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1 8%
GROUP 4	10 51	7%	10.3%	a	1 8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10 3%	a	1.8%
GROUP 7	12.69	7%	10 3%	a	1 8%
GROUP 7-A	12.94	7%	10 3%	a	1 8%
GROUP 7-B	13.18	7%	10 3%	a	1 8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c y and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft and over

GROUP 7-B: 200 ft and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: South Carolina
DECISION NO: SC79-1016
Supersedeas Decision No : SC77-1070 dated May 20, 1977 in 42 FR-26182
DESCRIPTION OF WORK: Building Construction (does not included single family homes and garden type apartments up to and including 4 stories)

Counties: See Below*
DATE: Date of Publication

*Beaufort Colleton, Hampton, and Jasper

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos workers	8 99				
Bricklayers	5 50				
Carpenters	5 22				
Cement masons	4 63				
Electricians	5 00				
Ironworkers	5 25				
Laborers	3 05				
Painters, brush	5 00				
Plasterers	6 00				
Plumbers	4 03				
Roofers	5 50				
Sheet metal workers (Beaufort Co)	6 85	30	15		02
Sheet metal workers (remainder of Counties)	5 53				
Sprinkler fitters	8 25	75	1 05		08
Tile setters	6 00				
Truck drivers	3 32				
Welders - receive rate for craft					
POWER EQUIPMENT OPERATORS:					
Bulldozers	3 73				
Cranes, derricks, draglines	6 63				
Roller operator	4 38				

SUPERSEDEAS DECISION

STATE: South Carolina
DECISION NUMBER: SC79-1020
Supersedes Decision No.: SC77-1019 dated February 11, 1977 in 42 FR 8900
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

COUNTIES: *See below*
DATE: Date of Publication

*Counties: Chester, Chesterfield, Fairfield, Kershaw, and Lancaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AIR CONDITIONING MECHANIC	$5 14				
BRICKLAYERS	6.50				
CARPENTERS	5.00				
CEMENT MASONS	5.00				
ELECTRICIANS	6.13				
IRONWORKERS, structural and ornamental	6.90				
LABORERS	3.02				
PAINTERS, brush	3.50				
PLUMBERS & Pipefitters	5.50				
ROOFERS	5.60				
SHEET METAL WORKERS	5.00				
SPRINKLER FITTERS (Fairfield & Kershaw Counties)	8.25	.75	1.05		.08
TILE SETTERS	5.75				
TRUCK DRIVERS	3.06				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.95				
Front end loader	3.40				
Luteman	3.45				
Motor grader	4.23				
Roller	3.50				

[FR Doc. 79-3235 Filed 2-1-79; 8:45 am]

federal register

FRIDAY, FEBRUARY 2, 1979
PART IV

DEPARTMENT OF JUSTICE

Parole Commission

■

PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION and PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 4—PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION

PART 4a—PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's Rules that govern the filing of applications for exemptions from statutory provisions barring convicted persons from holding positions of responsibility in labor unions, employee benefit plans, and similar organizations. These provisions may be found in the Labor-Management Reporting and Disclosure Act of 1959 and the Employee Retirement Income Security Act of 1974. The purpose of this revision is to consolidate two sets of similar rules, while making some additional clarifications of language. In addition, the revised rule reduces the amount of paperwork required for filing.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION, CONTACT:

Herman Levy, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; Phone (202) 724-1991.

SUPPLEMENTAL INFORMATION: The present rules for applications under the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) are found at 28 CFR Part 4. The present rules for applications under the Employee Retirement Income Security Act (29 U.S.C. 1111) are found at 28 CFR Part 4a. This revision of Part 4 will result in the deletion of Part 4a.

Accordingly, pursuant to 18 U.S.C. section 4203(a)(1), Pub. L. 94-233 (1976) section 12, 29 U.S.C. section 504, 29 U.S.C. section 526, 29 U.S.C. section 1111, and 29 U.S.C. section 1137, Title 28, Code of Federal Regulations, is amended as set forth below.

PART 4A [DELETED]

1. Title 28, Code of Federal Regulations, Part 4a, is deleted in its entirety.

2. Text of Regulations—Part 4 is revised to read:

PART 4—PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION UNDER THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Sec.
4.1 Definitions.
4.2 Who may apply for Certificate of Exemption.
4.3 Contents of application.
4.4 Supporting affidavit; additional information.
4.5 Character endorsements.
4.6 Institution of proceedings.
4.7 Notice of hearing; postponements.
4.8 Hearing.
4.9 Representation.
4.10 Waiver of oral hearing.
4.11 Appearance; testimony; cross-examination.
4.12 Evidence which may be excluded.
4.13 Record for decision. Receipt of documents comprising record; timing and extension.
4.14 Administrative law judge's recommended decision; exceptions thereto; oral argument before Commission.
4.15 Certificate of Exemption.
4.16 Rejection of application.
4.17 Availability of decisions.

AUTHORITY: Secs. 504, 606, 73 Stat. 536, 540 (29 U.S.C. 504, 526); and Secs. 411, 507a, 88 Stat. 887, 894 (29 U.S.C. 1111, 1137).

CROSS REFERENCE: For Organization Statement, U.S. Parole Commission, see Subpart V of Part O of this chapter.

§ 4.1 Definitions.

As used in this part:

(a) "Labor Act" means the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519).

(b) "Pension Act" means the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) (88 Stat. 829).

(c) "Acts" means both of the above statutes.

(d) "Commission" means the United States Parole Commission.

(e) "Secretary" means the Secretary of Labor or his designee.

(f) For proceedings under the "Labor Act"

(1) "Employer" means the labor organization, or person engaged in an industry or activity affecting commerce, or group or association of employers dealing with any labor organization, which an applicant under § 4.2 desires to serve in a capacity for which he is ineligible under section 504(a) of the "Labor Act".

(2) All other terms used in this part shall have the same meaning as identical or comparable terms when those terms are used in the "Labor Act".

(g) For proceedings under the "Pension Act"

(1) "Employer" means the employee benefit plan with which an applicant under § 4.2 desires to serve in a capacity for which he is ineligible under section 411(a) of the "Pension Act" (29 U.S.C. section 1111).

(2) All other terms used in this part shall have the same meaning as identical or comparable terms when those terms are used in the "Pension Act".

§ 4.2 Who may apply for Certificate of Exemption.

Any person who has been convicted of any of the crimes enumerated in section 504(a) of the "Labor Act" whose service, present or prospective, as described in that section is or would be prohibited by that section because of such a conviction or a prison term resulting therefrom; or any person who has been convicted of any of the crimes enumerated in section 411(a) of the "Pension Act" (29 U.S.C. section 1111) whose service, present or prospective, as described in that section is or would be prohibited by that section because of such a conviction or a prison term resulting therefrom, may apply to the Commission for a Certificate of Exemption from such a prohibition under the applicable Act.

§ 4.3 Contents of application.

A person applying for a Certificate of Exemption shall file with the Office of General Counsel, U.S. Parole Commission, 320 First St., NW., Washington, D.C. 20537, a signed application under oath, in seven copies, which shall set forth clearly and completely the following information:

(a) The name and address of the applicant and any other names used by the applicant and dates of such use.

(b) A statement of all convictions and imprisonments which prohibit the applicant's service under the provisions of the applicable Act.

(c) Whether any citizenship rights were revoked as a result of conviction or imprisonment and if so the name of the court and date of judgment thereof and the extent to which such rights have been restored.

(d) The name and location of the employer and a description of the office or paid position, including the duties thereof, for which a Certificate of Exemption is sought.

(e) A full explanation of the reasons or grounds relied upon to establish that the applicant's service in the office or employment for which a Certificate of Exemption is sought would not be contrary to the purposes of the applicable Act.

(f) A statement that the applicant

does not, for the purpose of the proceeding, contest the validity of any conviction.

§ 4.4 Supporting affidavit; additional information.

(a) Each application filed with the Commission must be accompanied by a signed affidavit, in 7 copies, setting forth the following concerning the personal history of the applicant:

(1) Place and date of birth. If the applicant was not born in the United States, the time of first entry and port of entry, whether he is a citizen of the United States, and if naturalized, when, where and how he became naturalized and the number of his Certificate of Naturalization.

(2) Extent of education, including names of schools attended.

(3) History of marital and family status, including a statement as to whether any relatives by blood or marriage are currently serving in any capacity with any employee benefit plan, or labor organization, group or association of employers dealing with labor organizations or industrial labor relations group, or currently advising or representing any employer with respect to employee organizing, concerted activities, or collective bargaining activities.

(4) Present employment, including office or offices held, with a description of the duties thereof.

(5) History of employment, including military service, in chronological order.

(6) Licenses held, at the present time or at any time in the past five years, to possess or carry firearms.

(7) Veterans' Administration claim number and regional office handling claim, if any.

(8) A listing (not including traffic offenses for which a fine of not more than $25 was imposed or collateral of not more than $25 was forfeited) by date and place of all arrests, convictions for felonies, misdemeanors, or offenses and all imprisonment or jail terms—resulting therefrom, together with a statement of the circumstances of each violation which led to arrest or conviction.

(9) Whether applicant was ever on probation or parole, and if so the names of the courts by which convicted and the dates of conviction.

(10) Names and locations of all employee benefit plans, labor organizations or employer groups with which the applicant has ever been associated or employed, and all employers or employee benefit plans which he has advised or represented concerning employee organizing, concerted activities, or collective bargaining activities, together with a description of the duties performed in each such employment or association.

(11) A statement of applicant's net worth, including all assets held by him or in the names of others for him, the amount of each liability owed by him or by him together with any other person and the amount and source of all income during the immediately preceding five calendar years plus income to date of application.

(12) Any other information which the applicant feels will assist the Commission in making its determination.

(b) The Commission may require of the applicant such additional information as it deems appropriate for the proper consideration and disposition of his application.

§ 4.5 Character endorsements.

Each application filed with the Commission must be accompanied by letters or other forms of statement (in three copies) from six persons addressed to the Chairman, U.S. Parole Commission, attesting to the character and reputation of the applicant. The statement as to character shall indicate the length of time the writer has known applicant, and shall describe applicant's character traits as they relate to the position for which the exemption is sought and the duties and responsibilities thereof. The statement as to reputation shall attest to applicant's reputation in his community or in his circle of business or social acquaintances. Each letter or other form of statement shall indicate that it has been submitted in compliance with procedures under the respective Act and that applicant has informed the writer of the factual basis of his application. The persons submitting letters or other forms of statement shall not include relatives by blood or marriage, prospective employers, or persons serving in any official capacity with an employee benefit plan, labor organization, group or association of employers dealing with labor organizations or industrial labor relations group.

§ 4.6 Institution of proceedings.

All applications and supporting documents received by the Commission shall be reviewed for completeness by the Office of General Counsel of the Parole Commission and if complete and fully in compliance with the regulations of this part the Office of General Counsel shall accept them for filing. Applicant and/or his representative will be notified by the Office of General Counsel of any deficiency in the application and supporting documents. The amount of time allowed for deficiencies to be remedied will be specified in said notice. In the event such deficiencies are not remedied within the specified period or any extension thereof, granted after application to the Commission in writing within the specified period, the application shall be deemed to have been withdrawn and notice thereof shall be given to applicant.

§ 4.7 Notice of hearing; postponements.

Upon the filing of an application, the Commission shall: (a) set the application for a hearing on a date within a reasonable time after its filing and notify the applicant of such date by certified mail; (b) give notice, as required by the respective Act, to the appropriate State, County, or Federal prosecuting officials in the jurisdiction or jurisdictions in which the applicant was convicted that an application for a Certificate of Exemption has been filed and the date for hearing thereon; and (c) notify the Secretary that an application has been filed and the date for hearing thereon and furnish him copies of the application and all supporting documents. Any party may request a postponement of a hearing date in writing from the Office of General Counsel at any time prior to ten (10) days before the scheduled hearing. No request for postponement other than the first for any party will be considered unless a showing is made of cause entirely beyond the control of the requester. The granting of such requests will be within the discretion of the Commission. In the event of a failure to appear on the hearing date as originally scheduled or extended, the absent party will be deemed to have waived his right to a hearing. The hearing will be conducted with the parties present participating and documentation, if any, of the absent party entered into the record.

§ 4.8 Hearing.

The hearing on the application shall be held at the offices of the Commission in Washington, D.C., or elsewhere as the Commission may direct. The hearing shall be held before the Commission, before one or more Commissioners, or before one or more administrative law judges appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105) as the Commission by order shall determine. Hearings shall be conducted in accordance with sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556, 557).

§ 4.9 Representation.

The applicant may be represented before the Commission by any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State or territory of the United States, or the District of Columbia, and who is not under any order of any court suspending, enjoining, restraining, or disbarring him from, or otherwise restricting him in, the practice of law. Whenever a person acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal

appearance or signature shall constitute a representation to the Commission that under the provisions of this part and applicable law he is authorized and qualified to represent the particular person in whose behalf he acts. Further proof of a person's authority to act in a representative capacity may be required. When any applicant is represented by an attorney at law, any notice or other written communication required or permitted to be given to or by such applicant shall be given to or by such attorney. If an applicant is represented by more than one attorney, service by or upon any one of such attorneys shall be sufficient.

§ 4.10 Waiver of oral hearing.

The Commission upon receipt of a statement from the Secretary that he does not object, and in the absence of any request for oral hearing from the others to whom notice has been sent pursuant to § 4.7 may grant an application without receiving oral testimony with respect to it.

§ 4.11 Appearance; testimony; cross-examination.

(a) The applicant shall appear and, except as otherwise provided in § 4.10, shall testify at the hearing and may cross-examine witnesses.

(b) The Secretary and others to whom notice has been sent pursuant to § 4.7 shall be afforded an opportunity to appear and present evidence and cross-examine witnesses, at any hearing.

(c) In the discretion of the Commission or presiding officer, other witnesses may testify at the hearing.

§ 4.12 Evidence which may be excluded.

The Commission or officer presiding at the hearing may exclude irrelevant, untimely, immaterial, or unduly repetitious evidence.

§ 4.13 Record for decision. Receipt of documents comprising record; timing and extension.

(a) The application and all supporting documents, the transcript of the testimony and oral argument at the hearing, together with any exhibits received and other documents filed pursuant to these procedures and/or the Administrative Procedures Act shall be made parts of the record for decision.

(b) At the conclusion of the hearing the presiding officer shall specify the time for submission of proposed findings of fact and conclusions of law (unless waived by the parties); transcript of the hearing, and supplemental exhibits, if any. He shall set a tentative date for the recommended decision based upon the timing of these preliminary steps. Extensions of time may be requested by any party, in writing, from the Parole Commission. Failure of any party to comply with the time frame as established or extended will be deemed to be a waiver on his part of his right to submit the document in question. The adjudication will proceed and the absence of said document and reasons therefor will be noted in the record.

§ 4.14 Administrative law judge's recommended decision; exceptions thereto; oral argument before Commission.

Whenever the hearing is conducted by an administrative law judge, at the conclusion of the hearing he shall submit a recommended decision to the Commission, which shall include a statement of findings and conclusions, as well as the reasons therefor. The applicant, the Secretary and others to whom notice has been sent pursuant to § 4.7 may file with the Commission, within 10 days after having been furnished a copy of the recommended decision, exceptions thereto and reasons in support thereof. The Commission may order the taking of additional evidence and may request the applicant and others to appear before it. The Commission may invite oral argument before it on such questions as it desires.

§ 4.15 Certificate of Exemption.

The applicant, the Secretary and others to whom notice has been sent pursuant to § 4.7 shall be served a copy of the Commission's decision and order with respect to each application. Whenever the Commission decision is that the application be granted, the Commission shall issue a Certificate of Exemption to the applicant. The Certificate of Exemption shall extend only to the stated employment with the prospective employer named in the application.

§ 4.16 Rejection of application.

No application for a Certificate of Exemption shall be accepted from any person whose application for a Certificate of Exemption has been withdrawn, deemed withdrawn due to failure to remedy deficiencies in a timely manner, or denied by the Commission within the preceding 12 months.

§ 4.17 Availability of decisions.

The Commission's Decisions under both Acts are available for examination in the Office of the U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537. Copies will be mailed upon written request to the Office of General Counsel, U.S. Parole Commission, at the above address at a cost of ten cents per page.

Dated: January 26, 1979.

CECIL C. MCCALL,
Chairman,
United States Parole Commission.

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