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federal register

FRIDAY, SEPTEMBER 17, 1976

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled 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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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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.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3206 is amended to show that five positions of photographers in support of the White House Photographic Service are excepted under Schedule B.

Effective September 17, 1976, § 213.3206 (b) is added as set out below:

§ 213.3206 Department of Defense.

* * * * *

(b) *Interdepartmental Activities.*

(1) Five Photographers in support of the White House Photographic Service.

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

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

[FR Doc.76-27336 Filed 9-16-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Navy

Section 213.3308 is amended to show that one position of Special Assistant for Emergency Planning to the Military Assistant to the President is excepted under Schedule C. This section is further amended to show that one position of Special Assistant to the Military Assistant to the President is no longer excepted under Schedule C.

Effective September 17, 1976, § 213.3308(a) (9) is amended and § 213.3308 (a) (13) is added as set out below:

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* * * *

(9) Three Special Assistants to the Military Assistant to the President.

* * * * *

(13) One Special Assistant for Emergency Planning to the Military Assistant to the President.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

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

[FR Doc.76-27337 Filed 9-16-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense; Correction

In the FEDERAL REGISTER of September 10, 1976 (FR Doc. 76-26415), appearing on page 38490, one position of Private Secretary to the General Counsel was revoked in error.

Section 213.3306(a) (2) should read as follows:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), (Intelligence), and (Legislative Affairs); the General Counsel, the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

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

[FR Doc.76-27335 Filed 9-16-76;8:45 am]

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Application for Approval of Health Benefits Plans

On May 25, 1976, there was published in the FEDERAL REGISTER (41 FR 21359) a notice of proposed rulemaking providing for a semi-annual review of applications submitted by comprehensive medical plans seeking to participate in the Federal Employees Health Benefits Program. A technical correction to the proposed rulemaking was published in the FEDERAL REGISTER (41 FR 22096) on June 1, 1976. Interested parties were given the opportunity to submit, not later than June 24, 1976, comments, objections or suggestions regarding the expanded opportunity for such participation.

Twelve relevant comments were received: five favored the proposed revision without reservation; two organizations generally favored the purpose of the rulemaking but expressed reservations about the method of implementation; and five comments opposed the revision and urged its non-adoption.

All comments received were given due consideration. Although the following general criticisms were noted, no revisions to the rulemaking as proposed were made for the reasons assigned:

1. There was criticism of the one-way enrollment provided by the proposed § 890.301(d) (2). By limiting the special open season to enrollment in the new plan for the same type of enrollment—self only or self and family—this section provides an essential safeguard for the newly approved plans against adverse selection. In addition, it is not necessary that the open season be available for all FEHBP plans in the affected enrollment area. Individuals will have no compelling reasons, such as benefit or rate changes among the existing plans, to justify changing their enrollment other than to a new plan. Moreover, because there is an annual open season in November of each year, all Federal employees and annuitants will already have had an opportunity to compare all existing plans and to make an informed choice.

2. It was argued that a new plan offered during a special open season would be able to adjust its rate to undercut the rates of its competitors and thereby gain a competitive advantage. This argument is speculative at best. Rates charged under health benefits plans in the FEHBP must, by statute, reasonably and equitably reflect the cost of benefits provided.

3. Comments revealed concern for the administrative hardship that a special open season would work on affected Federal agencies and on plans losing subscribers to a new plan. In addition, it was suggested that a special open season would entail additional expenditures of taxpayers' money. The Commission recognizes the relatively minor additional costs inherent in a special open season and acknowledges the technical validity of both these points. The Commission is of the opinion, however, that the potential benefit to Federal employees far outweighs the expressed drawbacks. Moreover, it is believed that the purpose of the rulemaking, increased accessibility by comprehensive medical plans to Federal employees, would have long term benefits.

Accordingly, §§ 890.203(a), 890.301(d), and 890.306(c) of 5 CFR Part 890 are revised as set forth below.

Effective date: September 17, 1976.

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

§ 890.203 Application for approval of, and proposal of amendments to, health benefit plans.

(a) Application for approval of comprehensive medical plans may be made by letter to the U.S. Civil Service Commission, Washington, D.C. 20415. This letter application is to be accompanied by such descriptive material, financial data and documentations as the Commission may require in its review process and in the format specified by the Commission. Participation of an approved plan becomes effective either on the January 1st or on the July 1st which is (1) at least nine months after the Commission receives the application and (2) at least six months after the Commission receives all evidence to demonstrate that the plan has met all requirements for approval.

* * * * *

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) *Open season.* (1) During the period November 15, 1975, through December 31, 1975, and the period November 15 through November 30 of each year thereafter beginning with 1976, an employee who is not registered to be enrolled may register to be enrolled, and an enrolled employee or annuitant may change his or her enrollment from one plan or option to another, or from self only to self and family, or both.

(2) The Commission may announce and conduct special open seasons for newly approved comprehensive medical plans, except that enrollment during a special open season shall be limited to approved comprehensive medical plans which have qualified under subpart B of this part for participation effective July 1, 1977, or any July 1 thereafter. During a special open season, which shall take place at such time as the Commission may specify, an enrolled employee or annuitant living in the enrollment area of a newly approved plan may change his or her enrollment from the plan in which he or she is already enrolled to the newly approved plan. The election must be for the same type of coverage (self only or self and family) as the present enrollment unless a change of type is otherwise authorized by this part. The Commission shall determine the effective date of a change in enrollment elected during a special open season.

* * * * *

§ 890.306 Effective dates.

* * * * *

(c) (1) The effective date of a change in enrollment under section 890.301(d) (1) is the first day of the first pay period which begins in January of the next following year, except that a change in enrollment for the open season for employees ending April 14, 1972, and for annuitants ending April 30, 1972, is effective on the first day of the first pay period which begins after April 14, 1972.

(2) The effective date of a new enrollment under section 890.301(d) (1) is the first day of the first pay period which begins in the next following year and which follows a pay period during any part of which the employee is in pay status, except that the effective date of a new enrollment for the open season ending April 14, 1972, is the first day of the first pay period which begins after April 14, 1972, and which follows a pay period during any part of which the employee is in pay status.

* * * * *

(5 U.S.C. 8913)

[FR Doc.76-27334 Filed 9-16-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

• Purpose. The purpose of this amendment is to release Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester Counties in Massachusetts from the areas quarantined because of hog cholera. •

This amendment excludes Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester Counties in Massachusetts from the areas quarantined by the regulations in 9 CFR Part 76, as amended, because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in Massachusetts remain under quarantine.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases is hereby amended in the following respect:

§ 76.2 [Amended]

In § 76.2, paragraph (e) (2) relating to the State of Massachusetts is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1, and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec, 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective September 13, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of September, 1976.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76-27250 Filed 9-16-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 6, Amdt. 9]

PART 120—BUSINESS LOAN POLICY

Charges and Interest Rates

The policy of the Small Business Administration until now, as required by § 120.3(b) (1), has been to assess on all extensions of guaranteed loans made under a revolving line of credit an additional guaranty charge prorated on the basis of one-quarter of one percent per annum, payable to SBA at the time of approval of the extension. This amendment eliminates the additional guaranty fee for those extensions requested solely to facilitate collection of the account's outstanding balance where no further advances on the line of credit will be made.

Without the amendment, this section could discourage lending institutions from requesting SBA to extend collection schedules to enable small business contractors to repay outstanding loans upon completion of their assigned contracts. Rather than pay an additional guaranty fee, the lender might prefer to have SBA purchase its guaranteed portion of the outstanding loans.

Since the amendment imposes no additional requirements on either lending institutions or small business concerns and is to their advantage, publication for public comment is unnecessary. The amendment therefore will become effective upon publication. However, any comments on this amendment may be submitted to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Therefore, § 120.3(b) (1) is hereby revised to read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) *Charges and interest rates*—(1) *Charges.*—In guaranteed loans (those made by a financial institution with which SBA has entered into an agreement to guarantee as set forth in Part 122 of this chapter), a guaranty charge shall be payable by the financial institution to SBA for such agreement. The guaranty charge shall be one-fourth of 1 percent per annum of the portion of the loan which SBA has guaranteed, for guarantees approved prior to January 1, 1973. Effective January 1, 1973, the guaranty charge is set on a one-time basis at 1 percent of the amount of the authorized guaranteed portion of the loan, and is payable at first disbursement by the participating lender. For loans made under a revolving line of credit with a maturity of up to 12 months, the guaranty charge is one quarter of one percent of the guaranteed portion payable initially by the participating lender at the time of SBA approval of the line of credit. Longer maturities, or extensions, will be pro-rated on the basis of one quarter of one percent per annum, payable to SBA at the time of approval of the extension of maturity: *Provided, however,* That no additional fee shall be payable when an extension is for the sole purpose of effecting collection of the then outstanding principal balance and there will be no further advances made on the line of credit.

* * * * *

AUTHORITY: 72 Stat. 387, as amended, 15 U.S.C. 636, sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6).

Dated: September 8, 1976.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans.)

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-27236 Filed 9-16-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

[Regs. 1.41 and 1.41a]

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Contract Market Rules and Authority Delegation

On July 10, 1975, the Commodity Futures Trading Commission ("Commission") adopted, and requested comments upon, an interim revision of § 1.41 of the regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1–22 (40 FR 29085). On March 4, 1976, after considering the comments submitted in response to its July 10, 1975 request, the Commission proposed further revisions to § 1.41 and requested additional public comment. The Commission has reviewed the comments submitted in response to its July 10, 1975 and March 4, 1976 requests and has decided to further amend § 1.41 as set forth below. The Commission has also decided to delegate certain authority to the Executive Director and the Director of the Division of Trading and Markets to implement the provisions of § 1.41.

SUMMARY OF REGULATION 1.41 AND THE NEWLY-ADOPTED REVISION

Section 5a(12) of the Act, which was added to the Act by section 210 of the Commodity Futures Trading Commission Act ("CFTC ACT"), Pub. L. No. 93–463, section 210, 88 Stat. 1389, 1401 (October 23, 1974), requires each contract market to

submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin.

Section 5a(12) then instructs the Commission to "specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval." In addition, section 5a(12) authorizes the Commission to "adopt a regulation exempting enumerated types of operational and administrative rules" from the prior approval requirement of that section.[1]

Section 1.41, as revised on July 10, 1975, set forth procedures pursuant to which contract markets could (1) submit rules to the Commission for its review pursuant to section 5a(12) of the Act and (2) place a "temporary emergency rule" into effect without prior Commission approval. This interim revision also described the "emergency circumstances" in which contract markets could place into effect such temporary emergency rules.

The further revision of § 1.41 proposed on March 4, 1976, would not have resulted in any material changes in the operative portions of § 1.41, but it would have significantly altered other portions of the regulation, principally by redefining certain terms and by adding new definitions. Specifically, the proposed revisions would have: (1) Redefined the term "rule of a contract market" broadly to include any of the actions subject to prior Commission approval under section 5a(12) of the Act; (2) substituted the term "emergency" for "emergency circumstances" and defined the term "emergency" by setting forth a list of representative "emergency" situations; (3) defined "governing board" of a contract market to include the board of directors, board of governors, and any duly authorized committee; (4) broadly defined a "two-thirds vote" of a governing board; (5) defined the term "temporary emergency rule" and limited the duration of any such rule to the period of the emergency, but not to exceed 30 days without express Commission authorization and in no case to exceed 90 days from the date the rule was first put into effect; (6) provided for suspension of trading by an individual contract market official in the event of a "physical emergency;" (7) exempted certain types of operational and administrative rules from the prior-approval requirement of section 5a(12) of the Act; (8) required that each rule which the contract market determined came within the proposed exemption be submitted to the Commission at least ten days prior to its proposed effective date; and (9) provided that such rules could not be placed into effect by the contract market if it was notified of certain Commission determinations. The revision would also have required contract markets, in submitting copies of proposed rules to the Commission for its approval pursuant to section 5a(12) of the Act, to furnish an explanation of each rule, including its purpose and any other information that might aid the Commission in its analysis of the submitted rule.

The revisions to § 1.41 adopted today by the Commission, are similar to those proposed on March 4, 1976. The principal differences between the adopted and the proposed revisions are: (1) The sequence of the operative provisions of § 1.41 has been changed; (2) the term "rule" of a contract market is defined more broadly to include all such actions taken by the contract market, or the governing board thereof or any committee thereof, regardless of whether such rules are within the scope of section 5a(12) of the Act; (3) the term "reviewable rule" of a contract market is introduced and defined as any rule of a contract market which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of the contract market or relates to other trading requirements except those relating to the setting of levels of margin; (4) the definition of an "emergency" is broadened and modified to make it clear that § 1.41 does not impose a duty on contract markets to act in an emergency, but only permits such action without prior Commission approval; (5) the definition of a "two-thirds vote" of a governing board is expanded to permit voting in whatever manner is permissible under applicable state law, whether at a meeting or otherwise; (6) the procedures to be followed by contract markets in submitting rules

[1] In this connection, section 5a(12) provides: The Commission shall specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval.

to the Commission for its review pursuant to section 5a(12) of the Act are set forth in greater detail, especially with respect to the types of information required in such submisions; (7) the number of enumerated types of operational and administrative rules exempted from the prior-approval requirement of section 5a(12) of the Act is greatly increased; (8) the exemption is made expressly inapplicable to those rules which the Commission determines appear to necessitate prior review pursuant to section 5a(12) of the Act in order to effectuate the purposes of the Act and with respect to which the Commision so notifies the contract market; and (9) the scope of the actions which an individual contract market official may take in the event of a "physicial emergency" is expanded. In addition, in § 1.41a, the Commission has delegated authority to the Executive Director and the Director of the Division of Trading and Markets to determine, on behalf of the Commission, whether the purposes of the Act appear to necessitate section 5a(12) review of a proposed operational or administrative rule prior to its being placed into effect by the contract market and to so notify the contract market submitting such rule.

EXPLANATION OF THE NEWLY-ADOPTED REVISION

1. *Definitions of "rule" of a contract market and of "reviewable rule."* Paragraph (a)(1) of the newly adopted rule sets forth a broad definition of the term "rule" of a contract market which encompasses all constitutional provisions, articles of incorporation, bylaws, rules, regulations, resolutions, interpretations, stated policies, and instruments corresponding thereto, in whatever form adopted, and any amendments and additions thereto and repeals thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof, without regard to whether such rules fall within the scope of section 5a(12) of the Act. This differs from the definition set forth in the March 4, 1976 proposal, which included only those rules subject to the provisions of section 5a(12). Paragraph (a)(2) of the revision of § 1.41 adopted today defines the term "reviewable rule" as any rule of a contract market within the scope of section 5a(12) of the Act. Specifically, a "reviewable rule" is defined as "any rule of a contract market which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin."

This definition of a "reviewable rule" of a contract market employees the statutory language used in section 5a(12) of the Act to describe those types of contract market rules subject to the provisions of that section. A few of the comments received in response to the revisions to § 1.41 proposed on March 4, 1976, criticized the use of the statutory language in the proposed revisions as unclear and recommended that the Commission adopt a narrow interpretation of the scope of section 5a(12). The Commission has determined that it should not do so. The scope of section 5a(12) was intentionally made broad by Congress to insure compliance with all of the provisions of the Act. In addition, the experience which the Commission has gained in reviewing contract market rules during the first year of its existence has demonstrated that almost any type of contract market rule may be subject to the prior-approval requirement of section 5a(12) of the Act. As a result, the Commission has determined that a narrow interpretation of the scope of section 5a(12) cannot be adopted without permitting substantive contract market rule changes to be placed into effect without the prior Commission review contemplated in section 5a(12). For the same reason, the Commission does not believe that a specific interpretation of the scope of section 5a(12) can be rendered at this time on anything but a case-by-case basis.[2]

While the Commission has determined that a broad interpretation of section 5a(12) is necessary to effectuate the purposes of the Act, it is also cognizant of the legitimate concerns expressed by contract markets regarding the submisson of contract market rules pursuant to section 5a(12). In particular, the Commission recognizes that Commission delay in reviewing proposed rule changes pursuant to section 5a(12) may, in certain instances, hinder the smooth functioning of the markets. Commission delay in reviewing contract market rules is due primarily to two factors: (1) The comprehensive nature of the review mandated by section 5a(12), especially in light of section 15 of the Act,[3] and (2) the fact that Commission review of contract market rules pursuant to section 5a(12) is only one of several important regulatory responsibilities which place significant demands on the limited resources of the Commission. In order to formulate an approach to section 5a(12) of the Act which might result in a resolution of the problems presented by these conflicting responsibilities, the Commission requested comments from both the public and its Advisory Committee on Market Regulation as to how the delays in reviewing contract market rules pursuant to section 5a(12) might be lessened. The comments and recommendations received in response to these requests and the Commission's experience in reviewing proposed rule changes pursuant to section 5a(12) have demonstrated that many reviewable rules do not necessitate exhaustive Commission review prior to being placed into effect by a contract market. Therefore, in order to lessen the delays in reviewing contract market rules pursuant to section 5a(12), the Commission has decided to exercise its exemptive authority under section 5a(12) to exempt from the prior-approval requirement of that section as broad a range of contract market reviewable rules as is consistent with the purposes of the Act.

The Commission anticipates that a substantial number of all proposed reviewable rules will fall within the exemptions provided by newly adopted § 1.41 and that, therefore, many of the burdens imposed on the Commission and the contract markets by the addition of section 5a(12) to the Act in 1974 will be significantly reduced. As discussed more fully below, however, this exemption is made expressly inapplicable to any reviewable rule which the Commission, or the Executive Director or the Director of the Division of Trading and Markets pursuant to the authority delegated by the Commission in regulation 1.41a, determines should be reviewed pursuant to section 5a(12) in order to effectuate the purposes of the Act.

2. *Clearing Organizations.* Solely for purposes of Commission review of contract market rules pursuant to section 5a(12) of the Act, the revision of § 1.41 proposed on March 4, 1976, would have defined the term "contract market" to include the clearing organization that clears trades for the contract market.[4] Several contract markets and clearing organizations argued strongly against this interpretation of section 5a(12). The Commission has carefully considered the arguments presented against its interpretation; however, in light of the importance of Commission review of substantive reviewable rules to the regulatory scheme of the Act, the Commission has not found the arguments presented by these contract markets and clearing organizations persuasive.

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[2] Several contract markets expressed various views as to the scope of section 5a(12). One contract market suggested that section 5a(12) applies only to rules establishing the policies of a contract market and not to rules implementing established policies. The Commission can see no basis for such an assertion and advises contract markets of its view that this is not an appropriate interpretation of section 5a(12).

Other contract markets suggested that section 5a(12) as no broader than the scope of section 5a(8) prior to the adoption of the Commodity Futures Trading Commission Act of 1974. This assertion does not recognize that the CFTC Act made the scope of section 5a(12) significantly broader than the scope of section 5a(8) prior to the enactment of the CFTC Act in 1974. The broad scope of section 5a(12) is exemplified by the fact that the CFTC Act authorized the Commission to exempt enumerated categories of operational and administrative rules from the scope of section 5a(12). Those rules previously were exempted from the operation of section 5a(8). See S. Rep. No. 947, 90th Cong. 2d Sess. 8-9 (1968).

[3] Section 15 of the Act provides that: "The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in * * * approving any bylaw, rule, or regulation of a contract market * * *."

[4] See 40 FR 32866 (August 5, 1975).

[5] The interim revision of § 1.41, adopted on July 10, 1975, contained a similar provision.

In its March 4, 1976 release announcing the proposed amendments to § 1.41, the Commission stated, in support of its interpretation of section 5a(12) of the Act, that the "clearance of trades is as vital a function of a futures market as is the actual execution of trades on the contract market floor."[6] The clear implication of this statement is that a meaningful distinction can not be drawn between the rules of the clearing organization and those of the contract market for purposes of section 5a(12). One commentator criticized this statement, arguing that this "observation might be appropriate to make in the context of legislative hearings * * *, but it does not address the only relevant question—whether the present § 5a(12) applies to" clearing organizations. The Commission disagrees.

Since the term "contract market" is not defined in the Act but is, rather, a statutory status achieved through Commission designation pursuant to section 5 of the Act, Commission interpretation of that term must be based primarily on the overall purposes of the Act and of section 5a(12) in particular. In this regard, the Commission believes one of the primary purposes of both the Act and section 5a(12) is to insure the integrity of contract markets and of the contracts traded thereon. The essence of the integrity of a futures contract, and hence, of the contract market itself, is the clearing organization which secures that contract. In fact, the Commission believes that the existence of a clearing organization is a necessary prerequisite to receiving and retaining designation as a contract market. Section 5(g) of the Act authorizes the Commission to designate a board of trade as a "contract market" 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.

The Commission believes that "transactions for future delivery" in a commodity which are not secured through a clearing system would be "contrary to the public interest." Accordingly, the Commission has concluded that an interpretation of the term "contract market" as used in section 5a(12) which excludes the clearing organization that clears trade for the contract market would be inconsistent with the overall purposes of the Act and of section 5a(12).

One clearing organization stressed that it was a separate corporate entity from the contract market for which it cleared trades and that it was not, nor had it ever been, "designated as a 'contract market' under section 5 or section 5a of the * * * Act." The Commission sees little significance in this statement, particularly in light of its view of the public interest test contained in section 5(g). The Act imposes a basic duty upon contract markets to insure the integrity of the contracts for which they are designated and gives the Commission broad regulatory power to oversee contract market efforts in this area. Section 5a(12) of the Act provides the Commission with what is perhaps its most effective regulatory tool for policing this responsibility of the contract markets. As mentioned above, the clearing of trades is the essence of the integrity of a futures contract and a necessary prerequisite to designation as a contract market. A contract market can not avoid Commission regulation of this or any other essential contract market function by delegating that function, either directly or indirectly, to separate organizations.

The most frequently raised objection to the Commission's proposed interpretation of the term "contract market" was that it might expose the clearing organization which clears trades for the contract market to the liabilities of the contract market, thereby jeopardizing the guaranty funds established by the clearing organization for the protection of market participants. The Commission does not believe this is a valid criticism of the proposed interpretation. The Commission's interpretation of the term "contract market" is clearly designated as "for purposes of this section (1.41) only." Whether a clearing organization may be held accountable for the liabilities of the contract market must be determined, therefore, without respect to the provisions of § 1.41.[7]

Another argument advanced against inclusion of the clearing organization within the definition of the term "contract market" pointed out that in several places in the Act Congress used the words "clearing organization" or "clearing house" or "clearing agency" expressly, frequently in the same sentence with the term "contract market." The commentator advancing this argument urged that the Commission deduce from this that when Congress intended to include clearing organizations in the Act, it specifically did so. The Commission has considered this argument carefully; however, after balancing this comment against the overall purposes of the Act and of section 5a(12) in particular, the Commission has not found this argument persuasive.[8]

3. *Definition of an "emergency."* Paragraph (a)(4) of the newly adopted rule defines the term "emergency" in substantially the same manner as proposed on March 4, 1976, that is, by setting forth a list of representative situations which could, in the opinion of the governing board of a contract market, constitute "emergencies." In response to comments from several contract markets, the proposed definition was modified slightly to make it clear that § 1.41 does not impose a legal duty on contract markets to declare an emergency whenever there exists one of the occurrences or circumstances listed in the definition. Rather, it is the Commission's intent that the contract markets have broad latitude to declare emergencies and to take appropriate remedial action. The Commission points out, however, that while § 1.41 does not impose a duty on contract markets to act in any of the enumerated situations, other sections of the regulations and portions of the Act itself may impose such a duty.

In addition, certain changes have been made in the definition of the term "emergency" in the newly adopted rule to insure contract markets sufficient flexibility to declare, and to act in response to, emergencies. For example, while the proposed definition listed any "actual or attempted corner, squeeze or undue concentration of positions" as a possible emergency, the newly adopted definition also includes any "threatened" corner, squeeze or undue concentration of positions as well as any actual, attempted or threatened "congestion."

4. *Definition of "governing board."* Paragraph (a)(5) of newly adopted regulation 1.41 defines the "governing board" of a contract market as "the board of directors, the board of governors, the board of managers or any other similar body of the contract market or any committee"—but not an officer—of a contract market duly authorized by a reviewable rule of the contract market which has been previously approved by the Commission "to take action for and on behalf of the contract market with respect to an emergency." This definition is substantially the same as the one proposed in the Commission's March 4, 1976 release. As noted in that release, the Commission believes this expansive definition "is necessary and appropriate to ensure that contract markets have sufficient flexibility to meet urgent emergency

[6] 41 FR 9528.

[7] In this regard, the Commission notes the result in *Seligson v. New York Produce Exchange*, CCH Comm. Fut. L. Rep. 20,014 (S.D. N.Y., May 17, 1974), in which the court held that the New York Produce Exchange could not be held accountable for certain civil liabilities of its clearing organization.

One commentator cited the *Seligson* case for the proposition that section 5a(12) of the Act should not be applied to the rules of a clearing organization. In so arguing, the commentator attempted to discredit the holding in *Board of Trade of the City of Chicago v. Wallace*, 67 F. 2d 402 (7th Cir. 1933), in which the court held that for purposes of section 5(e) of the Grain Futures Act, the forerunner of section 6a(1) of the Commodity Exchange Act, the clearing organization of a contract market could be identified with the contract market for the purpose of imputing to the contract market the clearing organization's denial of clearing membership to a producers' cooperative association. However, the Commission believes that the holding in Seligson is sufficiently distinguishable from the holding in Wallace so as not to detract from the precedental value of the Wallace decision, which the Commission believes constitutes legal precedent for the Commission's determination that section 5a(12) of the Act applies to the rules of the clearing organization that clears trades for the contract market.

[8] The Commission points out that in certain sections of the Act in which Congress mentions clearing organizations specifically, Congress appears to have done so to permit the Commission to establish requirements for clearing organizations different from those imposed on contract markets (sections 4g(2) and 4(6)) or to establish statutory requirements which are particularly applicable to clearing organizations (section 4d(2)).

situations that require prompt attention."[1]

5. *Definition of "two-thirds vote."* Section 5a(12) of the Act requires that emergency rules be adopted by "a two-thirds vote of (the contract market's) governing board." In its March 4, 1976 release, the Commission proposed a broad definition of the term "two-thirds vote," which provided that a two-thirds vote of the members of the governing board present and voting at the time of the vote was sufficient, subject only to a minimal quorum requirement.

Although the comments received in response to this proposed definition were generally favorable, the Commission has made two substantive changes in the definition as adopted. First, it was never the Commission's intent that a single individual would be able to adopt a temporary emergency rule (as hereinafter defined), but rather that such action could be taken only by a board or committee of the contract market. The proposed regulation would have enabled one member of a three person committee to adopt a temporary emergency rule, contrary to Commission intent. In order to remedy this oversight, the definition of a "two-thirds vote" has been modified to require the affirmative vote of two or more members of the governing board. Second, in response to one comment received with respect to its proposal, the Commission has broadened the proposed definition to include the affirmative vote of two-thirds of the members of the governing board "voting in any manner other than at a meeting of such board at which a quorum of at least one-third of the members is physically in attendance as permitted by applicable state corporation law." The purpose of this amendment is to insure that contract markets have at least as much flexibility to act in emergencies under § 1.41 as they do under state law.

6. *Definition of "temporary emergency rule."* Paragraph (a)(7) of the newly adopted regulation defines a "temporary emergency rule" in the same manner as the March 4, 1976 proposal, specifically, as "a reviewable rule adopted by a 'two-thirds vote' of the governing board of a contract market to meet an emergency."

7. *Submission of reviewable rules to the Commission.* The interim revision of § 1.41 set forth a procedure pursuant to which contract markets could submit rules to the Commission for its review pursuant to section 5a(12) of the Act. The interim revision required that rules be submitted not less than 30 days prior to their proposed effective dates or within such shorter period of time as the Commission permitted. The revisions of § 1.41 proposed on March 4, 1976, did not contain the requirement that proposed contract market rules be submitted 30 days prior to their proposed effective dates, but the proposal did require that each submission:

> * * * be accompanied by an explanation of the proposed rule (including its anticipated effective date), the action taken or anticipated to be taken by the contract market with respect to adoption of the proposed rule, the purpose and background of the proposed rule and any other information which may be beneficial to the Commission in analyzing the proposed rule.

Section 5a(12) of the Act is specifically designed to afford the Commission the opportunity to review and evaluate substantive contract market rules prior to their being placed into effect by the contract markets. In order to effectuate the purposes of section 5a(12), it is essential that the Commission have adequate time to review a proposed reviewable rule prior to its proposed effective date and sufficient information concerning the proposed reviewable rule upon which to base a thorough analysis of the rule. Accordingly, the Commission has retained, in paragraph (b) of the newly adopted version of § 1.41, both the 30-day prior-submission requirement of the interim regulation and the requirement proposed on March 4, 1976, that each rule submitted for Commission review pursuant to section 5a(12) of the Act be accompanied by a detailed explanation.

The Commission regards this latter requirement, that of a detailed explanation of each reviewable rule submitted for Commission review pursuant to section 5a(12), as particularly important. The Commission has therefore included in the newly adopted revision of § 1.41 an extensive description of the form and content required in each submission of a reviewable rule. Specifically, each submission must, in the following order: (i) Set forth the text of the proposed reviewable rule; (ii) Describe any action taken or to be taken to adopt the rule (including a citation to the rules of the contract market which authorize the adoption of the proposed rule); (iii) Set forth an explanation of the proposed reviewable rule, including its anticipated effective date and purpose, a description of any action taken or to be taken as a result of the rule, how the rule fits into the contract market's scheme of self-regulation, how the rule furthers the purposes of the Act, and any other appropriate information; and (iv) Note and briefly describe any substantive opposing views expressed by the members of the contract market or others with respect to the proposed reviewable rule which have not been incorporated into the rule.

Proposed reviewable rules submitted with little or no explanation necessitate a much longer review than those accompanied by complete explanations. In order to accelerate the review of proposed reviewable rules pursuant to section 5a(12) of the Act, the Commission has determined that it will not accept a contract market reviewable rule submission which is not in substantial compliance with the form and content requirements of paragraph (b) of § 1.41. Where the submission of a proposed reviewable rule fails to meet the requirements of paragraph (b), the Commission will give written notice of such inadequacy to the contract market, generally within ten (10) days of the receipt of such submission by the Commission.

On occasion, valuable Commission resources have been employed in the review of proposed contract market rule changes which are adopted by the contract market's board of directors, etc., but rejected by the members of the contract market when presented for their approval as required by the rules of the contract market. Such rule changes cannot, therefore, be placed into effect by the contract market even if such rule changes are subsequently approved by the Commission. In order to maximize the use of its limited resources, the Commission has determined that it will generally not review a proposed reviewable rule before all actions required to be taken under the constitution, articles of incorporation, by-laws, rules, or instruments corresponding thereto of the contract market have been completed. Furthermore, a proposed reviewable rule will not be considered submitted pursuant to section 5a(12) of the Act and paragraph (b) of § 1.41 until all contract market actions necessary to adopt the rule are completed and the Commission receives written notification of their completion. (This is consistent with the requirement of section 5a(12) that only those reviewable rules "made or issued" by the contract market, or by the governing board thereof or any committee thereof, be submitted to the Commission for its approval prior to being placed into effect by the contract market.) However, contract markets may furnish the Commission with copies of proposed reviewable rules prior to the completion of all actions necessary to adopt such rules in order to obtain initial staff reaction to the proposed rules and to expedite Commission review of such rules once fully adopted.

The Commission recognizes that in certain instances contract markets may desire to place reviewable rules into effect less than 30 days after their submission to the Commission for section 5a(12) review. Accordingly, paragraph (b) of § 1.41 provides that such rules may be submitted "within such shorter period of time as the Commission may permit." Contract markets wishing to place reviewable rules into effect less than 30 days after their submission to the Commission should make the rules effective upon approval by the Commission and request, in their submission of the rules pursuant to paragraph (b) of § 1.41 expedited review of the rules by the Commission.

Section 5a(12) of the Act directs the Commission to "specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval." As discussed later in this release, paragraph (f) of the newly adopted revision of § 1.41 sets forth such terms and conditions. In addition, paragraph (b) of the new regulation specifically excludes such temporary emergency rules from the requirements of paragraph (b) and,

[1] 41 FR 9529.

hence, from the prior-approval requirement of section 5a(12). The Commission has added this specific exemption in response to a comment by one contract market that the proposed revision of § 1.41 was unclear in this regard.

8. *Operational and administrative rules not subject to Commission review.* Section 5a(12) of the Act authorizes the Commission to adopt a regulation exempting "enumerated types of contract market operational and administrative rules" from the prior-approval requirement of that section. As previously noted, the Commission has determined that a broad interpretation of section 5a(12) is necessary to effectuate the purposes of that section and of the Act in general. However, the experience which the Commission has gained in reviewing contract market rules pursuant to section 5a(12) has demonstrated that many contract market rules do not necessitate comprehensive Commission review prior to being placed into effect by the contract markets. Such review often appears unnecessary where a proposed reviewable rule is operational or administrative in nature or where such a proposed rule merely results in operational or administrative changes in a pre-existing substantive contract market rule.

As proposed, the revisions to § 1.41 would have exempted all operational and administrative rules pertaining to such matters as: (1) Hours of trading, (2) correction of typographical or other mechanical errors in rules, (3) declaration of holidays, and (4) changes in references to the Secretary of Agriculture to references to the Commission or the Department of Justice necessitated by the Commodity Futures Trading Commission Act of 1974. In proposing these exemptions, the Commission stated its intent that the exemptions "be broadly interpreted to exempt all operational and administrative rules which are similar in nature to those set out in the proposed regulation." The Commission also expressed its particular interest in "comments on the types of rules which should be characterized as operational or administrative for purposes of this exemption."

After reviewing the comments received in response to this request and the suggestions of the Commission's Advisory Committee on Market Regulation, and after a careful analysis of the contract market rules submitted to the Commission pursuant to section 5a(12) of the Act during the past 15 months, the Commission has concluded that there are, at most, only a few operational and administrative rule types which do not encompass at least some reviewable rules which necessitate comprehensive Commission review pursuant to section 5a(12) prior to being placed into effect by a contract market. However, the Commission has also concluded that there are several broad operational and administrative rule types which are composed primarily of rules which do not appear to necessitate such prior Commission review. After considering these conclusions in light of the fact that the Commission has limited resources to devote to the review of proposed reviewable rules and that, as a result, Commission approval, and hence contract market implementation, of proposed reviewable rules have been subject to substantial delays, the Commission has decided to exempt a much broader range of operational and administrative reviewable rules from the prior-approval requirement of section 5a(12) than it proposed in its release of March 4, 1976.

However, in providing for such broad exemptions, the Commission recognizes that a significant number of those contract market reviewable rules which fall within the categories of exempted rule types enumerated in regulation 1.41 may still necessitate prior Commission review in order to effectuate the purposes of the Act and of sections 5a(12) and 15 in particular. The Commission is also cognizant of the fact that, due to the broad language setting forth the new exemptions, contract markets may classify certain reviewable rules within the new exemptions where such rules are not actually within the scope of those exemptions. Nonetheless, the Commission has determined that it can best carry out the purposes of the Act by establishing broad exemptions from the prior-approval requirement of section 5a(12). In order to provide such broad exemptions while at the same time subjecting substantive contract market reviewable rules to the comprehensive review required by section 5a(12), the Commission has made the exemptive provisions of paragraph (c) of § 1.41 expressly inapplicable to those operational and administrative rules which the Commission determines may require its review pursuant to section 5a(12) in order to effectuate the purposes of the Act. However, in so doing, the Commission does not intend to create unnecessary uncertainty on the part of contract markets over the status of proposed reviewable rules. Accordingly, paragraph (c) of § 1.41 requires the Commission to notify a contract market within ten (10) days of the receipt of an operational or administrative rule by the Commission either of its determination that the rule appears to necessitate section 5a(12) review prior to being placed into effect by the contract market or of its inability to make such determination within such ten (10) day period.

Specifically, paragraph (c) of the newly adopted revision of § 1.41 exempts a proposed reviewable rule from submission pursuant to paragraph (b) of the new rule (submission for prior approval pursuant to section 5a(12) of the Act) where such rule is operational or administrative in nature and pertains to such matters as:

(1) The government, organization, and administration of the contract market;
(2) Membership in the contract market, except those rules relating to qualifications, selections, training, arbitration, or suspension, expulsion, denial of access to the contract market, or other disciplinary action;
(3) Meetings of members;
(4) Hours of trading;
(5) Declarations of holidays and other similar suspensions of trading;
(6) Changes in references to the Secretary of Agriculture to references to the Commission or the Department of Justice necessitated by the Commodity Futures Trading Commission Act of 1974 and all similar changes;
(7) Correction of mechanical errors in rules; [12]
(8) Use of and payment for facilities by members;
(9) Facilities housing the contract market, physical changes in the trading floor or trading area, etc.;
(10) The registration of agents, employees, and branch offices of members; but not the qualifications or testing of such agents and employees;
(11) Gratuity and similar funds, but not guaranty, reserve or similar funds;
(12) Specified forms relating to trading on the contract market;
(13) Records, reports, and confirmations provided to customers by members; or
(14) Decorum, attire, admission to the floor, badges, visitors, and all similar matters.

Paragraph (c) provides, however, that this exemption shall not apply to any proposed operational or administrative reviewable rule with respect to which the contract market is notified by the Commission, within ten (10) days after receipt of the rule by the Commission, that the Commission has determined:

(i) That the purposes of the Act appear to necessitate Commission review of the proposed rule prior to its being placed into effect by the contract market, or

(ii) That the Commission is unable to make the determination described in (i) above within such ten (10) day period.[13]

Paragraph (c) provides further, however, that where the contract market which has been notified as in (i) or (ii) above is subsequently notified by the Commission that the proposed rule does not in fact appear to necessitate Commission review prior to being placed into effect by the contract market, such rule is subject to the exemptive provisions of the paragraph. Permanent reviewable rules which are not within the exemption provided by this paragraph must, of course, be submitted to the Commission pursuant to paragraph (b) of § 1.41 at least 30 days prior to their proposed effective dates unless a shorter submission period is permitted by the Commission.

The Commission stresses, as it did in its release of March 4, 1976, that it intends that the exemptive provisions of regulation § 1.41 be broadly interpreted to exempt all operational and administrative rules which are similar to those set out specifically in paragraph (c) of the regulation. (For example, contract markets should interpret exemptions numbers (1), (6) and (7) to exempt all reviewable rules which result in only op-

[12] This would include typographical errors of a material nature.

[13] One of the factors upon which such determinations will be based is whether a proposed reviewable rule submitted by a contract market as an exempt operational or administrative rule is in fact within the scope of the exemption provided by this paragraph.

erational or administrative changes in preexisting substantive contract market rules.) In this regard, the Commission reiterates its intent that the exemptions provided by § 1.41 be interpreted so as to exempt a substantial number of all proposed reviewable rules from the prior-approval requirement of section 5a(12) of the Act.

9. *Submission of contract market rules which do not require section 5a(12) review.* Paragraph (d) of the newly adopted revisions to § 1.41 sets forth the procedure pursuant to which contract markets must submit operational and administrative reviewable rules which have been exempted from the prior-approval requirement of section 5a(12) of the Act by paragraph (c).

As proposed, § 1.41 would have required operational and administrative reviewable rules to be submitted ten days prior to their proposed effective dates. One contract market criticized the proposed ten-day prior-submission requirement for its lack of flexibility, arguing that a contract market may need to implement an operational or administrative rule immediately or within less than the required ten-day period. This is a valid criticism of the proposed regulation. The Commission has not, however, eliminated the ten-day prior-submission requirement, as was suggested by the commentator. Rather, the Commission believes that it should generally be furnished[12] with copies of all rules submitted pursuant to paragraph (d) at least ten days prior to their proposed effective dates to enable the Commission to determine if the purposes of the Act appear to necessitate Commission review of such rules pursuant to section 5a(12) prior to their being placed into effect by the contract market. In order to afford contract markets the requisite flexibility in adopting operational and administrative rules which necessitate immediate Commission consideration, the Commission has modified the ten-day prior-submission requirement to permit contract markets to furnish copies of proposed operational and administrative reviewable rules within such shorter period of time as the Commission may permit.

One contract market contended that the Commission does not have the authority to require the submission of exempted operational and administrative reviewable rules ten days prior to their effective dates. The Commission disagrees with this assertion. Section 8a(5) of the Act authorizes the Commission:

> To make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this Act * * *.

As discussed above, the Commission has determined that it can best effectuate the purposes of the Act, in general, and of section 5a(12), in particular, by granting broad exemptions from the prior-approval requirement of section 5a(12) subject to the provision that the exemptions shall not apply where the Commission notifies the contract market that it has determined that the purposes of the Act appear to necessitate Commission review of a proposed reviewable rule prior to its being placed into effect by the contract market. In this regard, the Commission has also determined that a proposed reviewable rule must generally be submitted ten (10) days prior to its proposed effective date in order to enable the Commission to make such determination prior to the rule being placed into effect by the contract market.

Paragraph (d) of the newly adopted regulation also sets forth the requirement that operational and administrative reviewable rules submitted pursuant to paragraph (d) rather than paragraph (b) of § 1.41 be designated in the submission of such rules as exempted operational and administrative rules.

10. *Changes in membership.* Paragraph (e) of the newly adopted revisions to § 1.41 sets forth, substantially as proposed, the requirement that each contract market notify the Commission promptly in writing of each change in membership.

11. *Emergency Actions.* Paragraph (f) of newly adopted § 1.41 specifies "the terms and conditions under which a contract market may, in an emergency," adopt a temporary reviewable rule without prior Commission approval pursuant to section 5a(12) of the Act.

The first of these terms and conditions is a restriction of the duration of a temporary emergency rule (1) to the duration of the emergecny, (2) to no more than 30 days without express Commission authorization, and (3) in no case to more than 90 days from the date the temporary emergency rule is first put into effect. Modifications of a temporary emergency rule can neither extend beyond the duration of the temporary rule itself nor operate to extend the initial limitation on the duration of the temporary rule being modified.

This limitation on the duration of a temporary emergency rule is adopted in the same form as it was proposed. One contract market commenting on the proposed limitation recommended that regulation 1.41 include a provision whereby a contract market could place a temporary emergency rule into effect and simultaneously submit that rule to the Commission for section 5a(12) review. § 1.41, both as adopted today and as proposed, permits a contract market to take this type of action. The contract market commenting on the proposed provision also recommended that the temporary emergency rule be allowed to remain in effect until the Commission approves or disapproves the rule. The Commission does not believe such a provision is necessary. Both the proposed regulation and the newly adopted version permit a temporary rule to remain in effect for 30 days without Commission authorization and for 90 days with such authorization. The Commission believes this 90-day period provides both the Commission and the contract markets with sufficient flexibility to deal wtih an emergency.

The second term or condition with which a contract market must comply in order to adopt a temporary emergency rule without prior Commission approval consists of a notification requirement. A contract market must notify the Commission at its Washington, D.C., headquarters of the adoption, modification and termination of each temporary emergency rule by the fastest available means of communication. This provision implicitly demands that such initial notification be made by telephone, telegraph, or a similar means of virtually instantaneous communication. This provision also requires that written notification of a temporary emergency rule be furnished to the Commission promptly after the initial notification is given.

It is likely that many reviewable temporary emergency rules may fall within the operational and administrative rule exemption provided by paragraph (c) of § 1.41. Contract markets should adopt such rules as temporary emergency rules (furnishing appropriate notice) rather than attempt to submit the rules under the exemption provided by that paragraph, because the Commission may determine that it should not relax the requirement of paragraph (d) of § 1.41 that such rule be submitted ten (10) days prior to its proposed effective date and may even require that the proposed rule be submitted for full section 5a(12) review. (Of course, a reviewable rule could always be placed into effect as a temporary emergency rule by a contract market at the same time a permanent version of the rule is submitted to the Commission either as an exempted operational or administrative rule or for full section 5a(12) review.)

The final provision of paragraph (f) of the newly adopted regulation sets forth a list of representative types of actions a contract market may take pursuant to a temporary emergency rule. The Commission stresses that it does not intend this list to be exclusive, but rather that the contract markets have broad flexibility to deal with emergencies.[13] Although this provision is adopted substantially as proposed, certain minor technical changes have been made to insure the desired flexibility. For example, a temporary emergency rule "may

[12] For purposes of this section, a rule will be considered "furnished" to the Commission when it is received by the Commission at its Washington, D.C., headquarters.

[13] Such broad flexibility should not be interpreted, however, to imply that actions taken by a contract market in an emergency are not subject to subsequent Commission review of a comprehensive nature or that a contract market is relieved of any responsibility or liability for actions taken in response to an emergency. Rather, this provision is intended solely to relieve contract markets of the requirement that they submit reviewable rules adopted in response to emergencies for Commission approval pursuant to section 5a(12) prior to placing such rules into effect.

provide for" as well as "authorize the contract market, or the governing board thereof or any committee thereof to undertake" appropriate action in an emergency.

12. *Physical Emergencies.* In proposing the definition of a "temporary emergency rule," the Commission stated that it did

> not intend to preclude contract markets from adopting more permanent forms of rules that set forth specific action that may be taken in specific circumstances. For example, the proposed regulation specifically permits a designated contract market official, authorized by a contract market rule previously approved by the Commission pursuant to section 5a(12) of the Act, to suspend trading on the contract market where the physical functions of the contract market have been severely and adversely affected by a 'physical emergency,' such as a bomb scare or a power failure. (Paragraph (c) of the proposed rule would also permit such a designated official to order restoration of trading after the emergency has abated, if so authorized by the contract market rule.) Action under such a rule would not be subject to the requirements of regulation 1.41 applicable to a temporary emergency rule. However, any such rule would have to be approved by the Commission pursuant to section 5a(12) of the Act prior to its implementation.

One contract market criticized the proposed provision, arguing that an individual contract market official should not be restricted to the single remedy of suspending trading, since other, less drastic measures may be more appropriate. The Commission agrees with this comment and has, accordingly, adopted the proposed "physical emergencies" provision as paragraph (g) of § 1.41 in an amended form which permits a designated official to take whatever actions such official is authorized to take pursuant to a reviewable rule previously approved by the Commission pursuant to section 5a(12) of the Act.

Another commentator urged that physical emergencies should include threatened as well as actual disruptions of the physical functions of a contract market. This suggestion has also been incorporated into the newly adopted regulation.

A third commentator suggested that the Commission substitute the word "operations" for the term "physical functions" to clarify what types of rules may be adopted under this provision. The Commission, however, sees no advantage to be gained by this substitution and accordingly has not implemented this suggestion.

CASH MARKET RULES

In its notice announcing the proposed amendments to § 1.41, the Commission noted that one contract market had requested that the Commission exempt contract market rules governing cash transactions from the prior-approval requirement of section 5a(12) of the Act. The Commission's proposed amendments did not contain such an exemption, but the Commission did request comment on (1) The need for section 5a(12) review of such rules, (2) how such rules might be legally exempted, and (3) how these rules inter-relate with contract market rules governing futures transactions.[14]

The Commission's release then noted that its Advisory Committee on Market Regulation was presently considering the scope of section 5a(12) of the Act, including its applicability to cash market rules, and that the Cash Market Subcommittee of the Commission's Advisory Committee on the Definition and Regulation of Markets Instruments was also considering the Commission's authority over the cash markets. As a result, the Commission stated that it would consider the reports and recommendations of its Advisory Committees before making a final determination in this area. The Commission also noted that the Commission's Division of Trading and Markets had taken the following "no action" position implicitly applicable to all contract markets. The Division's letter stated:

> Because of the uncertainty of this issue, the Division has determined that it will not recommend to the Commission at this time that it review for approval or disapproval, pursuant to section 5a(12) of the Act, those contract market rules relating exclusively to the cash market. Nor will the Division recommend that the Commission institute enforcement action against a contract market for failure to submit such cash market rules for Commission approval, should it later be determined by the Commission that cash market rules are within the scope of section 5a(12) of the Act. Nevertheless, contract market rules relating to cash transactions must be submitted to the Commission pursuant to section 5a(1) of the Act.[15]

The Commission has received several comments from contract markets and others on whether cash market rules are within the scope of section 5a(12). It has also received the preliminary comments of its Advisory Committees. Most commentators and the Commission's Advisory Committees stated that the Commission should not involve itself in cash market transactions effected on contract markets. Those commentators pointed out that cash market transactions are usually between sophisticated traders and that therefore the protections afforded by Commission review of proposed rule changes pursuant to section 5a(12) are unnecessary with respect to such transactions.

The Commission has reviewed these comments and the recommendations of its Advisory Committees and can see no reason at this time to direct the Division of Trading and Markets to alter its "no-action" position with respect to cash market rules. However, should the Commission determine that its responsibilities under the Act, and under section 15 in particular, require it to review certain cash market rules prior to their being placed into effect by the contract markets, the Commission will inform the contract markets of the inapplicability of this no-action position to such rules. Furthermore, the Commission points out that if any portion of a rule dealing with cash transactions relates to futures trading requirements, that rule must be submitted to the Commission for its approval pursuant to section 5a(12), unless the rule is exempted from such submission by § 1.41.

DELEGATION OF AUTHORITY

In order to implement fully the flexible regulatory provisions of § 1.41, the Commission has decided to delegate certain authority to the Executive Director and the Director of the Commission's Division of Trading and Markets and to such persons under the supervision of the Executive Director or the Director of the Division of Trading and Markets as such Directors may from time to time designate, such delegated authority to be exercised alternatively by either Director or any designated delegate thereof. The Commission has made such delegations in § 1.41a.

Paragraph (c) of § 1.41 provides that the operational and administrative exemption set forth therein shall not apply to any reviewable rule with respect to which the contract market has been notified by the Commission within ten (10) days of the receipt of such rule by the Commission that the Commission has determined that the purposes of the Act appear to necessitate Commission review of the proposed rule prior to its being placed into effect by the contract market or that the Commission is unable to make this determination within such ten (10) day period.

Paragraph (c) of § 1.41 further provides that the exemption set forth there shall apply to a proposed rule with respect to which the contract market has been notified as described above where the contract market is subsequently notified of a further determination by the Commission that the purposes of the Act do not appear to necessitate Commission review of the proposed rule prior to its being placed into effect by the contract market. In paragraph (a) of § 1.41a, the Commission authorizes the Executive Director and the Director of the Division of Trading and Markets to make such determinations on behalf of the Commission and to notify the contract market of such determinations. The standards to be used in making such determinations are those set forth in § 1.41(c), specifically, that the purposes of the Act appear to necessitate prior Commission review of a proposed rule or that such determination cannot be made by the Executive Director or the Director of the Division of Trading and Markets on behalf of the Commission within the designated ten (10) day period. Such determinations will be made in consultation with the Commission's Office of General Counsel whenever a proposed rule appears to have any antitrust implications which appear to necessitate its review by the Commission prior to being placed into effect by the contract market.

[14] 41 FR 9530 (March 4, 1976).

[15] See letter from Thomas A. Russo, Director, Division of Trading and Markets, to Walter N. Vernon III, Executive Vice President and Secretary, Board of Trade of Kansas City, Missouri, Inc., February 13, 1976, on file with the Commission in Washington, D.C.

Paragraph (d) of § 1.41 requires that copies of certain rules be furnished to the Commission at least ten (10) days prior to their proposed effective dates or within such shorter period of time as the Commission may permit. In paragraph (b) of § 1.41a, the Commission authorizes the Executive Director and the Director of the Division of Trading and Markets to permit copies of a rule to be furnished to the Commission less than ten (10) days prior to its proposed effective date "where such Director determines that such rule does not appear to require Commission review prior to its being placed into effect by the contract market."

Since § 1.41a relates solely to the organization, procedures, and practices of the Commission, it is exempt from the requirement of 5 U.S.C. 553 that general notice of all proposed rules be published in the FEDERAL REGISTER and that interested persons be given an opportunity to comment on the proposed rule prior to its adoption by the Commission. Accordingly, since the Commission has determined that the delegations contained in § 1.41a are necessary to implement fully the regulatory provisions of § 1.41, it has decided to adopt § 1.41a without prior notice to and comment from the public.

(Sections 5a and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 7a and 12a (Supp. IV, 1974).)

In consideration of the foregoing, the Commission hereby amends 17 CFR Part I by revising § 1.41 and by adding a new § 1.41a to read as follows:

§ 1.41 Contract Market Rules, submission of rules to Commission, exemption of temporary emergency rules and certain operational and administrative rules, emergencies.

(a) *Definitions.* For purposes of this section:

(1) The term "rule" of a contract market means any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof.

(2) The term "reviewable rule" of a contract market means any rule of a contract market which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin.

(3) The term "contract market" includes a clearing organization that clears trades for the contract market.

(4) The term "emergency" means:

(i) Any occurrence or circumstance specifically defined as an "emergency" by the reviewable rules of a contract market which have been previously approved by the Commission pursuant to section 5a(12) of the Act; and

(ii) Any other occurrence or circumstance which, in the opinion of the governing board of the contract market, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any contract for the future delivery of a commodity on such contract market. Occurrences and circumstances which a governing board of a contract market may deem emergencies include, but are not limited to:

(A) Any manipulative activity or attempted manipulative activity;

(B) Any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions;

(C) Any circumstance which may materially affect the performance of contracts traded on the contract market;

(D) Any action taken by the United States or any foreign government or any state or local governmental body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the contract market;

(E) Any circumstance which may have a severe, adverse effect upon the physical functions of a contract market including, for example, fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, and transportation breakdowns;

(F) The bankruptcy or insolvency of any member or member firm of the contract market or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a member of the contract market which may affect the ability of that member to perform on its contracts;

(G) Any circumstance in which it appears that a member or any other person has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of customers' funds, members of the contract market, or the contract market; and

(H) Any other unusual, unforeseeable and adverse circumstance with respect to which it is impracticable for the contract market to submit, in a timely fashion, a reviewable rule to the Commission for prior approval.

(5) The term "governing board" of a contract market means the board of directors, the board of governors, the board of managers or any other similar body of the contract market or any committee duly authorized, pursuant to a reviewable rule of the contract market that has been approved by the Commission pursuant to section 5a(12) of the Act, to take action for and on behalf of the contract market with respect to an emergency.

(6) The term "two-thirds vote" of a governing board of a contract market means the affirmative vote of two or more persons constituting not less than two-thirds of the members of such governing board either (i) physically present and voting at a meeting of such governing board at which a quorum of at least one-third of the members is physically in attendance or (ii) voting in any manner other than at a meeting of such board at which a quorum of at least one-third of the members is physically in attendance as permitted by applicable state corporation law.

(7) The term "temporary emergency rule" means a reviewable rule adopted by a "two-thirds vote" of the governing board of a contract market to meet an emergency.

(b) *Submission of reviewable rules to Commission.* Except as provided in paragraphs (c) and (f) of this section, all proposed reviewable rules must be submitted to the Commission for approval pursuant to section 5a(12) of the Act at least 30 days prior to their proposed effective dates or within such shorter period of time as the Commission may permit. Three copies of each such rule shall be furnished to the Commission at its Washington, D.C., headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. Each such submission shall, in the following order:

(1) Set forth the text of the proposed reviewable rule (in the case of any change in, addition to, or deletion from any existing rule of the contract market, the existing rule shall be set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added);

(2) Describe the action taken or anticipated to be taken to adopt the proposed reviewable rule by the contract market, or by the governing board thereof or any committee thereof (in this regard, cite the rules of the contract market which authorize the contract market, or the governing board thereof or the committee thereof, to adopt the proposed reviewable rule);

(3) Set forth an explanation of the proposed reviewable rule, including its anticipated effective date and purpose, a description of any action taken or anticipated to be taken as a result of or pursuant to the proposed reviewable rule, how the rule fits into the contract market's scheme of self-regulation, how the rule furthers the purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed reviewable rule (if a proposed reviewable rule affects, directly or indirectly, the application of any other rule of the contract market, set forth the pertinent portion of the text of any such rule and describe the anticipated effect of the proposed reviewable rule on the application thereof); and

(4) Note and briefly describe any substantive opposing views expressed by the members of the contract market or others with respect to the proposed reviewable rule which were not incorporated into the proposed reviewable rule prior to its submission to the Commission.

(c) *Operational and Administrative Exemption.* A proposed reviewable rule is not subject to the requirements of paragraph (b) of this section, and is ex-

empt from the requirement of section 5a(12) of the Act that it be submitted and approved by the Commission prior to being placed into effect by the contract market, where such rule is operational or administrative in nature and pertains to such matters as:

(1) Government, organization, and administration of the contract market, including the qualification, nomination, election, appointment, tenure, compensation, powers, duties, responsibilities, activities, indemnification, or meetings of officers, directors, governing boards, or committees of the contract market, but excluding any authorization to take action for or on behalf of the contract market with respect to an emergency;

(2) Membership, including applications, purchases and sales, transfers, membership fees and assessments, dues, and corporate and partnership privileges, but excluding qualifications, selection, training, arbitration, or suspension, expulsion, denial of access to the contract market, or any other disciplinary action;

(3) Meetings of members, both regular and special, including notice and quorum requirements, voting, proxies, rules of order, minutes, reports and procedural resolutions;

(4) Hours of trading;

(5) Declaration of holidays and other similar suspensions of trading;

(6) Changes in references to the Secretary of Agriculture to references to the Commission or the Department of Justice necessitated by the Commodity Futures Trading Commission Act of 1974 and all similar changes;

(7) Correction of mechanical errors in rules;

(8) Use of and payment for facilities by members;

(9) Facilities housing the contract market, physical changes in the trading floor or trading area, and all similar matters;

(10) The registration of agents, employees, and branch offices of members, but not the testing or qualifications of such agents and employees;

(11) Gratuity and similar funds; but not guaranty, reserve, or similar funds;

(12) Forms such as notices of delivery, transfer sheets, warehouse receipts, inspections, certificates of grade or quality, and assay certificates;

(13) Records, reports, and confirmations provided to customers by members; or

(14) Decorum, attire, admission to floor, badges, visitors, and all similar matters;

Provided, however, That the exemption set forth in this paragraph shall not apply to any proposed reviewable rule with respect to which the contract market is notified by the Commission, within ten (10) days after copies of such rule are furnished to the Commission pursuant to paragraph (d) of this section, that the Commission has determined:

(i) That the purposes of the Act appear to necessitate Commission review of the proposed rule prior to its being placed into effect by the contract market, or

(ii) That the Commission is unable to make the determination described in paragraph (c)(14)(i) of this section within such ten (10) day period,

and with respect to which the contract market is not subsequently notified by the Commission of its further determination that the purposes of the Act do not appear to necessitate Commission review of the proposed rule prior to its being placed into effect by the contract market.

(d) *Rules placed into effect without prior Commission review.* Except as provided in paragraph (f) of this section (temporary emergency rules), two copies of any reviewable rule which a contract market proposes to place into effect without prior submission to the Commission pursuant to paragraph (b) of this section shall be furnished to the Commission at its Washington, D.C., headquarters at least ten (10) days prior to its proposed effective date or within such shorter period of time as the Commission may permit. Two copies shall also be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market. (In the case of any change in, addition to, or deletion from any existing rule of the contract market, the existing rule shall be set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added.) Where a proposed contract market reviewable rule is submitted to the Commission pursuant to paragraph (d) rather than paragraph (b) of this section because the contract market has determined such rule is within the exemption provided by paragraph (c) of this section, the submission of such rule shall clearly designate the rule as an "operational or administrative reviewable rule exempted from the prior-approval requirement of section 5a(12) of the Act by paragraph (c) of this section."

(e) *Membership changes.* Each contract market shall promptly furnish the Commission with written notification of any changes in its membership. One copy of such notification shall be furnished to the Commission at its Washington, D.C., headquarters, and one copy shall be transmitted to the regional office of the Commission having local jurisdiction over the contract market.

(f) *Temporary emergency rules.* In the event of an emergency, a contract market, by a two-thirds vote of its governing board, may place into immediate effect a temporary emergency rule to deal with the emergency without prior Commission approval, subject to the following provisions:

(1) A temporary emergency rule, including any modification thereof, may not extend beyond the duration of the emergency, as determined by the contract market; but in no event shall a temporary emergency rule, or any modification thereof, continue, without express Commission authorization, beyond 30 days after the temporary emergency rule is first put into effect. In no event shall a temporary emergency rule, or any modification thereof, remain in effect for more than 90 days after the temporary emergency rule is first put into effect.

(2) The contract market shall notify the Commission at its Washington, D.C., headquarters of the adoption, modification and termination of a temporary emergency rule by the fastest available means of communication. A written copy of each such temporary emergency rule, and any modification and termination thereof, shall promptly thereafter be furnished to the Commission at its Washington, D.C., headquarters, along with a complete explanation of the emergency and the action taken to meet the emergency; two additional such copies shall also be promptly furnished by the contract market to the regional office of the Commission having local jurisdiction over the contract market.

(3) A temporary emergency rule may provide for, or may authorize the contract market, or the governing board thereof or any committee thereof, to undertake actions necessary or appropriate to meet the emergency, including, but not limited to, such actions as:

(i) Limiting trading to liquidation only, in whole or in part, or limiting trading to liquidation only except for new sales by parties who have the commodity to deliver pursuant to such sales;

(ii) Extending or shortening the expiration date for trading in contracts;

(iii) Extending the time of delivery;

(iv) Changing delivery points;

(v) Ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions;

(vi) Ordering the transfer of contracts, and the money, securities, and property securing such contracts, held on behalf of customers by a member of the contract market to another member, or other members, of the contract market willing to assume such contracts or obligated to do so;

(vii) Extending, limiting or changing hours of trading;

(viii) Suspending trading; and

(ix) Modifying or suspending any provision of the rules of the contract market.

(g) *Physical emergencies.* In the event the physical functions of a contract market are, or are threatened to be, severely and adversely affected by a "physical emergency," such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, or transportation breakdowns, a contract market official, duly authorized to take such action for and on behalf of the contract market with respect to such a "physical emergency" pursuant to a reviewable rule of the contract market that has been approved by the Commission pursuant to section 5a(12) of the Act, may take any action authorized by such reviewable rule necessary or appropriate to deal with the emergency, including, but not limited to, suspending trading on the contract market. In no event, however, shall suspension of trading on the contract market by such a designated official continue in effect for more than five (5) days. If so authorized by a reviewable rule of the contract market, such designated con-

tract market official may also order restoration of trading on the contract market, or removal of other restrictions imposed by the official as permitted by this paragraph (g), in the absence of action by the governing board of the contract market, upon a determination by such official that the "physical emergency" has sufficiently abated to permit the physical functions of the contract market to continue in an orderly manner.

§ 1.41a Delegation of authority to the Executive Director and the Director of the Division of Trading and Markets.

The Commission hereby delegates, until the Commission orders otherwise, the following authority to the Executive Director and the Director of the Division of Trading and Markets, to be exercised alternatively by either such Director or by such other employee or employees of the Commission under the supervision of either Director as may be designated from time to time by the Director responsible for the supervision of such other employee or employees:

(a) pursuant to § 1.41(c), to determine whether a proposed operational or administrative reviewable rule appears to require Commission review prior to its being placed into effect by the contract market or that such determination cannot be made within ten (10) days of the receipt of such rule by the Commission, and to so notify the contract market; and

(b) pursuant to § 1.41(d), to permit a contract market to furnish, less than ten (10) days prior to its proposed effective date, copies of any reviewable rule which the contract market proposes to place into effect without prior submission to the Commission pursuant to § 1.41(b), where such Director determines that such rule does not appear to require Commission review prior to its being placed into effect by the contract market.

Effective date: These amendments to 17 CFR Part 1 take effect on October 18, 1976.

Issued in Washington, D.C., on September 14, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-27276 Filed 9-16-76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM76-5; Order No. 553-A]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Small Producer Regulation; Order Clarifying Prior Order

SEPTEMBER 9, 1976.

On July 27, 1976, the Commission issued Order No. 553, Order Amending Section 157.40 Of Part 157, Title 18, Code Of Federal Regulations, which set the rates that small producers could charge under existing blanket certificates.

On July 27, 1976, the Commission issued Opinion No. 742-A denying rehearing and reconsideration of Opinion No. 742. In its discussion in Opinion No. 742-A, the Commission, at mimeo p. 17, stated that small producers would receive the same rate as large producers for sales that qualified under Opinion No. 770, Opinion And Order Prescribing Uniform National Rate For Sales Of Natural Gas Dedicated To Interstate Commerce On Or After January 1, 1973, For The Period January 1, 1975 To December 31, 1976, Docket No. RM75-14, issued July 27, 1976.

On August 2, 1976, the Commission issued Opinion No. 742-B, Opinion And Order Clarifying Opinion No. 742-A, Docket No. R-393, in which the Commission stated:

> Small producers are entitled to a differential for sales that meet the Opinion No. 699 criteria, as modified by Opinion No. 770, supra, pp. 104-108, the Commission adjusted the Opinion No. 699-H rate of 52¢ per Mcf to reflect changing factors, and found 101¢ to be a just and reasonable rate for the 1973-1974 vintage gas.
>
> * * * * *
>
> Therefore, qualified small producers may charge 130% of the just and reasonable base rate of $1.01 per Mcf (at 14.73 psia) set forth in Opinion No. 770 for sales covered by that ceiling. Small producers may not charge the 130% differential for sales covered by the Opinion No. 770 base rate of $1.42 per Mcf (at 14.73 psia).

In order that the Commission's Regulations reflect this clarification, it is necessary to amend Order No. 553 to reflect the clarification expressed in Opinion No. 742-B.

The Commission orders. Ordering paragraph (A) of Order No. 553, amending § 157.40 of the Regulations, is further amended to add new paragraphs (c)(3) and (c)(4) as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

* * * * *

(c) * * *

(3) All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate of $1.01 per Mcf set in Opinion No. 770 shall be made at a maximum rate of 130 percent of that ceiling rate.

(4) All sales of natural gas by small producers for resale in interstate commerce that qualify for the base ceiling rate of $1.42 per Mcf set in Opinion No. 770 shall be made at that ceiling rate.

* * * * *

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27287 Filed 9-16-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[FAP6H5125/T20; FRL 617-5]

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

Glyphosate

On April 15, 1976, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (41 FR 15908) a notice that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis MO 63116, had submitted a petition (FAP 6H5125) which proposes to amend 21 CFR 561.253 by the establishment of a regulation permitting the use of the herbicide glyphosate [N-(phosphonomethyl) glycine] in a proposed experimental program involving application of the herbicide to growing soybeans with a tolerance of 20 parts per million for combined residues of the herbicide and its metabolite aminomethylphosphonic acid in soybean hulls in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). No comments or requests for referral to an advisory committee were received with regard to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit issued under FIFRA. It has further been determined that since residues of the pesticide may result in soybean hulls from the agricultural uses mit, the feed additive regulation requested by the petitioner should be established and should include a tolerance limitation.

Accordingly, a feed additive regulation is established as set forth below. Any person adversely affected by this regulation may, on or before October 18, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, East Tower, Room 1019, 401 M St. SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectonable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective September 17, 1976, 21 CFR 561.253 is amended by redesignating paragraphs (a) and (b) as (a)(1) and (b)(1) respectively, and by adding the new paragraphs (a)(2) and (b)(2) as set forth below.

(Sec. 409(c)(1) & (4), Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348(c)(1) & (4)].)

Dated: September 9, 1976.

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

Part 561, § 561.253 is amended by redesignating paragraphs (a) and (b) as (a)(1) and (b)(1), by adding the new paragraphs (a)(2) and (b)(2), and by amending the reference to paragraph (a) in paragraph (b) to refer to paragraph (a)(1), to read as follows:

§ 561.253 Glyphosate.

(a) * * *

(2) A tolerance of 20 parts per million is established for residues of the herbicide glyphosate [*N*-(phosphonomethyl)-glycine] and its metabolite aminomethylphosphonic acid in soybean hulls resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires September 7, 1977.

(b)(1) Residues in dried citrus pulp not in excess of 0.5 part per million resulting from the use described in paragraph (a)(1) of this section.

* * * * *

(b)(2) Residues in soybean hulls not in excess of 20 parts per million resulting from the use described in paragraph (a)(2) of this section remaining after expiration of the experimental program will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and feed additive tolerance.

* * * * *

[FR Doc.76-24692 Filed 9-16-76;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 76N-0304]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Dating Period for Collagenase

The Food and Drug Administration (FDA) is extending the dating period for the biological product Collagenase; the dating period is being extended from 18 months to 4 years, effective September 17, 1976.

A review of the existing regulations governing biological products is being conducted by FDA to assure that the criteria of safety, purity, potency, and efficacy established by regulations are updated to remain consistent with the best current judgment of the scientific community. As a result of the review, the Commissioner of Food and Drugs finds that § 610.53 Dating periods for specific products (21 CFR 610.53) should be updated to reflect the extended dating period for Collagenase.

The dating periods for specific products prescribed in § 610.53 are based on data relating to usage, clinical experience, or laboratory tests that establish the period beyond which the product cannot be expected, beyond reasonable doubt, to yield its specific results and retain its safety, purity, and potency when maintained at the recommended temperature.

The Commissioner advises that since 1968 a dating period of 18 months has been prescribed in § 610.53 for Collagenase. However, based on data submitted in the amended license application of Advanced Biofactures Corp., the only manufacturer licensed to produce Collagenase, a dating period of 4 years was approved in 1970. Stability data demonstrated that Collagenase can be expected, beyond reasonable doubt, to yield its specific results and retain its safety, purity, and potency for at least 4 years, provided the product is stored at a temperature no warmer than 25° C. Therefore, the Commissioner concludes that § 610.53 should be updated by extending the dating period for Collagenase from 18 months to 4 years, consistent with the approved amended license.

Background data and information on which the Commissioner relies in promulgating this regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976) (41 FR 24262), Part 610 is amended in § 610.53 by revising the listing for Collagenase therein to read as follows:

§ 610.53 Dating periods for specific products.

* * * * *

Collagenase----	Four years, provided labeling recommends storage at no warmer than 25° C. § 610.51 does not apply.

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for this amendment of § 610.53 because it does not impose an additional duty or burden on any person, but rather relieves an unnecessary restriction and renders the published regulations consistent with approved license provisions.

Effective date: This regulation shall become effective on September 17, 1976.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: September 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-27237 Filed 9-16-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Arlington, Texas

On June 25, 1976 in 41 FR 26416, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Arlington, Texas. Map No. H 485454A 06 indicates that Interlochen Estates Addition, Sections 2-4, Arlington, Texas, as recorded in Volume 388-73, Pages 26-28, Volume 388-97, Page 33 and Volume 388-82, Page 52 of Plat Records in the office of the Clerk of the County Court of Tarrant County, Texas is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that:

Lots 1-5, 12-13, 23-30 and Lot 41, Block 1, Section 2 and Lots 37-40, Block 3, Section 2 and Lots 4-10, Block 3, Section 4 are within Zone C and are not within the Special Flood Hazard Area.

Lots 37-71, Block 4, Section 2, Lots 9 and 23-36 and Lots 77-79, Block 4, Section 4, with the exception of the Drainage Way as shown on the recorded plat map cited above, are within Zone B, and not within the Special Flood Hazard Area.

Lots 26-36, Block 3, Section 4, Lot 10, Block 4, Section 3 and Lot 76, Block 4, Section 4 are within Zone B, and not within the Special Flood Hazard Area.

Lot 73, Block 4, Section 4, with the exception of the rear 60 feet is within Zone B, and not within the Special Flood Hazard Area.

Lots 74 and 75, Block 4, Section 4, with the exception of the rear 50 feet of each lot, are within Zone B, and not within the Special Flood Hazard Area.

Lots 80-84, Block 4, Section 4, with the exception of the rear 55 feet of each lot, are within Zone B, and not within the Special Flood Hazard Area.

Lots 11-22, Block 4, Section 3 with the exception of the rear 70 feet of each lot, are within Zone B, and not within the Special Flood Hazard Area.

Lot 72, Block 4, Section 2, with the exception of the rear 80 feet of the lot is within Zone B, and not within the Special Flood Hazard Area.

The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 485454A 06 is hereby corrected to reflect that the

above property is not within the Special Flood Hazard Area identified on July 23, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 19, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-27274 Filed 9-16-76;8:45 am]

[Docket No. FI-289]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Eugene, Oregon

On June 19, 1974, in 39 FR 21147, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Eugene, Oregon. Map No. H 410122A Panel 07 indicates that the First Addition to Flintridge Village, Eugene, Oregon, as recorded on Microfilm Reel 759, Instrument No. 38337, in the office of the Lane County Recorder, Oregon, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above mentioned property are not within the Special Flood Hazard Area. Accordingly, Map No. H 410122A Panel 07 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on June 7, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 19, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-27272 Filed 9-16-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Greenville, South Carolina

On August 6, 1974, in 39 FR 28269, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Greenville, South Carolina. Map No. H 450091 Panel 05 indicates that a parcel of land fronting Waccamaw Circle, Greenville, Greenville County, South Carolina, being a portion of the property described in Volume 1017, Page 384 as recorded in the Greenville County Office of Deeds and Records, Greenville County, South Carolina, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 450091 Panel 05 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 23, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-27273 Filed 9-16-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Grimes, Iowa

On February 3, 1976, in 41 FR 4910, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Grimes, Iowa. Map No. H 190228 02 indicates that parcels of land lying in the City of Grimes, Iowa being tracts 3, 4, and 5 of Beavercrest Addition to the City of Grimes, Iowa as recorded in Deedbook 3970, Page 496, Deedbook 3867, Page 312 and Deedbook 4051, Page 241 in the office of the Recorder of Polk County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that portions of the above property which can be described as follows:

Being part of the South 28.70 acres of the East 41.95 acres of the North Fractional one-half (N. frl. ½) of the Northwest one-quarter (N.W. ¼) of Section Five (5), Township Seventy-nine (79) North, Range Twenty-five (25) West of the 5th P.M., Iowa, described as follows:

Commencing at a point 555 feet West of the Northeast corner of said tract of 28.70 acres, running thence West along the North line of said tract of 28.70 acres, which line is coincident with the South line of McClain Place in the Town of Grimes, Iowa, a distance of 264 feet to the actual point of beginning; thence S 9°30' N, approximately 179 feet to a point; thence S 21°30' W, approximately 467 feet to a point; thence S 43°00' W, approximately 106 feet to a point; thence N 0°13' W, approximately 686 feet to a point; thence East approximately 272 feet to the actual point of beginning.

and also, that part of the South 28.70 acres of the East 41.95 acres of the North Fractional one-half (N. frl. ½) of the Northwest one-quarter (N.W. ¼) of Section Five (5), Township Seventy-nine (79) North, Range Twenty-five (25) West of the 5th P.M., Iowa, described as follows:

Beginning at a point 555 feet West of the Northeast corner of said tract of 28.70 acres, running thence south approximately 803 feet; thence West approximately 540 feet to a point; thence N 0°13' W, approximately 35 feet to a point; thence N 58°30' E, approximately 198 feet to a point; thence N 12° E, approximately 95 feet to a point; thence N 28° E, approximately 72 feet to a point; thence N 15° E, approximately 198 feet to a point; thence N 44° E, approximately 84 feet to a point; thence N 24°15' E, approximately 170 feet to a point; thence N 52°30' E, approximately 167 feet to the point of beginning,

are not within the Special Flood Hazard Area.

Tract 5 of the above mentioned property is not within the Special Flood Hazard Area.

Accordingly, Map No. H 190228 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 5, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-27268 Filed 9-16-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Maryland

On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince Georges County, Maryland. Map No. H 245208 47 indicates that Lot 15, Block L of Murray Hill Subdivision, Prince Georges County, Maryland as recorded in Platbook W W W 87, Plat 65 in the office of Land Records of Prince Georges County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is within Zone C, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date

of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 245208 47 is hereby corrected to reflect that the above property is not within the Special Flood Hazad Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 23, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator:

[FR Doc.76-27270 Filed 9-16-76;8:45 am]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Dennis, Massachusetts

On August 7, 1974, in 39 FR 28425, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Dennis, Massachusetts, Map No. H 250005 Panels 09 and 11 indicate that Parcels A and B, on a subdivision Plan of Land in Dennisport, Massachusetts, for David B. Jr., and M. Isabel Lane, September 1973, as recorded in Book 295, Page 24, in the office of the Barnstable County Registry of Deeds, Massachusetts, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure located on the south portion of Parcel A and the existing two-story wood frame building on the north portion of Parcel B, are not within the Special Flood Hazard Area. Accordingly, Map No. H 250005 Panel 09 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 23, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator

[FR Doc.76-27271 Filed 9-16-76;8:45 am]

[Docket No. FI-315]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Paris, Maine

On August 6, 1974, in 39 FR 28242, the Federal Insurance Administrator published a list of communities with special hazard areas which included Paris, Maine, Map No. H 230097 Panel 03 indicates that a parcel of land bounded on the east by the Little Androscoggin River and on the south by Deering Street and is a portion of the property described in Book 781, Page 290, as recorded in the Oxford County Registry of Deeds, Oxford County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Commencing at a point being the northeast corner of the intersection of Park Street and Deering Street, proceed approximately 497 feet easterly along the northerly side of Deering Street to an iron pipe and the actual point of beginning; thence N 8°41' W, approximately 164.5 feet to a point; thence N 81°25' E, approximately 257.7 feet to a point; thence S 10°05' E, approximately 159 feet to a point; thence S 89°04' W, approximately 264.3 feet to the point of beginning;

is not within the Special Flood Hazard Area. Accordingly Map No. H 230097 Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 23, 1976.

H. B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-27269 Filed 9-16-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Restoration of Appellate Division Authority in Certain Matters Relating to Employee Plans and Exempt Organizations

This document contains an amendment to the Statement of Procedural Rules (26 CFR Part 601). The amendment relates to the authority of the Appellate Division in matters relating to employee plans and exempt organizations. It deletes the last sentence of § 601.106 (a) (3) (26 CFR Part 601). In addition, a delegation order, to be published separately in the FEDERAL REGISTER, will specifically vest authority to the Appellate Division in certain areas relating to employee plans and exempt organizations.

§ 601.106 [Amended]

In accordance with the above discussion, § 601.106 (a) (3) (26 CFR Part 601) is hereby amended by deleting the last sentence therefrom.

DONALD C. ALEXANDER,
Commissioner of
Internal Revenue.

[FR Doc.76-27377 Filed 9-16-76;8:45 am]

Title 29—Labor

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

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Mechanical Power Presses; Supplemental Statement of Reasons

The following is a supplemental statement of reasons with respect to the occupational safety and health standard for mechanical power presses (29 CFR 1910.217), which was promulgated on December 3, 1974 (39 FR 41841), pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657). This statement of reasons is issued in accordance with section 6(b)(8) and 6(e) of the Act to comply with the decision of the United States Court of Appeals for the Third Circuit in "AFL–CIO v. Brennan," 530 F.2d 109 (C.A. 3, December 31, 1975). The Court remanded the cause to the Occupational Safety and Health Administration (OSHA) for a further explanation of OSHA's determination that the final rule as adopted better effectuates the purposes of the Act than the national consensus standard. It should be noted that the final rule as promulgated at 39 FR 41841 and codified as 29 CFR 1910.217 remains in effect and is being enforced.

I. *Background.* On May 29, 1971, pursuant to section 6(a) of the Act, OSHA promulgated a safety standard for mechanical power presses (29 CFR 1910.217), which was adopted from a national consensus standard, American National Standards Institute (ANSI) B11.1–1970, Safety Standard for Construction, Care and Use of Mechanical Power Presses (36 FR 10466, 10643–46). The standard required employers to safeguard the point of operation of these presses and to use dies and presses designed and constructed to eliminate the need for the employee to place his hands or fingers within the point of operation (i.e., to eliminate the manual feeding of parts into the press). This latter provision, which was to be effective August 31, 1974, has been termed "no hands in dies."

On December 3, 1974, following an extensive rulemaking proceeding which included the publication of a notice of proposed rulemaking and the holding of public hearings, the Secretary of Labor promulgated a revised safety standard applicable to mechanical power presses which, while eliminating the "no hands in dies" requirement, substitutes a more comprehensive press safety regulation. Although the revised standard permits press operators to place their hands

within the point of operation, it requires specific guards or devices which are considered by OSHA to better effectuate the purposes of the Act than the national consensus standard. An extensive statement of reasons for the revision accompanied the promulgation of the revised standard (39 FR 41841).

The Court reviewed the revocation of the "no hands in dies" requirement pursuant to a petition filed under section 6(f) of the Act. It held that the reasons given for the Secretary's decision to revoke "no hands in dies" and to substitute improved guarding requirements were all supported by substantial evidence in the record as a whole and that the factors considered by OSHA were appropriate under the Act. Thus, the court held that the following determinations were supported by substantial evidence and hence conclusive:

(1) The "no hands in dies" standard would not prevent employees from actually placing their hands in the point of operation; (2) available accident statistics are not helpful in determining the effectiveness of "no hands in dies" when compared with appropriate safety devices and guards; (3) safety methods other than "no hands in dies," such as guards and safety devices, provide adequate employee protection at the point of operation; (4) "no hands in dies" would expose employees to additional safety hazards; (5) universal implementation of the "no hands in dies" standard is technologically infeasible; and (6) the economic costs associated with "no hands in dies" are prohibitive.

However, the Court held that a further statement of reasons by OSHA was necessary under section 6(b)(8) of the Act because the preamble to the final standard did not expressly explain (1) why the requirement in the final standard for safeguards alone better effectuates the purposes of the Act than requiring both safeguards and "no hands in dies;" and (2) why the decision to revoke the "no hands in dies" requirement across-the-board better effectuates the purposes of the Act than a revocation limited to instances of technological and economic infeasibility. The Court stated, "There may be adequate reasons for rejecting either approach, but we do not know them. Unless they are disclosed, we cannot properly perform our reviewing function." Accordingly, the Court remanded the cause to OSHA to enable it to respond directly to these two issues in an expanded statement of reasons.

Subsequent to the Court's decision, OSHA received several petitions to reopen the record in this proceeding for the purpose of receiving additional evidence and possibly modifying the standard. After careful consideration, it was concluded that the existing record provides an adequate basis for responding to the Court's remand and that any additional evidence could best be considered, along with other evidence which becomes available, in any future rulemaking.

II. *Supplemental statement of reasons.* The following paragraphs present OSHA's conclusions and supporting evidence on the issues raised by the Court's remand. This supplemental statement of reasons is an addendum to the original statement of reasons published in the FEDERAL REGISTER on December 3, 1974 (39 FR 41841).

A. OSHA has concluded that the provisions of the revised standard requiring safeguards better effectuate the purposes of the Act than requiring the concurrent use of safeguards and "no hands in dies." The concurrent use of these two methods, while appearing to have an additive safety effect, would not in OSHA's judgment, meaningfully improve employee safety, but would unnecessarily increase the burden of compliance on employers.

To begin with, as found by OSHA and affirmed by the Court, guards and safety devices alone can virtually eliminate point of operation accidents on mechanical power presses. Guards and other safety devices, therefore, are not viewed as an inadequate or inferior means of protecting employees. Thus, while we recognize that the use of safeguards alone cannot absolutely assure the elimination of all accidents or injuries to power press operators, we approach the question of the cumulative safety effect of guards and "no hands in dies" with the view that safeguards alone can be a highly effective means of protection.

With respect to the implementation of "no hands in dies," it is noted that, as previously found by OSHA and affirmed by the Court, its use as the sole means of providing protection against point of operation hazards has several serious drawbacks. Thus, "no hands in dies," as distinguished from guards and some safety devices, does not physically prevent the employee from actually placing his hands in the point of operation but merely eliminates the need for him to do so. Further, the automated or semi-automated feeding usually utilized to achieve a "no hands in dies" operation creates additional hazards including amputation for employees, both by exposing operators to new pinch-points of the feeding mechanism (e.g., Tr. 201–205, 318, 510–513, 669–670, Exh. 4, Comments 83–85), and by exposing numerous additional employees—such as set-up men, electricians, pipefitters and maintenance employees who must test and repair automated feeding mechanisms under power—to the hazards involved (e.g., Exh. 5, Comment 182, Tr. 153–158, 489, 501, 503, 509). Finally, imposition of mandatory "no hands in dies" would be technologically infeasible for a major portion of power press users and would entail prohibitive economic costs probably causing the elimination of many mechanical power press job shops and a substantial loss of jobs. These negative aspects of the retention of the "no hands in dies" requirement were evaluated in the face of the existence of an effective alternative means of protection, namely safeguards. It was concluded, in view of the adequacy of safeguards alone for providing protection, and the substantial known difficulties and uncertain improvement in safety involved in "no hands in dies," that the purposes of the Act were better effectuated by adopting upgraded safeguarding requirements and revoking "no hand in dies."

Most of the reasons for the determination that use of safeguards alone better effectuates the purposes of the Act than use of "no hands in dies" alone, also support the conclusion that safeguards alone better serve the Act's objectives than the mandated concurrent utilization of safeguards and "no hands in dies." Thus, while the apparent improvement in safety obtained by the redundant use of the two methods is speculative and at the most limited, the practical impediments to such an arrangement are at least as great, and ultimately counter-productive in terms of employee safety, as the impediments to the use of "no hands in dies" alone.

First, in view of the finding, supported by the record, that safeguards alone can achieve adequate protection, the superimposition of an additional requirement for "no hands in dies" can at most have a marginal impact on employee safety. Second, in view of the record before us and, we believe, any record developed without the benefit of actual experience with the concurrent use of both methods of protection, the net safety effect must be viewed as speculative as well as marginal. There are simply no available accident statistics which could be used to evaluate the net improvement in safety of using "no hands in dies" and safeguards over safeguards alone.

Our conclusion that the net effect is particularly difficult to assess and would be marginal at best is buttressed by the potentially adverse impacts of "no hands in dies" on employee safety. The additional hazards to employees, described above, which may be created by "no hands in dies" would not necessarily be mitigated by the concurrent use of safeguards since many of these hazards are not of the type that power press safeguards are designed to protect against. For example, serious pinch-point hazards are created by automatic or semi-automatic feeding devices, and employees who must test or repair the automated systems under power and without guards would also be subjected to additional hazards.

We are satisfied, on the available evidence, that safeguards alone can provide adequate protection from the hazards of mechanical power presses and that the net improvement in safety through the addition of a requirement for "no hands in dies" is marginal at best and necessarily speculative. We are also satisfied, as previously concluded and affirmed by the Court, that imposition of "no hands in dies" is technologically infeasible for major portions of the power press industry. In view of the adequacy of safeguards alone and the general technological infeasibility of "no hands in dies," it becomes appropriate to consider the economic effects on the regulated employers of imposing "no hands in dies." While economic considerations would not be the basis for reducing employee safety or health, where such safety can be provided by a vari-

ety of means it is proper to consider the economic impacts of the available approaches to safety. With this in mind, it was noted that imposition of "no hands in dies" would be enormously costly to employers. And the practical impediments to "no hands in dies" would be even more serious and burdensome if it were required in addition to improved guards and safety devices.

In view of the above, we conclude that the speculative extra safety benefit does not warrant the technology-forcing and severe economic repercussions in this industry which adding "no hands in dies" would entail. It does not effectuate the purposes of the Act to adopt a standard which is unreasonable and infeasible, and with which major portions of the regulated employers can therefore not comply. In our view, requiring employers to use both safeguards and "no hands in dies" would fall into this category of unreasonable and infeasible standards. At least here, where the available evidence indicates that adequate protection can be feasibly achieved by the use of safeguards alone, the statutory purpose of promulgating reasonable and feasible standards is better effectuated by limiting the standard to the requirement for safeguards than it would be by adding additional burdensome and likely unnecessary requirements. Accordingly, we have concluded that "no hands in dies" should not be required in addition to safeguards, but should rather be revoked.

B. OSHA has concluded that it better effectuates the purposes of the Act to revoke "no hands in dies" across-the-board than to require it for industries or industry segments in which automatic or semi-automatic feeding is feasible. In this regard, it must again be noted that the safeguards required by the final rule can virtually eliminate point of operation press injuries, that "no hands in dies," even when used in conjunction with a safeguard, has not in our view been shown to meaningful increase employee safety, and that the economic costs associated with "no hands in dies," which in view of the above are appropriate to consider, are extremely high even where that method is feasible. Accordingly, there is little or no warrant, from the point of view of safety, to require "no hands in dies" even where feasible.

In addition to the lack of a safety imperative for requiring "no hands in dies" even where feasible, delineating the operations or industry segments for which "no hands in dies" can feasibly be required is factually difficult and impractical as a matter of administration and enforcement. Thus, distinctions could not be made on the basis of different industries, because feasibility relates to individual operations and not to entire industries and cuts across traditional industrial segments in broad and unpredictable ways. (Tr. 60, 90–91, 171, 489, 513–14, 634, 635–36, 639).

"Economic feasibility," as noted above, is an appropriate consideration where, as here, substantive safety is not being sacrificed. Any attempt to identify the operations in which "no hands in dies" is both technologically and economically feasible faces nearly insurmountable difficulties. For example, "no hands in dies" is economically feasible for "long" press runs (e.g., Exhibit 5, Comments 36, 38, 45, 49, 80, 81, 102, 113, 128, 130, 140, 189, 222, 256, 294, 305; Tr. 56, 61, 130, 501–03, 546, 553, 548) and technologically feasible for running parts which are not too flimsy, too large or small, or too delicate (Exhibit 4, Comments 93, 210, 265; Exhibit 5, Comments 45, 53, 59, 74, 126, 140, 189, 198, 222, 235, 245, 299, 302, 315, 319). But a "long" press run is defined not only by relative number of parts run, but also by many other factors, including number of presses available, type and cost of the part. And, a part which may technologically be fed by automated means may be impossible as a matter of cost to produce other than by manual feeding. In these circumstances, it is nearly impossible to determine what is an economically feasible "long" run, not to mention a "long" run which is technologically feasible as well. Making such determinations each time a different part is manufactured is obviously extremely burdensome. It was suggested that "no hands in dies" could be required for "high speed industrial" categories, but not for "job shops." However, this means of differentiating industry segments entails similar difficulties since, for example, even the most "industrial," high volume, continuous operations may be non-automatable due to the nature of the part being run, or because they may possess "job-shop" characteristics. In sum, any such attempt at definition and classification of operations where "no hands in dies" is technologically and economically feasible poses difficult if not impossible questions, at the standards-setting stage and for compliance and enforcement purposes, of who must implement "no hands in dies."

Furthermore, the fact that implementation of "no hands in dies" may be technologically and economically feasible in particular circumstances does not mean that it is not extremely costly even in those cases where it is feasible. Imposition of this economic cost and technological burden is unwarranted in view of the speculative nature of any safety benefit to be achieved.

Accordingly, based upon the readily available safeguards to protect employees, the high costs associated with "no hands in dies," and the administrative and enforcement difficulties that would be created, we have concluded that a partial retention of "no hands in dies" is inappropriate and that the final rule revoking "no hands in dies" across-the-board better effectuates the purposes of the Act.

Finally, we believe that it would be inappropriate to require "no hands in dies" and utilize the variance procedures of the Act for relief in specific instances of infeasibility. In the first place, as noted above, we do not believe that "no hands in dies" has been shown to have the positive safety impact to warrant imposing it even where it is feasible. Secondly, there is serious question as to the appropriateness of the variance procedures for dealing with this type of major feasibility problem even if retention of "no hands in dies" where feasible were considered necessary. Thus, the variance procedure of section 6(b)(6)(A) of the Act permits a temporary variance because of the "unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date * * *." "Unavailability" in the context of the Act is not viewed as synonymous with technological infeasibility, but refers instead to a limited, specific, and temporary condition which would be remediable within the relatively brief time limits of the variance's applicability. (Legislative History, p. 1201.) Similarly, economic infeasibility grounds cannot provide a basis for a variance under section 6(b)(6)(A). (Legislative History, p. 1201.) In general, this variance procedure was designed by Congress to cover unique, individual situations and not broad, common issues best resolved at the rulemaking stage.

The permanent variance under section 6(d), the only other applicable variance procedure in the Act, requires an applicant to demonstrate by a preponderance of the evidence that he can provide employment as safe as that produced by compliance with the relevant standard. To successfully obtain a permanent variance from a combined "no hands in dies" and safeguarding requirement an applicant would have to show that his safeguards alone are as safe as a safeguard used in conjunction with "no hands in dies," a showing only reinforcing OSHA's conclusion that safeguards alone are sufficient. Further, the record indicates that "no hands in dies" may be infeasible for as much as one-third to one-half of all press operations on technological grounds alone (Tr. 410–11); but assuming "no hands in dies" was feasible for all but ten percent of the industry, the Secretary could be presented with as many as 30,000 to 50,000 applications for variances (Tr. 547; Exhibit 5, Comment 61), Since each variance application must be carefully considered on the merits, including the possibility of a hearing, the administrative burden would be insurmountable.

Based upon the foregoing, and the record as a whole, OSHA has concluded that the final rule better effectuates the purposes of the Act than the requirements of the national consensus standard, within the meaning of section 6(b)(8) of the Act, and specifically that the revocation of "no hands in dies" better effectuates the purposes of the Act than the requirement of "no hands in dies" in addition to safeguards and than the requirement of "no hands in dies" where feasible. Accordingly, the terms of the revised standard as promulgated on December 3, 1974 and codified at 29 CFR 1910.217 remain unchanged.

(Secs. 6, 8, 84 Stat. 1593, 1598 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), 29 CFR Part 1911.)

Signed at Washington, D.C., this 13th day of September 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-27350 Filed 9-16-76;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER VI—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

[DPS Reg. 1; Amdt. 5]

PART 651—BASIC RULES OF THE DEFENSE PRIORITIES SYSTEM (DPS REG. 1)

Basic Rules of the Defense Priorities System

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended (50 U.S.C. App. 2154). In the formulation of this amendment, consultation with industry has been rendered impracticable because this amendment applies to numerous trades and industries.

This amendment affects 32A CFR Part 651 (DPS Regulation 1), as revised July 1, 1974, by revoking the requirement that Defense Agencies (DOD, ERDA), use their delegated rating authority on all purchases for approved programs. Further; it removes the requirement that inventories, expended in the filling of rated orders, be replenished through use of rated orders. It alters the language of sections 1(c) and 2(j) and adds section 2(r) to include the specific language of section 702(d) of the Defense Production Act of 1950. Finally, it sets forth certain criteria to be observed when making requests for assistance in accordance with section 12.

Accordingly, DPS Regulation 1 is amended as follows:

1. *Section 1*(c). Delete in its entirety and substitute the following:

Section 1. What this regulation does.

* * * * *

(c) Persons engaged in programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity are required to follow all the applicable rules of this revised regulation. The obligatory identification of delivery orders placed for products and materials needed to fill mandatory acceptance orders is particularly important. It avoids delays which could adversely affect timely completion of defense programs by requiring preferential delivery against properly identified orders and by furnishing a mechanism for expediting assistance where needed.

2. *Section 2* (j) and (r). Revise and add the following:

Sec. 2. Definitions.

* * * * *

(j) "Authorized program" means any program determined by the Director, Federal Preparedness Agency/GSA as being necessary or appropriate to promote the national defense.

* * * * *

(r) "National Defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

3. *Section 3*(a). Delete in its entirety and substitute the following:

Sec. 3. General provisions.

(a) Defense Agencies are authorized to place rated orders for products and materials, other than controlled materials, needed for authorized programs, as provided in Section 6 of this regulation.

4. *Section 6*. Revise the heading and paragraph (a) and (b) as follows:

Sec. 6. Use of ratings.

(a) When necessary or appropriate to promote the national defense, each Defense Agency is authorized to use, subject to all provisions of BDC Dels. 1, 2 and 3, rating authority in acquiring products, materials and services needed for completion of authorized programs, including inventory replacement in accordance with section 7 of this regulation. Authorizations by BDC to Defense Agencies to use ratings, whether by delegation, regulation, order or otherwise, does not include authority to use DX ratings unless expressly so stated therein.

(b) Each person who has received a rated order must acquire products, materials, and services to fill such order by self-authorization, pursuant to section 7 of this regulation.

* * * * *

5. *Sections 7* (b), (c) and (e). Delete in its entirety and substitute the following:

Sec. 7. Self-authorization procedure for rated orders.

* * * * *

(b) A self-authorizing consumer must use the program identification indicated on his rated order in placing ACM orders to obtain controlled materials needed to fill such order in accordance with the provisions of 32A CFR Part 621 (DMS Reg. 1). Persons may use the program identification indicated on his rated order to replace in inventory controlled materials used to fill such rated order in accordance with the provisions of 32A CFR Part 621 (DMS Reg. 1).

(c) A self-authorizing consumer must use the rating indicated on his rated order in obtaining services and products and materials, other than controlled materials, needed to fill such order. He may use the rating indicated on his rated order to replace in inventory products and materials, used to fill such rated order. However, with respect to inventory replacement of products and materials other than controlled materials he shall place rated orders only in the calendar month in which such products and materials were taken from inventory or in the immediately succeeding two calendar months. If it is impracticable for him to determine the exact requirements for products and materials other than controlled materials needed to fill a rated order, he must place rated orders for an amount not exceeding his best estimates of such products and materials needed to fill such rated order.

* * * * *

(e) A self-authorizing consumer shall fill a rated order with products and materials from his inventory (to the extent that he has such products and materials in inventory). However, if the requirement that he use products and materials from inventory would stop or interrupt his operation during the next 60 days in a way which would cause a substantial loss of total production or a substantial delay in his operations, he need not do so.

* * * * *

6. *Section 10*(a). *Delete in its entirety* and substitute the following:

Sec. 10. Limitations on use of self-authorization.

(a) Each person who has accepted a rated order must acquire products, materials and services to fill such order by self-authorization pursuant to section 7 of this regulation. He may acquire products and materials to replace in inventory those used to fill such rated order by self-authorization pursuant to section 7 of this regulation.

* * * * *

7. *Section 12*. Change reference to "DPS 138 (DPSF-138)" in paragraph (a) to read "Form DIB-999 (Formerly BDSAF-138)", change reference to "DPS Form 138 (DPSF-138)" in paragraph (b) to read "Form DIB-999 (Formerly BDSAF-138)", and add new paragraph (c) as follows:

Sec. 12. Expediting assistance and assistance in placing mandatory acceptance orders.

* * * * *

(c) Requests for assistance made in accordance with paragraph (a) or paragraph (b) of this section must establish that:

(1) there is an urgent defense related need for the products, materials or services, covered by the associated mandatory acceptance order,

(2) applicant has exercised reasonable effort to resolve the problem through employment of his own resources, and

(3) the request for assistance is timely.

(Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447,

3 CFR 1949–1953 Com., p. 919; Executive Order 11725, 38 FR 17175; DMO 3, 32A CFR 15; Department of Commerce Organization Orders 10–3, 40 FR 59764, as amended, 41 FR 28334, and 40–1, 40 FR 8978; Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41–1, as amended 39 FR 2780, 39 FR 18490; 45–1, 40 FR 10217, 45–2, 40 FR 10218.)

This revised schedule shall take effect September 17, 1976.

DONALD E. JOHNSON,
Deputy Assistant Secretary for Domestic and International Business.

[FR Doc.76-27249 Filed 9-16-76;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Petersburg National Battlefield, Va.; Drinking of Alcoholic Beverages and Maintenance of Vehicles

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. § 3); the Act of March 2, 1933 (47 Stat. 1420, 16 U.S.C. § 9a); Executive Order No. 6166 (June 10, 1933); Executive Order No. 6228 (July 28, 1903); 245 DM 1 (34 FR 13879), as amended; National Park Service Order No. 77 (38 FR 7478), as amended; and Mid-Atlantic Region Order No. 1 (39 FR 3694), a new § 7.64 is hereby added to Title 36 of the Code of Federal Regulations, as set forth below.

The purpose of this addition is to establish restrictions on certain activities which are taking place within Petersburg National Battlefield and are unreasonably interfering with management of the park and use of the park by visitors interested in its historical resources.

The principal road in the park is a one-way battlefield tour road, four miles long, with limited parking along the roadside and in parking areas at points of interest. During periods of agreeable weather, virtually all available parking spaces are occupied. It has been found that most persons entering the park during such periods are doing so for purposes other than an interest in the historical values of this site.

Specifically, the two activities which are most prevalent and which cause the greatest degree of interference with use of the park as a location preserving an important historic site are the consumption of alcoholic beverages and the maintenance of vehicles. The prevalence of the former activity is thought to be largely because of a Virginia law prohibiting the consumption of alcohol in public places, such as parks, and the strict enforcement of this law by local law enforcement agencies in all nearby parks. Under these circumstances, Petersburg National Battlefield has become an attraction to many people simply because it is a park where drinking is not prohibited. Additionally, the use of alcohol leads, in many cases, to disruptive behavior which conflicts with other uses of the park. The latter activity is frequently associated with drinking and constitutes another widespread use of the park which is in no way related to the historic values of the park.

It is felt that the implementation of regulations prohibiting these two activities will significantly reduce problems which have been associated with heavy use of Petersburg National Battlefield. This will have the effect of making the park more readily available for visitors studying its history and will maintain a more peaceful atmosphere in keeping with an area of great historical significance.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, in this instance the problems these regulations are intended to control are considered severe enough to justify immediate action. Accordingly the regulations set out below shall become effective upon publication, prior to a public comment period. Persons wishing to submit written comments, suggestions, or objections with respect to this action may submit them to the Superintendent, Petersburg National Battlefield, P.O. Box 549, Petersburg, Virginia 23803 on or before October 18, 1976. All such comments received will be considered with a view toward the need for any revision of these regulations.

Effective date: This amendment shall be effective on September 17, 1976.

Part 7 of Title 36, Code of Federal Regulations, is amended by the addition of a new § 7.64 as follows:

§ 7.64 Petersburg National Battlefield.

(a) *Alcoholic beverages.* The possession or drinking of alcoholic beverages in any public place or in any motor vehicle is prohibited, except with the written permission of the Superintendent.

(b) *Maintenance of vehicles.* Washing, cleaning, waxing, or lubricating motor vehicles or repairing or performing any mechanical work upon motor vehicles, except in emergencies, in any public place is prohibited.

(c) *Definition.* As used in paragraphs (a) and (b) of this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Petersburg National Battlefield to which the public has access.

WALLACE B. ELMS,
Superintendent, Petersburg National Battlefield.

[FR Doc.76-27440 Filed 9-16-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 617-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of California on Behalf of Stanislaus County Air Pollution Control District; Delegation of Authority to State of California on Behalf of Sacramento County Air Pollution Control District; Correction

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the State of California on behalf of the Stanislaus County Air Pollution Control District, dated July 2, 1976, EPA is today amending 40 CFR 60.4 *Address*, to reflect this delegation. A notice announcing this delegation is published today at 41 FR 40108. The amended § 60.4 is set forth below. It adds the address of the Stanislaus County Air Pollution Control District, to which must be addressed all reports, requests, applications, submittals, and communications pursuant to this part by sources subject to the NSPS located within this Air Pollution Control District.

On July 8, 1976, EPA amended 40 CFR 60.4, *Address* to reflect delegation of authority for NSPS to the State of California on behalf of the Sacramento County Air Pollution Control District. By letter of July 30, 1976, Colin T. Greenlaw, M.D., Sacramento County Air Pollution Control Officer, notified EPA that the address published at 41 FR 27967 was incorrect. Therefore, EPA is today also amending 40 CFR 60.4, *Address* to reflect the correct address for the Sacramento County Air Pollution Control District.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegations which are reflected by this administrative amendment were effective on July 2, 1976 and March 29, 1976, and it serves no purpose to delay the technical change of these additions of the Air Pollution Control Districts addresses to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857c-6).

Dated: September 8, 1976.

L. RUSSELL FREEMAN,
Acting Regional Administrator, Region IX, EPA.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) (f) is revised to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(F) California;

Bay Area Air Pollution Control District, 939 Ellis St., San Francisco, CA 94109
Del Norte County Air Pollution Control District, Courthouse, Crescent City, CA 95531
Fresno County Air Pollution Control District, 515 S. Cedar Avenue, Fresno, CA 93702
Humboldt County Air Pollution Control District, 5600 S. Broadway, Eureka, CA 95501
Kern County Air Pollution Control District, 1700 Flower St. (P.O. Box 997), Bakersfield, CA 93302
Madera County Air Pollution Control District, 135 W. Yosemite Avenue, Madera, CA 93637
Mendocino County Air Pollution Control District, County Courthouse, Ukiah, CA 95482
Monterey Bay Unified Air Pollution Control District, 420 Church St. (P.O. Box 487), Salinas, CA 93901
Northern Sonoma County Air Pollution Control District, 3313 Chanate Rd., Santa Rosa, CA 95404
Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827
San Joaquin County Air Pollution Control District, 1601 E. Hazelton St. (P.O. Box 2009), Stockton, CA 95201
Stanislaus County Air Pollution Control District, 820 Scenic Drive, Modesto, CA 95350
Trinity County Air Pollution Control District, Box AJ, Weaverville, CA 96093
Ventura County Air Pollution Control District, 625 E. Santa Clara St., Ventura, CA 93001

* * * * *

[FR Doc.76-27175 Filed 9-16-76;8:45 am]

[FRL 617-3]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of California on Behalf of Stanislaus County Air Pollution Control District; Delegation of Authority to State of California on Behalf of Sacramento County Air Pollution Control District; Correction

Pursuant to the delegation of authority for national emission standards for hazardous air pollutants (NESHAPS) to the State of California on behalf of the Stanislaus County Air Pollution Control District, dated July 2, 1976, EPA is today amending 40 CFR 61.04, *Address*, to reflect this delegation. A notice announcing this delegation is published today at 41 FR 40107. The amended § 61.04 is set forth below. It adds the address of the Stanislaus County Air Pollution Control District to which must be addressed all reports, requests, applications, submittals, and communications pursuant to this part by sources subject to the NESHAPS located within Air Pollution Control District.

On July 8, 1976, EPA amended 40 CFR 61.04, *Address*, to reflect delegation of authority for NESHAPS to the State of California on behalf of the Sacramento County Air Pollution Control District. By letter of July 30, 1976, Colin T. Greenlaw, M.D., Sacramento County Air Pollution Control Officer, notified EPA that the address published at 41 FR 27967 was incorrect. Therefore, EPA is today also amending 40 CFR 61.04, *Address* to reflect the correct address for the Sacramento County Air Pollution Control District.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegations which are reflected by this administrative amendment were effective on July 2, 1976 and March 29, 1976 and it serves no purpose to delay the technical change of these additions of the Air Pollution Control Districts addresses to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7).

Dated: September 8, 1976.

L. RUSSELL FREEMAN,
Acting Regional Administrator, Region IX, Environmental Protection Agency.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04 paragraph (b) (F) is revised to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(F)—California;

Bay Area Air Pollution Control District, 939 Ellis St., San Francisco, CA 94109
Del Norte County Air Pollution Control District, Courthouse, Crescent City, CA 95531
Fresno County Air Pollution Control District, 515 S. Cedar Avenue, Fresno, CA 93702
Humboldt County Air Pollution Control District, 5600 S. Broadway, Eureka, CA 95501
Kern County Air Pollution Control District, 1700 Flower .St. (P.O. Box 997), Bakersfield, CA 93302
Madera County Air Pollution Control District, 135 W. Yosemite Avenue, Madera, CA 93637
Mendocino County Air Pollution Control District, County Courthouse, Ukiah, CA 95482
Monterey Bay Unified Air Pollution Control District, 420 Church St. (P.O. Box 487), Salinas, CA 93901
Northern Sonoma County Air Pollution Control District, 3313 Chanate Rd., Santa Rosa, CA 95404
Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827
San Joaquin County Air Pollution Control District, 1601 Hazleton St. (P.O. Box 2009), Stockton, CA 95201
Stanislaus County Air Pollution Control District, 820 Scenic Drive, Modesto, CA 95350
Trinity County Air Pollution Control District, Box AJ, Weaverville, CA 96093
Ventura County Air Pollution Control District, 625 E. Santa Clara St., Ventura, CA 93001

* * * * *

[FR Doc.76-27176 Filed 9-16-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20659; RM-2502; FCC 76-852]

PART 73—RADIO BROADCAST SERVICES

Emergency Messages on Television

Adopted: September 8, 1976;
Released: September 15, 1976

1. A notice of proposed rulemaking in the above captioned matter (FCC 75-1377) was released on December 22, 1975 (40 F.R. 60080). The time for comments and reply comments expired on March 1, 1976 (41 FR 8799).

2. The rule amendments adopted herein will establish requirements for visual captioning of emergency messages broadcast over TV stations so that persons with impaired hearing may be made aware of the emergency.

3. This proceeding was initiated by four organizations representing persons with impaired hearing who requested adoption of rule amendments in Part 73 of the Commission's rules that would require television stations to transmit all emergency notifications visually as well as aurally. Petitioners are:

(1) D.E.A.F.W.A.T.C.H. (Demanding Equal Access to Facts and Warnings Aired on Television for Citizens who are Hearing Impaired)
(2) National Association of the Deaf
(3) Deafpride, Incorporated
(4) Alexander Graham Bell Association for the Deaf.

4. Petitioners make reference to a previous petition (RM-1600) filed April 24, 1970, by Mrs. Nancy Lipschultz, on behalf of the Illinois Association of the Deaf TV Committee, which requested that television stations be required to transmit the following types of programing visually as well as aurally.

(1) Emergency weather and news bulletins.
(2) Special programing such as subtitled movies, educational programs and whatever else will help to provide entertainment for the hearing impaired person.

5. While RM-1600 did not generate any specific rulemaking proposal the Commission did issue a Public Notice (FCC 70-1328, December 17, 1970) entitled "The Use of Telecasts to Inform and Alert Viewers With Impaired Hearing", which was distributed to all television licensees. Television licensees were encouraged to air programing in the above categories visually as well as aurally. The notice further stated, with reference to the Commission's concern with the dearth of programing of value to the hearing impaired,

We will observe developments in this area in the near future, and if the situation does not develop satisfactorily it may be necessary to begin rule making looking toward the adoption of minimum requirements.

6. The petitioners claim that currently only about 30 percent of the United States television stations visually duplicate any oral announcements, despite our desire for voluntary captioning as expressed in Public Notice FCC 70-1328.

7. This Report and Order addresses itself exclusively to presentation of visual emergency communications, and does not call for visual display of aural material associated with other types of special programing, a matter being addressed in a separate proceeding (see paragraph 12).

8. Parties filing comments in this proceeding are identified in Appendix A.[1] Several thousand individuals, many state and local organizations, and many Congressmen endorsed the rule changes proposed in this proceeding, while some organizations filed comments opposing certain of the proposed changes.

9. The notice of proposed rulemaking would have required that slides be prepared setting forth National, State and Operational (Local) Area Emergency Action Notification Messages, National Emergency Standby Script, and Emergency Action Termination Message, as set forth in the appropriate EBS checklist. It was also proposed that it was advisable to have previously prepared slides stating the general nature of natural emergencies. Comments filed by Public Broadcasting Services (PBS) disagreed with this requirement stating that "* * * the methed by which a licensee meets its public interest obligations should be left to the discretion of the licensee." The reply comments filed by DEAFWATCH state that "* * * while DEAFWATCH and the National Center for the Law and the Deaf see value in the proposed requirement that stations maintain stores of previously prepared slides stating the general nature of natural emergencies the organizations understand the objections of CBS, NBC and PBS to this proposal." Good faith adherence to the other proposed amendments of Part 73 will provide adequate emergency service to the hearing impaired, and we are persuaded that there is no reason to insist that stations maintain and use such slides. As amended by this Report and Order, rules would require that television stations transmit emergency information aurally and visually; however, the manner by which the visual display is produced is not specified but left to the discretion of the licensee.

10. The Notice of Proposed Rulemaking contemplated that all Emergency Notification messages shall conclude with the following announcement: "If you have hearing-impaired or blind friends or neighbors, please pass this information on to them." Comments filed disagreed with this proposed requirement stating that it would create "needless concern and anxiety" and that by the time the information is passed on, it may be "outdated or otherwise inaccurate or unnecessary." The additional requirement on the licensee to transmit this specific message might make him less willing to broadcast emergency information. The Commission concurs with this position, therefore this proposed requirement is not adopted.

11. Comments filed state that there are times when a station may prefer to present a visual (crawl) emergency announcement before delivering an aural announcement, or that the preparation of a visual announcement can delay the aural broadcasting of vital information to a majority of the audience. Therefore this Report and Order does not require simultaneous transmission of visual and aural emergency information, but if the visual notification is delayed, it should not be unreasonably delayed so that a hearing impaired person would not have time to take reasonable and constructive precautions with regard to the emergency.

12. Finally, we note that on November 6, 1975, the Public Broadcasting Service (PBS) filed a petition for rulemaking which resulted in Docket 20693, "Amendment of Subpart E of Part 73 of the Commission's rules and regulations to reserve line 21 of the vertical blanking interval of the television broadcast signal for captioning for the deaf." The proposal goes considerably beyond emergency communications uses, in that it would include narrative captioning for general program material. The proposed system has been field-tested by PBS in conjunction with Gallaudet College, and employs line 21 of the vertical blanking interval. With this system captions would be displayed on those television receivers equipped with special decoders, and only when the program material has been specially processed to include captioning material should it be required. Any questions of compatibility between open and closed captioning systems will be dealt with in Docket 20693.

13. Therefore, based on the comments filed in this proceeding, and since it is in the public interest that emergency information should be presented in visual form for the benefit of those individuals with impaired hearing, the Commission rules are amended to require visual display of emergency information.

14. *Accordingly, it is ordered,* That pursuant to the authority contained in Section 1, 4(i), 4(o), 303(g) and 303(r) of the Communications Act of 1934, as amended, Part 73 of the Commission's rules is amended, as set forth below, effective February 1, 1977.

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

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

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

1. In § 73.675, paragraphs (b), (c), (d), (e), and (f) are redesignated as (c), (d), (e), (f), and (g) and a new paragraph (b) is added to read as follows:

§ 73.675 Operation during emergency.

* * * * *

(b) Any emergency information transmitted in accordance with this section shall be transmitted both aurally and visually. Television broadcast stations may use any method of visual presentation which results in a legible message conveying the essential information contained in the aural bulletin. Methods which may be used include, but are not necessarily limited to, electronic captioning, manual methods (i.e., hand printing) or mechanical printing processes.

* * * * *

2. Sections 73.993 (b) (4) and (b) (6) (i) through (b) (6) (v) are revised to read as follows:

§ 73.933 Emergency Broadcast System (EBS) operation during a national-level emergency.

* * * * *

(b) * * *

(4) Discontinue normal program and broadcast the following announcement (television stations shall also transmit this and subsequent emergency announcements visually as well as aurally in the maner described in § 73.675(b)): "We interrupt this program. This is a National Emergency. Important instructions will follow."

* * * * *

(6) (i) "Primary Stations" will make the announcement as set forth in the EBS Checklist for Primary and Alternate Stations. Those TV Broadcast stations holding a Primary Station EBS Authorization will continue operation and shall display the EBS or other appropriate slide during the initial audio transmission and then transmit any emergency announcements visually and aurally in the manner described in § 73.675(b). Stations broadcasting in a foreign language shall repeat the announcement in that language.

(ii) "Primary Relay Stations" will make the announcement as set forth in the EBS Checklist for Primary Relay and Alternate Relay Stations. Those TV broadcast stations holding a Primary Relay Station EBS Authorization will continue operation and shall display the EBS or other appropriate slide during the initial audio transmission and then transmit any emergency announcements visually and aurally in the manner described in § 73.675(b). Stations broadcasting primarily in a foreign language shall repeat the announcement in that language.

(iii) "Alternate Stations" will make the announcement as set forth in the EBS Checklist for Primary and Alternate Stations. TV broadcast stations shall display the EBS or other appropriate slide during the transmission procedure and then transmit the emergency announcement visually and aurally in the manner described in § 73.675(b) of this Part. Stations broadcasting in a foreign language shall repeat the announcement in that language. Following the announcement the Alternate Station will remove its carrier from the air and stand by in operational readiness in accordance with the Checklist.

(iv) "Alternate Relay Stations" will make the announcement as set forth in the EBS Checklist for Primary Relay and Alternate Relay Stations. TV broadcast stations shall display the EBS or other appropriate slide during the transmission

[1] List of organizations filing comments was filed as part of the original document.

procedure and then transmit the emergency announcement visually and aurally in the manner described in § 73.675(b). Stations broadcasting in a foreign language shall repeat the announcement in that language. Following the announcement the Alternate Relay Station will remove its carrier from the air and stand by in operational readiness in accordance with the Checklist.

(v) "Non-Participating Stations" will make the announcement as set forth in the EBS Checklist for Non-Participating Stations. TV broadcast stations shall display the EBS or other appropriate slide during the transmission procedure and then transmit the emergency announcement visually and aurally in the manner described in § 73.675(b) of this Part. Stations broadcasting in a foreign language shall repeat the announcement in that language. Following the announcement the Non-Participating Station will remove its carrier from the air in accordance with the Checklist.

* * * * *

3. Sections 73.936(d)(3) and (d)(5) are revised to read as follows:

§ 73.936 Emergency Broadcast System (EBS) Operation During a State-Level Emergency.

* * * * *

(d) * * *

(3) Discontinue normal program operation and broadcast the following announcement (television stations shall also transmit this and subsequent emergency announcements visually as well as aurally in the manner described in § 73.675(b)). "We interrupt this program because of a statewide emergency. Important information will follow."

* * * * *

(5) All licensees participating in the State-Level EBS will make the announcement as set forth in the EBS Checklists. TV broadcast stations should display the State EBS or State Association of Broadcasters slide during the transmission procedure and then shall transmit any emergency announcements visually and aurally in the manner described in § 73.675(b) of this part. Stations broadcasting primarily in a foreign language shall repeat the announcement in that language.

* * * * *

4. Sections 73.937(d)(3) and (d)(5) are revised to read as follows:

§ 73.937 Emergency Broadcast System (EBS) Operation During An Operational (Local) Area Emergency.

* * * * *

(d) * * *

(3) Discontinue normal program operation and broadcast the following announcement (television stations shall also transmit this and subsequent emergency announcements visually as well as aurally in the manner described in § 73.675(b)). "We interrupt this program because of a local emergency. Important information will follow."

* * * * *

(5) All licensees participating in the Operation (Local) Area-Level EBS will make the announcement as set forth in the EBS Checklists. TV broadcast stations should display an Operational (Local) Area EBS slide during the transmission procedure and then shall transmit any emergency announcements visually and aurally in the manner described in § 73.675(b). Stations broadcasting primary in a foreign language shall repeat the announcement in that language.

* * * * *

[FR Doc.76-27332 Filed 9-16-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 34; Amdt. 73-1]

PART 73—EMERGENCY DAYLIGHT SAVING TIME

Revocation

The purpose of this amendment is to revoke the regulations implementing the Emergency Daylight Saving Time Energy Conservation Act of 1973 (December 15, 1973, Pub. L. 93-182), which expired April 27, 1975.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 73 of Title 49, Code of Federal Regulations, is hereby revoked.

Effective date: This amendment is effective April 27, 1975.

(Pub. L. 93-182, December 15, 1973; Executive Order 11751, December 15, 1973 (5 U.S.C. 552(a)(1)).)

Issued in Washington, D.C., on September 14, 1976.

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.76-27389 Filed 9-16-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 1]

PART 226—CHILD CARE FOOD PROGRAM

Claim for Reimbursement

Final regulations governing the Child Care Food Program were published on June 25, 1976 (41 FR 26179). The Department inadvertently included a provision under § 226.12 of the regulations requiring sponsoring organizations with family and group day care homes receiving cash-in-lieu-of commodities to deduct such payments from the cost-of-food factors set out in that section. Section 226.16 of the regulations includes such a provision by providing that total payments to institutions, including cash-in-lieu-of commodity payments, shall not exceed total Program costs, less cash income to the Program.

The purpose of this amendment is to change § 226.12(h) of the regulations to require that sponsoring organizations who elect to use the cost-of-food factors for family and group day care homes deduct the value of any commodities donated by the Department from the sum of the cost-of-food factors used.

Because of the nature of this change it will not be necessary to follow the proposed rulemaking and public participation procedure.

Accordingly, § 226.12(h) is revised to read as follows:

§ 226.12 Claim for reimbursement.

* * * * *

(h) In lieu of maintaining records on the actual cost of food used, sponsoring organizations may elect, for all family and group day care homes under their jurisdiction, to consider the cost of food used to be 41 cents for lunch or supper, 23 cents for breakfast and 14 cents for a supplement. FNS will adjust these factors semi-annually to the nearest $0.0025 to reflect the changes in the service of food away from home of the Consumer Price Index published by the Department of Labor. If family and group day care homes receive commodities donated by the Department, the sum of the cost-of-food factors used shall be reduced by the value of the commodities received.

Effective date. This amendment shall become effective September 13, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-27375 Filed 9-16-76;8:45 am]

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

[Lemon Reg. 58]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Sept. 19-25, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.358 Lemon Regulation 58.

(a) *Findings.* (1) 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 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 Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is easier this week with the approach of cooler autumn weather. Average f.o.b. price was $5.81 per carton the week ended September 11, 1976, compared to $5.41 per carton the previous week. Track and rolling supplies at 100 cars were unchanged from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 14, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period Sept. 19, 1976, through Sept. 25, 1976, is hereby fixed at 190,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: September 15, 1976.

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

[FR Doc.76-27516 Filed 9-16-76;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 400.2]

PART 1816—CIVIL RIGHTS COMPLIANCE REVIEWS

Deletion of Part

Part 1816, "Civil Rights Compliance Reviews," (38 FR 14669) is deleted from Chapter XVIII, Title 7, Code of Federal Regulations. The provisions of this Part have been superseded and partially incorporated into a new Subpart E of Part 1901, Subchapter H of this Chapter.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Effective date. This deletion is effective on September 17, 1976.

Dated: August 31, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-27255 Filed 9-16-76;8:45 am]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.13]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart L—Fair Housing Marketing

DELETION OF SUBPART

Subpart L of Part 1822, "Fair Housing Marketing," (37 FR. 27620) is deleted from Chapter XVIII, Title 7, Code of Federal Regulations. The provisions of this Subpart have been superseded and partially incorporated into a new Subpart E of Part 1901, Subchapter H of this Chapter.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P. L. 93-357, 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Effective date. This deletion is effective on September 17, 1976.

Dated: August 31, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-27256 Filed 9-16-76;8:45 am]

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 450.6]

PART 1861—ROUTINE

Subpart E—Federal Statute of Limitations

DELETION OF SUBPART

Subpart E of Part 1861, "Federal Statute of Limitations," is deleted from Chapter XVIII, Title 7, Code of Federal Regulations. The provisions of this Subpart have been revised and redesignated into new Subpart A of Part 1927 of this Chapter.

(7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, Sec. 10 P.L. 93-357, 88 Stat. 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70, delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Effective date. This deletion is effective September 17, 1976.

Dated: August 25, 1976.

FRANK W. NAYLOR, Jr.,
Administrator, Farmers Home Administration.

[FR Doc.76-27258 Filed 9-16-76;8:45 am]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[Administration Letter 50(400)]

PART 1890p—NONDISCRIMINATION IN CONSTRUCTION FINANCED WITH A FARMERS HOME ADMINISTRATION LOAN OR GRANT

Deletion of Part

Part 1890p, "Nondiscrimination in Construction Financed With a Farmers Home Administration Loan or Grant," (36 FR 21450) is deleted from Chapter XVIII, Title 7, Code of Federal Regulations. The provisions of this Subpart have been superseded and partially incorporated into a new Subpart E of Part 1901, Subchapter H of this Chapter.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850)

Effective date. This deletion is effective September 17, 1976.

Dated: August 31, 1976.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.76-27254 Filed 9-16-76;8:45 am]

SUBCHAPTER H—GENERAL

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements

REDESIGNATION, CONSOLIDATION, REVISION

On May 3, 1976, a document was published in the FEDERAL REGISTER (41 FR 18310) proposing to consolidate into one regulation, with minor revisions, Farmers Home Administration provisions relating to Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 Executive Order 11246, and the implementation of the Equal Credit Opportunity Act of 1974, with regard to prohibiting discrimination because of sex or marital status in credit transactions.

No comments have been received; however, editorial changes are being made, and a new paragraph (f) under § 1901.205 has been added to insure that bid conditions are included in all applicable bid documents submitted in connection with non-exempt Federal and federally assisted construction contracts. Former paragraphs (f), (g) and (h) under § 1901.205 have been redesignated (g), (h) and (i) respectively, without change.

Accordingly, new Subpart E of Part 1901, as revised and transferred from Part 1816, Subpart L of Part 1822, and Part 1890p of this Chapter, is set forth below.

Subpart E—Civil Rights Compliance Requirements *C*

Sec.
1901.201 Purpose.
1901.202 Nondiscrimination in FmHA programs.
1901.203 Title VIII of the Civil Rights Act of 1968.
1901.204 Compliance reviews.
1901.205 Nondiscrimination in construction financed with FmHA loan or grant.
Exhibit A—Civil Rights Compliance Reviews.
Exhibit B—Summary Report of Civil Rights Compliance Reviews.

AUTHORITIES: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; Sec. 10 P.L. 93-357. 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Subpart E—Civil Rights Compliance Requirements *C*

§ 1901.201 Purpose.

This subpart contains policies and procedures for implementing the regulations of the Department of Agriculture issued pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11246 and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA). Nothing herein shall be interpreted to prohibit preference to American Indians on Indian Reservations.

§ 1901.202 Nondiscrimination in FmHA Programs.

(a) *Nondiscrimination by recipients of FmHA assistance.* (1) No recipient of FmHA financial assistance will directly or through contractual or other arrangements subject any person or cause any person to be subjected to discrimination on the ground of race, color, or national origin, with respect to any program or facility. This prohibition applies but is not restricted to unequal treatment in priority, quality, quantity, methods, or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement provided with FmHA financial assistance.

(2) Specifically, and without limiting the general applicability of this subpart, such recipient will not on the grounds of race, color, or national origin:

(i) Deny any person the use, occupancy, or enjoyment of the whole or any part of real or personal property or service, financial aid, or other benefit under any program or facility.

(ii) Provide any person with any service, use, occupancy, or other benefit different from that provided others by the program or facility.

(iii) Subject any person to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit.

(iv) Restrict in any way any person's enjoyment of any right, privilege, or advantage enjoyed by others through the facility or activity.

(v) Treat any person differently from others in determining whether he or she satisfies any requirements or conditions for any admission or membership in the recipient or in any other organization.

(vi) Deny any person an opportunity or restrict opportunity to participate in a program or facility by:

(A) Refusing or failing to provide notice or services provided others for the purpose of encouraging participation in the program or facility; or

(B) Providing any person with such notice or services different from the notice or services provided others.

(vii) Utilize criteria or methods of administration that have the effect of subjecting a person to discrimination with respect to any program or facility or defeating or substantially impairing the achievement of the objectives of a program or facility.

(viii) Select sites or locate facilities with the purpose or effect of:

(A) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which the regulations in this subpart apply; or

(B) Defeating or substantially impairing the achievement of the objectives of the regulations in this subpart.

(ix) Continue any previous or existing discriminatory practices, but will take affirmative action to overcome the effects of such discrimination.

(x) Deny any person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(b) *Nondiscrimination by FmHA employees.* (1) No. FmHA employee will exclude from participation in, or deny the benefits of, any program or activity administered by FmHA, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, national origin, or marital status.

(2) No FmHA employee will:

(i) Be limited in the discharge of his or her responsibilities to working with applicants solely on the basis of race, color, religion, sex, national origin, or marital status.

(ii) Obstruct equal access to buildings, facilities, structures, or lands under the control of FmHA.

(iii) Deny under any program or activity of FmHA equal opportunity for employment; for participation in meetings, demonstrations, training activities or programs; for receiving awards; for receipt of information disseminated by publication, news, radio, and other media; for obtaining contracts, grants, loans or other financial assistance, or for selection to assist in the administration of programs or activities of FmHA.

(3) No FmHA employee will, while conducting official business, participate in or attend any segregated meetings or meetings held in a segregated facility from which persons are excluded because of race, color, religion, sex, national origin, or marital status.

(c) *Intimidating or retaliatory acts.* No recipient or other person will intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege under this subpart, or because a person has made a complaint or has testified assisted, or participated in any manner in an investigation, proceeding, or hearing related to a complaint. The identity of complainants will be kept confidential except to the extent necessary to carry out the purposes of this subpart.

(d) *Nondiscrimination Agreement.* The County Supervisor will, at the time FmHA assistance is requested, give all applicants for loans and grants listed in § 1901.204(a) a copy of Form FmHA 400-4, "Nondiscrimination Agreement," and inform the applicant that assistance will be conditioned upon executing this form and complying with the requirements of this subpart.

(e) *Covenants.* Each instrument of conveyance for loans subject to Title VI of the Civil Rights Act of 1964, as outlined in § 1901.204, must contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(f) *Posters.* The nondiscrimination poster, "And Justice For All," will be displayed at the facilities and/or office of any borrower or grantee if the facilities have been financed by an FmHA loan or grant and are subject to Title VI of the Civil Rights Act of 1964. This

poster also will be displayed in all FmHA State and County Offices.

(g) *Racial and ethnic data.* Recipients should maintain, for review by FmHA and other appropriate agencies, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of FmHA-assisted programs. The data should identify recipients as White, Negro or Black, American Indian, Spanish Surname, Oriental and Other.

(h) *Discrimination complaints.* (1) Any person or any specific class of persons, if they believe they have been subject to discrimination prohibited by this subpart, may file a written complaint with any FmHA office, or, if they prefer with the Secretary of Agriculture. Persons who complain of discrimination will be advised of their rights to file complaints. A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture.

(2) A complaint filed with the County Supervisor or the State Director will be referred promptly to the Administrator, Attention: Equal Opportunity Officer. Attached to the complaint should be a statement by the County Supervisor or State Director identifying the recipient and type of assistance provided by FmHA, indicating whether a nondiscrimination agreement has been signed, and giving any other available pertinent information about the complaint.

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

FmHA employees, FmHA borrowers, contractors, packagers, and others who provide housing for sale or rent, are obligated under the provisions of Title VIII of the Civil Rights Act of 1968 to provide fair housing to all persons regardless of race, color, religion, sex, or national origin.

(a) *Coverage.* The prohibitions against discrimination in the sale, rental, or financing of housing contained in Title VIII apply to:

(1) All dwellings financed by loans made by the Federal Government and, therefore, to all RH borrowers.

(2) Any person in the business of selling or renting dwellings defined as:

(i) The owner of a dwelling intended for occupancy by five or more families.

(ii) Any person who has participated as principal in the sale or rental of three or more dwellings in the past year.

(iii) Any person who has served as sale or rental agent in two or more transactions in the past year.

(b) *Discrimination acts prohibited.* Title VIII prohibits FmHA employees, multiple housing borrowers, and those with whom FmHA does business (contractors, realtors, packagers) from:

(1) Refusing to sell or rent a particular dwelling because of a person's race, color, religion, or national origin. The following actions constitute violations of this provision:

(i) Refusing to package an RH loan application.

(ii) Refusing or failing to show a particular dwelling or home in a particular subdivision.

(iii) Directing persons only to areas populated by those of similar race, color, religion, or national origin when housing is available in other areas.

(iv) Representing unsold dwellings or sites as sold to prospective buyers.

(2) Requiring applicants for services to meet different terms or conditions because of their race, color, religion, or national origin; for example, requiring larger rents or downpayments from minority applicants.

(3) Including in any advertising either directly or through visual representation a preference for applicants of a particular race or ethnic origin.

(i) Words indicative of the race or ethnic background of the dwelling or landlord such as "White private home," or "all Black subdivision," may not be used in advertising housing financed or to be financed by FmHA.

(ii) Selection of advertising media and the areas to be covered by any advertising must be made to reach potential applicants of all races or ethnic origins.

(c) *Affirmative action.* (1) Recipients of FmHA Rural Rental Housing loans, Labor Housing loans or grants, and Rural Housing Site loans, and packagers of applications for FmHA 502 loans must display the "Fair Housing Poster." Supplies of these posters for display in the borrower's or packager's sale or rental offices may be obtained from the County Supervisor who is responsible for seeing that these posters are prominently displayed.

(2) FmHA multiple housing borrowers and FmHA packagers are encouraged to:

(i) Actively publicize available housing or sites to minority and majority persons through the usual advertising methods, including minority publications or other minority outlets that are available.

(ii) Instruct their employees in the Fair Housing provisions of the Civil Rights Act of 1968.

(iii) Include the slogan "Equal Housing Opportunity" in printed advertising.

(iv) Show people of both the majority and minority races in the same advertisement if sketches or photos of people are being used.

(v) Provide housing opportunities for minority families outside areas of minority concentration and areas which are already substantially racially mixed.

(3) Applicants for FmHA multiple housing loans or grants must sign Form FmHA 400-4.

(4) Packagers of FmHA RH loan applications and applicants for conditional commitments must sign an "Equal Opportunity in Housing Certification," as part of Form FmHA 422-8, "Property Information and Appraisal Report (Rural Housing Nonfarm Tract)."

(d) *Discrimination complaints.* (1) Complaints against FmHA employees or borrowers under Title VIII of the Civil Rights Act of 1968 received by the County Office will be sent to the State Director. The State Director will forward the complaints to the Administrator, Attention: Equal Opportunity Officer.

(2) Complaints of discrimination against packagers, contractors or others with whom FmHA deals should be filed with the Department of Housing and Urban Development. However, these complaints may be accepted by FmHA employees and routed through the State Director to the Administrator, Attention: Equal Opportunity Officer.

(e) *Relations to other regulations.* Nothing in this section in any way interferes with the administration of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 or the "Equal Opportunity in Housing Certification," signed by all packagers.

§ 1901.204 Compliance reviews.

(a) *Recipients subject to reviews.* Recipients of the following kinds of loans and/or grants who received their loans or advances of funds on or after January 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Guaranteed loans are not covered by Title VI and, therefore, are not subject to compliance reviews.

(1) Farm Ownership loans to install or improve recreational facilities or other nonfarm enterprises.

(2) Operating loans to install or improve recreational facilities or other nonfarm enterprises.

(3) Economic Opportunity loans to individuals for nonagricultural enterprises.

(4) Individual Recreation loans.

(5) Loans for Water and Waste Disposal facilities, including Resource Conservation and Development loans for this purpose.

(6) Community Facility loans.

(7) Watershed loans and advances.

(8) Recreation Association loans including those made from Resource Conservation and Development funds.

(9) Economic Opportunity loans to incorporated cooperative associations (Compliance reviews on unincorporated Economic Opportunity cooperatives subject to Title VI will be conducted only as the need arises or as directed by either the State Director or the Administrator).

(10) Grazing Association loans, including Resource Conservation and Development loans for this purpose.

(11) Loans to Timber Development organizations.

(12) Rural Renewal loans and advances.

(13) Rural Rental Housing (formerly Senior Citizen rental) and Rural Cooperative Housing loans.

(14) Labor Housing loans and/or grants.

(15) Rural Housing Site loans.

(16) Business and Industrial Insured loans or grants.

(17) Technical Assistance grants.

(18) Development grants for water and waste disposal.

(b) *Duration of obligation for conducting reviews.* Compliance reviews will be conducted on recipients of loans

and grants listed in paragraph (a) of this section:

(1) Until the loan is paid in full or otherwise satisfied; or

(2) Until the last advance of funds is made in the case of grants for Technical Assistance, or planning grants if no FmHA loan funds are involved; or

(3) In the case of development grants for water and waste disposal (no loan involved), for the period during which the real property or structures are used for a purpose for which the grant was extended or for another purpose involving the provisions of similar services or benefits.

(c) *Compliance reviews of loans and grants to individuals.* (1) *Compliance Review Officer.* The County Supervisor will conduct compliance reviews of loans made to individuals.

(2) *Type of review.* If the borrower is currently receiving loan supervision, the County Supervisor may complete the compliance review based on his knowledge of the borrower's operations from other visits. Otherwise the County Supervisor must visit the borrower's facilities. Before completing the compliance review, the County Supervisor should be aware of:

(i) The borrower's operating regulations, for example, the grounds for eviction from a Rural Rental Housing Project.

(ii) The borrower's method of advertising the facility to the public, if there is any advertising, including how well these methods reach the minority community.

(iii) Any records of request for use of the borrower's facility.

(3) *Recording results of review.* The County Supervisor's determination that the borrower is or is not in compliance with Title VI, together with information such as that outlined in paragraph (2) of this section, will be recorded in the running record. Review of individual Rural Rental Housing borrowers will be recorded on Form FmHA 400–8, "Compliance Review (Nondiscrimination by Recipients of Financial Assistance Through FmHA.)"

(4) *Reporting results of review.* If the borrower is in compliance, the County Supervisor will report his findings to the State Director. Exhibit A is a sample report. In the case of Rural Rental Housing borrowers, a copy of Form FmHA 400–8 will be filed in the borrower's County Office loan docket, and the original will be sent to the State Director. If the borrower is not in compliance, the borrower's name, location, type of loan involved, and the reasons for the finding of noncompliance will be sent to the State Director.

(5) *Forwarding report of noncompliance.* The State Director will see that all compliance review reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the compliance review report to the Administrator, Attention: Equal Opportunity Officer, with recommended action to take to bring the recipient into compliance.

(d) *Review of loans or grants to organizations* (any borrower or grantee other than an individual). (1) *Designation of Compliance Review Officer.* The State Director will designate the Compliance Review Officer for recipient organizations. County Supervisors may be designated only if they have received approved compliance review training. Otherwise, the Compliance Review Officer must be a member of the State staff.

(2) *Type of review.* Compliance reviews may be completed in connection with regular supervision visits to organizations and must include an inspection of the FmHA-financed facility. Before determining that the recipient is or is not complying with the provisions in Form FmHA 400–4, the Compliance Review Officer will:

(i) Observe the recipient's records, including records on the present membership by race, the handling of applications for use of the facility, the user rates and membership fees or dues, and the facility's operating regulations.

(ii) Determine if the recipient advertises for members or users. If so, observe the effectiveness of the recipient's methods of advertising the availability of the facility to the public, and especially the effectiveness of this advertising in reaching the minority community.

(iii) Interview organization officials, members, and employees. In reviews of recipients of Technical Assistance grants, members of the self-help housing groups should be interviewed to determine the way in which they were recruited.

(iv) Interview informed local community leaders, including minority leaders, if any, to determine if the facility is operating without discrimination because of race, color, or national origin.

(3) *Recording results of reviews.* (i) *Association, Watershed, Resource Conservation and Development, and Rural Renewal loans involving recreation facilities.* Reviews will be recorded on Form FmHA 400–7, "Compliance Reviews for Recreational Loans to Associations (FmHA Borrowers)." If the organization is found in compliance with Title VI, the original of the form will be sent to the State Director, and a copy will be filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(ii) *Loans and/or grants for Water and Waste Disposal systems, incorporated Economic Opportunity cooperatives, Grazing associations, Rural Rental Housing, Labor Housing, and Rural Housing Sites.* Reviews will be completed on Form FmHA 400–8. The original of the form will be sent to the State Director and a copy filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(iii) *Timber Development organizations, Rural Cooperative Housing loans, and Technical Assistance grants.* The information obtained during the compliance review as well as the Compliance Review Officer's determination of the borrower's compliance or noncompliance will be recorded in the running record. If the organization is found in compliance, a report (see Exhibit A) will be sent to the State Director. If the organization is not in compliance, the organization's name, location, type of loan received, and all information which led to the finding will be sent to the State Director.

(4) *Mandatory hook-up ordinance.* Compliance reviews of public entity borrowers or grantees for water and waste disposal facilities who are operating under the provisions of a mandatory hook-up ordinance will consist of a certification by the borrower or grantee that the ordinance is still in effect and is being enforced.

(5) *Forwarding noncompliance report.* The State Director will see that the reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the report to the Administrator, Attention: Equal Opportunity Officer, with action proposed to bring the recipient into compliance.

(e) *Timing of reviews.* (1) *Reporting year.* The State Director will schedule Civil Rights compliance reviews from November 1 to October 31 of each year. For example, compliance reviews scheduled during 1976 should be conducted after November 1, 1975, but before October 31, 1976.

(2) *Initial reviews.* (i) *Water and Waste Disposal loan and/or grant.* The initial compliance review will be conducted before loan or grant closing or before the construction begins, whichever occurs first.

(ii) *Technical assistance grant.* The initial compliance review will be conducted before the grant is closed.

(iii) *Rural Housing Site loan.* The initial compliance review will be conducted at the beginning of the sale of the sites developed with the FmHA loan.

(iv) *Watershed loans for future water supply.* The initial compliance review will be made when usage of the stored water begins.

(v) *All other loans and/or grants.* The initial compliance review of loans and/or grants listed in paragraph (a) of this section will be conducted within the first reporting year after the loan or grant is closed or after Form FmHA 400–4 is signed.

(3) *Subsequent reviews.* The State Director is responsible for requiring subsequent compliance reviews at intervals not less than 90 days, or more than 3 years, after the previous compliance review.

(i) For Water and Waste Disposal organizations with loans or development grants that have had at least two compliance reviews after loan or grant closing, covering a 6-year period, and where no discriminatory practices are indicated, the frequency of subsequent reviews may be reduced to 6 years.

(ii) If Water and Waste Disposal organizations have merged to form a new organization, two reviews will be conducted at 3-year intervals after the merger and one every 6 years thereafter, provided no discriminatory practices are noted.

(f) *State Office summary reports.* The State Director will keep a list of all compliance reviews conducted during the reporting year so as to schedule each year's reviews. The State Director will submit a copy of this list to the Administrator, Attention: Equal Opportunity Officer, no later than November 30 of each year. Recipients found in noncompliance will also be listed on the summary report. Exhibit B is a sample report.

§ 1901.205 Nondiscrimination in construction financed with FmHA loan or grant.

Executive Order 11246 provides for equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by FmHA involving a construction contract of more than $10,000.

(a) *Compliance.* This section applies to any FmHA loan or grant involving a construction contract or subcontract of more than $10,000. Applicability will be determined on the estimated value of the construction contract, not on the amount of the loan: If construction work of over $10,000 is partially financed by another Federal Agency, the County Supervisor will try to reach an agreement as to which agency will administer the nondiscrimination requirements. If unable to reach an agreement, the County Supervisor will refer the case to the State Director.

(b) *Exemption.* Construction is exempt from this section when:

(1) Applicant's loan will not be used even partially to finance construction;

(2) The contract involved is $10,000 or less;

(3) The contract or subcontract is with a State or local government (or any agency, instrumentality, or subdivision of such government) and such agency, instrumentality, or subdivision does not participate in work on or under the contract or subcontract; or

(4) Performed by borrower method and does not involve a subcontract of more than $10,000.

(c) *Requirements of applicants, contractors, or subcontractors with contract over $10,000.* (1) *Applicant.* The applicant will be required to execute Form FmHA 400–1, "Equal Opportunity Agreement," at the time the loan is closed or before construction is started, whichever occurs first. If the applicant is an incorporated association, a resolution of the governing body will have to authorize execution of the form. Municipalities or other public bodies will have to incorporate references to this form in the loan resolution before it is adopted.

(2) *Contractor or subcontractor.* The prospective contractor or subcontractor must:

(i) Submit Form FmHA 400–6, "Compliance Statement," to the County Supervisor before contract bid negotiations.

(ii) Include an Equal Opportunity Clause in any contract or subcontract subject to these regulations.

(3) *The County Supervisor will:*

(i) Verify that an Equal Opportunity Clause is included in each contract or subcontract. This clause is incorporated in Form FmHA 424–6, "Construction Contract."

(ii) Deliver to the contractor the following forms, as appropriate, when notifying him of contract award:

(A) Form FmHA 400–3, "Notice to Contractors and Applicants" with an attached Equal Employment Opportunity Poster. Posters in Spanish will be provided when appropriate.

(B) Form AD–425 b, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and 11375," for contractors subject to paragraph (e) of this section.

(d) *Contractor with 100 or more employees and contract over $10,000.* (1) Each contractor or subcontractor will file the following with the Joint Reporting Committee, 1800 G Street, N.W., Washington, D.C. 20006:

(i) SF–100, "Employer Information Report EEO–1," within 30 days of the contract award unless the report has been submitted within the past 12 months.

(ii) An annual Report by March 31, so long as the contractor holds any FmHA-financed contract over $10,000.

(2) Failure to file employer information and annual reports as required constitutes noncompliance with the Equal Opportunity Clause.

(e) *Contractor with at least 50 employees and contract of $50,000 or more.* Each contractor or subcontractor must develop a written affirmative action compliance program for each project. This must be on file in each contractor's or subcontractor's personnel office within 120 days after the beginning of the contract. Form AD–425 provides guidelines for developing compliance programs.

(f) *Bid conditions—Hometown Plans.* All construction contracts in excess of $10,000 financed by FmHA, in areas which have Hometown or Imposed Plans regarding affirmative action and equal employment, are subject to the conditions set forth in the applicable plan. Each such contract will be subject to the Model EEO Bid Conditions found at 41 F.R. 32483 (August 3, 1976). Each State Director should seek the advice of OGC as to compliance with any such plans in his jurisdiction. The following reports will be required from plan areas.

(1) *Reports:* Contractors will submit on a monthly basis using optional "Form 66, Monthly Manpower Utilization Report," (See FMI for completion.)

(g) *Compliance during construction.* The County Supervisor will:

(1) Check to see that:

(i) Required posters are displayed.

(ii) Facilities are not segregated.

(iii) There is no evidence of discrimination in employment.

(2) Record findings on Form FmHA 424–12, "Inspection Report."

(3) Try, if there is any evidence of noncompliance, to achieve voluntary compliance, and, if unsuccessful, report all the facts to the State Director who will attempt to achieve compliance. If the attempt fails, the State Director will report all the facts to the National Office for further instructions.

(h) *Department Contracts Compliance Office.* This office may request special compliance reviews at any time.

(i) *Discrimination complaints.* (1) Complaints alleging discriminatory acts may be filed with either the County Supervisor or the State Director by any employee or applicant for employment with a contractor or subcontractor.

(2) Each complaint must be in writing and signed by the complainant. (The FmHA official receiving the complaint will assist complainant when necessary.) The complaint will include:

(i) Name, address, and telephone number of complainant.

(ii) Name and address of the person allegedly discriminating.

(iii) Date and place of the discrimination.

(iv) Description of the discrimination.

(v) Any other information that will assist in investigating and resolving the complaint.

(3) Complaints must be filed not later than 180 days after the alleged act unless the State Director extends the time, for good cause shown by the complainant.

(4) The receiving official will:

(i) Acknowledge receiving the complaint.

(ii) Attach to the complaint a memorandum stating:

(A) Whether the security instrument or other document signed by the borrower contains a nondiscrimination agreement, or

(B) The amount of the contract and whether the contractor has submitted the required forms, and

(C) Any other information about the complaint.

(iii) Forward the complaint to the Administrator, Attention: Equal Opportunity Officer.

(5) The County Supervisor or State Director should delay a comprehensive investigation until the National Office requests it.

(6) The National Office will:

(i) Determine if discrimination occurred.

(ii) Notify all parties if there was no discrimination.

(iii) Notify all parties if discrimination did occur and advise the violator to:

(A) Correct the violation.

(B) Assure future compliance.

(7) The Administrator will determine appropriate future action.

EXHIBIT A

Subject: Civil Rights Compliance Reviews.
To: State Director, FmHA.

Civil Rights compliance reviews have been conducted, and each recipient listed below was found in compliance with Title VI of the Civil Rights Act of 1964. Information which led to this finding and my determination that the recipient is in compliance are in the running record of the recipient's file.

Recipient	Case No.	Type of assistance [1]	Date of review
Sam H. Smith	99-05-7031	OL (rec.)	Jan. 3, 1975
John A. Jones	99-05-8764	RL	Feb. 17, 1975
Medina Housing Association	99-05-9176	TA grant	Mar. 5, 1975

County Supervisor

[1] Indicate only the loans or grants received which are subject to compliance reviews.

EXHIBIT B

Subject: Summary Report of Civil Rights Compliance Reviews.
To: Administrator, FmHA.
Attention: Equal Opportunity Officer.

I. Civil Rights Compliance Reviews have been conducted, and the following recipients were found in compliance with Title VI of the Civil Rights Act of 1964.

Loan type: *Loan number*

1.
2.
3.

II. The following recipients were found in *noncompliance.*

Name of borrower	Loan type	Loan No.	Date report of noncompliance sent to national office
1.			
2.			
3.			

State Director

Effective date. This regulation shall become effective on September 17, 1976.

Dated: August 31, 1976.

FRANK W. NAYLOR, Jr.,
Administrator,
Farmers Home Administration.

[FR Doc.76-27253 Filed 9-16-76;8:45 am]

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

PART 1927—BORROWER ACCOUNT SERVICING (INDIVIDUAL)

Subpart A—Federal Statute of Limitations Redesignation and Revision

There is hereby established under Chapter XVIII, Title 7, Subchapter I, "Loan and Grant Programs (Individual)," a new Part 1927—"Borrower Account Servicing (Individual)". Subpart A, "Federal Statute of Limitations," (§§ 1927.1–1927.50) of this new Part is revised, transferred and redesignated from Subpart E of Part 1861 of this Chapter XVIII.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These regulations, however, are not published for proposed rulemaking because the revision consists of editorial changes made to clarify and redesignate the Subpart. The Subpart outlines the procedure designed to prevent the Federal Statute of Limitations from being used as a defense in suits on Farmers Home Administration claims.

Accordingly, Subpart A of new Part 1927, 7 CFR is set forth below.

Subpart A—Federal Statute of Limitations

Sec.
1927.1 Purpose.
1927.2–1927.4 [Reserved]
1927.5 Time limitations for filing claims.
1927.6 Time limitations for submission for litigation.
1927.7 Servicing contract claims.
1927.8–1927.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70, delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

Subpart A—Federal Statute of Limitations

§ 1927.1 Purpose.

This subpart outlines the procedure to be followed in preventing the Federal Statute of Limitations from being asserted as a defense in suits on Farmers Home Administration (FmHA) claims.

§§ 1927.2–1927.4 [Reserved]

§ 1927.5 Time limitations for filing claims.

(a) *Claims based upon conversion of security property.* The Federal Statute of Limitations Act of 1966, approved July 18, 1966 (28 U.S.C. 2415), provides a 3-year limitation for most actions founded upon a tort, and a 6-year limitation on an action for conversion of property of the United States. The Act does not specify which period is applicable to conversion of property which is not owned by the United States but on which it has a security interest. The 6-year limitation should be applicable, but actions of this type should be filed within 3 years until the statute is clarified by an amendment or a Supreme Court decision. If a claim is not referred within 3 years, it should be referred as soon as possible.

(b) *Contract Claims including those based on promissory notes, security instruments, and other contracts.* The Act places a 6-year limitation on suits to enforce collection debts owed to FmHA. Such suits include those to collect promissory notes, foreclose security instruments, and other contract actions. In cases where the indebtedness became due after July 18, 1966, the 6-year period usually begins to run on the date the indebtedness falls due.

(c) *Tolling statute of limitations.* The time limitations for claims are extended by periods during which:

(1) The defendant or the security property is outside the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

(2) The defendant is exempt from legal process because of infancy, mental incompetency, or any other reason.

(3) The facts to the right of action are not known and reasonably could not be known by FmHA employees responsible for servicing the case.

(d) *Starting a new statutory period.* In tort claims a partial payment or a written acknowledgment of debts does not expressly start a new statutory period. For contract claims a new statutory period may be commenced during the running of an existing statutory period or after it has been completed by:

(1) *Part payment.* When a debt is payable in installments it will be assumed that the time limitation runs on each installment from its due date. When any amount of collection other than an involuntary collection, such as a setoff, is is applied to interest that is due on an installment debt, the time limitation on all debts and installments on debts that are due and payable will be extended to 6 years from the date of the payment. Involuntary collections do not extend the time limitation.

(2) *Acknowledgment of the debt.* The debt can be acknowledged by execution of Form FmHA 460–10, "New Promises to Pay," or other form approved by the Office of the General Counsel (OGC) if Form FmHA 460–10 is not legally satisfactory for use in the particular State or case.

§ 1927.6 Time limitation for submission for litigation.

If the statute of limitation period is about to complete running and cannot be renewed by part payment or acknowledgment of the debt, the case should be submitted by the County Supervisor to the State Director for legal action in the usual manner as required by applicable FmHA regulations. The submission should be made at least 90 days before the statute of limitation period completes running.

§ 1927.7 Servicing contract claims.

(a) County office employees will make a list once each year of cases in which the time limitation will expire during the next 12-month period. The cases will be grouped by the month in which the time limitation will be reached. A notation will be made on the Management System Card of each case.

(b) The District Director will review the list to ensure that all claims are serviced correctly before the time limitation completes running.

(c) The County Supervisor will resolve claims involving contracts within the period of installment by:

(1) Requesting the borrower to pay in full when the borrower has assets or income from which the claim can be paid; or

(2) Developing plans for the borrower to pay within a reasonable period and requiring the borrower to make a partial payment on the FmHA claim or execute Form FmHA 460–10. If the borrower refuses to make a payment or execute Form FmHA 460–10, the case will be referred to OGC in accordance with Subpart A of Part 1955 of this Chapter before the Federal Statute of Limitations has run; or

(3) Settling the debt according to Part 1864 of this Chapter (FmHA Instruction 465.1) when the borrower is eligible; or

(4) Referring the claim to OGC in accordance with Subpart A of Part 1955 of this Chapter before the Federal Statute of Limitations has run.

Effective date. This regulation is effective on September 17, 1976.

Dated: August 25, 1976.

FRANK W. NAYLOR, Jr.,
Administrator,
Farmers Home Administration.

[FR Doc.76-27257 Filed 9-16-76;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.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 170, 173, 186, 194, 201, 250, 251, 252]

[Notice No. 303]

RECORDS AND REPORTS FOR DISTILLED SPIRITS PLANT BOTTLING PREMISES, TRANSFER OF RESPONSIBILITY FOR SEALING CONVEYANCES, AND CHANGES IN THE PREPARATION AND DISPOSITION OF DISTILLED SPIRITS PLANT TRANSACTION FORMS

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate.

The Bureau of Alcohol, Tobacco and Firearms (ATF) recently conducted an in-depth study, utilizing both Bureau Headquarters and field personnel, which examined and evaluated the needs of the Bureau and of the distilled spirits industry in relation to day-to-day operational records and reports for distilled spirits bottling premises. The primary goal of the study was to devise a more modern system of records and reports that is compatible with sound business practice and efficient government administration, and at the same time provide adequate protection to the revenue and to the interests of the consumer. The Bureau also conducted an independent study of its methods of ensuring maximum utilization of alcohol, tobacco and firearms officers for on-site inspection of distilled spirits plants. It was determined that by eliminating from regulations requirements for the performance of certain duties by ATF officers, more discretionary inspection time would be available for application to plant operations which the Bureau believes needs special attention. The regulations would continue to require direct supervision of many distilled spirits plant operations. The proposed changes have been carefully considered to avoid any increase in the risk of spirits diversion, which would threaten the revenue.

Major Proposed Changes

A. Records and Reports for Distilled Spirits Plant Bottling Premises

1. *Dump and batch records.* Under existing regulations the dumping of spirits or the preparation of batches is reported on a Bottler's Dump and Batch Record, Form 122. The Bureau had received several requests from various distilled spirits industry members seeking authority to utilize commercial dump and batch records in lieu of Form 122. The results of field studies (including pilot operations at several plants) demonstrated that commercial records can adequately reflect the information presently required on Form 122 in a manner that would not hinder investigation of claims involving operational losses or spirits exported with benefit of drawback. The proposed regulations provide for the use of commercial records in lieu of Form 122. However, these records will be required to contain, at a minimum, the information presently found on Form 122. In addition to this information, a proprietor's records will be required to indicate the quantities of non-alcoholic ingredients used in the preparation of dumps or batches of spirits.

(§§ 201.432, 201.433, 201.444, 201.466, 201.470, 201.470c, 201.470n, 201.470q, 201.487, 201.613, 201.623, and 252.195a amended.)

2. *Serial numbers on cases of bottled distilled spirits.* Under existing regulations, serial numbers of cases of bottled distilled spirits must be recorded on Bottling Tank Report, Form 2637. In addition, bottlers must record, by serial number, all case receipts and dispositions received in and shipped out of cased goods storage areas, whether these areas are on bottling premises or at wholesale liquor dealer operations conducted by the bottling premises proprietor. The Bureau studied the possibility of completely eliminating the requirement for placing serial numbers on cases of bottled distilled spirits. It was decided, however, to retain the requirement for serial numbering cases and recording these numbers on Forms 2637, because these numbers are a valuable aid in establishing and verifying case production. Distilled spirits plant proprietors who, in connection with their plant, conduct wholesale liquor dealer operations, operate a taxpaid storeroom, or operate storage premises at other locations from which distilled spirits are not sold at wholesale, are currently required to maintain daily records of receipt and disposition. Wholesalers other than distilled spirits plant proprietors are also required to maintain records and information concerning receipts and dispositions. Such records contain the serial numbers of cases involved in the transaction for receipts by wholesalers and for both receipts and dispositions by distilled spirits plant wholesalers. The proposed regulations will eliminate the requirement for recording of case serial numbers of receipts by both types of wholesalers. The requirement for recording case serial numbers of dispositions by distilled spirits plant wholesalers is, however, being retained. Proprietors may be relieved from this requirement subsequent to approval of a written application submitted to their regional director.

(§§ 194.225, 194.226, 194.237, and 201.625 amended.)

3. *Monthly summaries of alcoholic flavorings and denaturants.* It has been determined that there is no longer an administrative need for the preparation of monthly summaries of alcoholic flavoring materials and denaturants. The information provided in these summaries is otherwise available to alcohol, tobacco and firearms officers in daily records and daily summaries of such records.

(§ 201.630 revoked.)

4. *Controlled stock inventories.* Each proprietor of bottling premises who desires to defer payment of taxes on distilled spirits pursuant to return on Form 4077, Distilled Spirits Tax Return—Deferred Payment—Bottling Premises, must conduct physical inventories for the tax return periods ending June 30 and December 31 of each year, in order to reconcile on-hand quantities of controlled stock (tax-determined spirits) for tax purposes. Our study showed that two controlled stock inventories a year are not necessary in all instances. Therefore, the proposed regulations provide for waiver of one required physical inventory upon application to the regional director, and pursuant to a finding that two such inventories are not necessary to law enforcement or protection of the revenue. The proposed regulations also provide for flexibility in scheduling the dates of these physical inventories. On approval of an application filed with the regional director, the required inventories may be taken on dates other than June 30 and December 31. This flexibility will allow proprietors to schedule inventories, for example, to coincide with the close of their corporate fiscal year, and will reduce the peak workload for the Bureau when it schedules supervision of such inventories.

(§ 170.59 amended.)

5. *Wholesale liquor dealers semi-annual report.* Distilled spirits plant proprietors who conduct wholesale liquor dealer operations, operate taxpaid storerooms, or operate other storage premises (from which distilled spirits are not sold at wholesale), and wholesale liquor dealers are required to prepare Wholesale Liquor Dealer's Semi-Annual Report, Form 338, to report the total quantity of distilled spirits received and disposed of during the preceding six-month period. The Bureau has determined that submission of this report is not necessary in all instances. The proposed regulations provide that distilled spirits plant pro-

prietors must submit this report only if required by the regional director; and wholesale liquor dealers, other than distilled spirits plant proprietors, shall be relieved of the requirement of preparing and submitting such report upon approval of a letterhead application by the regional director, and pursuant to a finding that such reporting is not necessary to law enforcement or protection of the revenue.

(§§ 194.231, 194.233, 194.238, 201.625, and 201.634 amended.)

6. *Attachment of labels to bottling tank forms.* Under existing regulations before bottling a lot of spirits, either in bond or after tax determination, proprietors are required to affix a copy of the label, or code symbol identifying the label (if so approved), which he intends to use for such bottling, to Form 1515, Distilled Spirits Bottled in Bond, or Form 2637, Bottling Tank Report, respectively. Such labels must agree with the spirits in the bottling tank to which the form is attached. However, since ATF officers have available to them several other methods for verifying that spirits are properly labeled, the proposed regulations will eliminate the requirement for attaching copies of labels or code symbols to bottling forms. Proprietors will be required, however, to maintain commercial records that will enable alcohol, tobacco and firearms officers to readily determine the labels used on bottles filled in a given lot on Form 1515 or Form 2637.

(§ 201.330, 201.456, and 201.470 amended.)

7. *Submission of bottling tank report to regional director.* On completion of rectification of distilled spirits or wines, rectifiers are currently required to gauge such spirits or wines to determine the applicable rectification taxes as prescribed by law, and to report such gauge on the Bottling Tank Report, Form 2637, a copy of which is submitted to the regional director. The Bureau has found that the submission of the form in this manner is not administartively necessary. The proposed regulations eliminate the requirement for the proprietor to submit a copy of the form to the regional director.

(§ 201.448 amended.)

8. *Procurement of bottle strip stamps.* Existing regulations provide for the procurement of strip stamps from the regional director of the region in which the plant is located by requisition on Form 428, Requisition for Bottle Strip Stamps, approved by the alcohol, tobacco and firearms officer. The proposed regulations eliminate the requirement for the officer to approve the requisition form, enabling the proprietor to submit his requisition directly to the regional director.

(§ 201.543 amended.)

9. *Approval of distinctive liquor bottles.* It is proposed to establish new procedures for the approval and use of distinctive liquor bottles. Under existing regulations (1) bottlers desiring to use imported or domestic liquor bottles of distinctive design, or (2) importers desiring to import liquor bottles of distinctive design, either filled or empty, or (3) any person desiring to bring liquor bottles of distinctive design, either filled or empty into the United States from Puerto Rico or the Virgin Islands, must submit a letter application to the Director for approval of the distinctive bottles. In addition, an application on Form 4329, Application and Authorization to use Distinctive Liquor Bottles, must be submitted to the regional director for authority for use and/or import of the approved distinctive bottles. The Bureau has found that the duplication of information on the letter application and on Form 4329 is not necessary. The proposed regulations eliminate submission of Form 4329 and incorporate pertinent information appearing on that form into the letter application submitted to the Director.

(§§ 173.33, 173.34, 201.540d, 250.314, and 251.204 amended; §§ 201.540e, 250.315, and 251.205 revoked.)

10. *Tank certificate.* Existing regulations provide that receiving tanks which are part of the production facilities, bottling tanks, and tanks in storage facilities from which packages are to be filled, shall not be used until a certificate of approval, Form 244, Tank Certificate, has been issued by the assigned officer and attached to such tanks. It has been determined that the issuance of such certificates by the alcohol, tobacco and firearms officer is no longer necessary. It is proposed to eliminate the certificate, and require instead a statement of certification of accurate calibration describing the aforementioned tanks to appear in the notice of registration.

(§§ 201.147 and 201.243 amended.)

11. *Bottle proof and fill tests.* Existing regulations provide that proprietors of bottling premises determined that bottling line proof does not vary from label proof by more than 0.3° proof, and that bottles are filled to labeled quantity, allowing a given tolerance in the filling of bottles due to variations in bottle molds. However, no records of such tests are required to be maintained by existing regulations. The proposed regulations (a) require maintenance of daily records of proof and fill tests for bottled distilled spirits, primarily for protection of the revenue and for consumer protection, (b) require proprietors to submit descriptions of their proof and fill test procedures to their regional director for his evaluation and approval, and (c) establish procedures in the Gauging Manual (27 CFR Part 186), which describe proper methods for testing bottle quantity (fill). Instructions for submission and approval of proof and fill test procedures will be issued prior to the effective date of the regulations.

(§§ 201.333, 201.459, 201.470k, 201.622, and 201.623 amended; §§ 186.52, 186.53, 186.54, 186.55, 186.56, 186.57, and 186.58 added.)

12. *Exportation of rectified imported spirits or wines.* It has been determined that there is no longer an administrative need for the preparation of Form 1583 (Certificate of Director of Customs of Collection of Internal Revenue Tax on Imported Distilled Spirits or Wines), to evidence taxpayment of imported distilled spirits or wines that are rectified (manufactured) in the United States and subsequently exported with benefit of drawback. The study of the information presented on various forms, and consultation with Customs Service officials, showed that imported spirits or wines are either taxpaid or tax-determined before release from customs custody, and Customs Service forms covering these transactions provide essentially the same information as ATF Form 1583. The proposed regulatory changes eliminate preparation of Form 1583, but will provide that the regional director may require evidence of tax payment on pertinent Customs Service forms for such spirits of wines, when deemed necessary for protection to the revenue.

(§ 252.195a amended; §§252.175, 252.176, and 252.177 revoked.)

13. *Clarifying, editorial, and conforming changes.* A number of minor clarifying, editorial, and conforming changes are proposed.

(§§ 186.11, 194.225, 194.226, 194.231, 194.233, 201.243, 201.261, 201.312, 201.448, 201.460, 201.464, 201.523, 201.622, 201.625 and 252.195a amended.)

B. SEALING OF CONVEYANCES AND PREPARATION AND DISPOSITION OF DISTILLED SPIRITS PLANT TRANSACTION FORMS

1. *Sealing of conveyances by proprietors.* The proposed changes would transfer, from assigned officers to plant proprietors, the responsibility for sealing conveyances used to transport spirits in all instances where sealing of a conveyance is required. The new sealing procedures is intended to apply not only to conveyances used to transport spirits in bond, but also to conveyances used to transport spirits withdrawn taxpaid, free of tax, or without payment of tax. In addition to requiring proprietors to physically affix seals, the changes would (1) require the use of serially numbered commercial seals furnished by the proprietor rather than Government seals, and (2) require proprietors to obtain the regional director's approval for any locks, seals, or other devices they intend to furnish for use on conveyances used to transport spirits in bond, free of tax, or without payment of tax. Instructions for submission and approval of locks, seals, or other devices will be issued prior to the effective date of the regulations. An exception has been provided to allow regional directors the option of requiring sealing by assigned officers using Government seals, if they so desire. However, seals affixed to conveyances used to transport taxpaid spirits or denatured spirits in bond or withdrawn free of tax will not be required to be approved by the regional director. Plant proprietors would, in the case of certain transfers, be responsible for (1) recording the serial numbers of seals on transaction forms, (2) verifying the security of sealed conveyances on arrival, (3) at-

testing to the security of sealed conveyances on the related transaction forms, and (4) determining and reporting on the transaction form any loses in transit.

(§§ 201.100, 201.368, 201.369, 201.385, 201.387, 201.390, 201.393, 201.465, 201.507, 201.501 amended; §§ 201.11 (in part) and 201.511 revoked.)

2. *Preparation and distribution of transaction forms.* Distilled spirits plant transactions and operations are currently recorded by proprietors on forms that are categorized as either (1) applications, (2) notices, or (3) reports. Many of these forms, regardless of their category, require written approval or verification of the respective operation or transaction by the alcohol, tobacco and firearms officer. Existing regulations require submission of copies of completed transaction forms and reports to the alcohol, tobacco and firearms officer. In most instances, the assigned officer retains a copy of the form or report for his files and forwards the original to the regional director. The major features of the forms oriented changes that are proposed are (1) the conversion of certain application-type transaction forms to notice-type transaction forms, thereby eliminating the necessity for the assigned officer's signature of approval, (2) the requirement for the submission of advance copies of transaction forms, particularly notices and reports, to the assigned officer to inform him of the operation or transaction before it commences, and (3) the requirement for distribution of completed copies of transaction forms or reports by the proprietor in accordance with the instructions on individual forms. The proposed form distribution would, in most instances, require proprietors to forward the originals of the completed forms to the regional director daily, in addition to forwarding copies to the alcohol, tobacco and firearms officer, thus, ensuring timely reporting of transactions. In addition to allowing proprietors greater operational freedom in scheduling plant operations, the proposed changes would provide greater latitude for the Bureau when scheduling plant supervision.

(§§ 201.368, 201.370, 201.387, 201.390, 201.407, 201.562, 201.583, and 201.631 amended.)

a. *Form 236, Transfer of Spirits or Denatured Spirits in Bond.* The requirements for the use of Form 236 are proposed to be amended to change its function from an application to a notice for the transfer of spirits in bond. The necessity for a written release of the spirits by the assigned officer would be eliminated. Existing regulations provide for the preparation of Form 236 as a notice for the transfer of denatured spirits in bond.

(§§ 201.368 and 201.369 amended.)

b. *Form 206, Withdrawal of Spirits for Exportation.* Withdrawal of distilled spirits without payment of tax for exportation, for use on vessels and aircraft, or for transfer to a customs bonded warehouse or foreign trade zone is presently made on application Form 206. The proposed changes would provide for preparation of Form 206 as a notice for withdrawal of spirits without payment of tax, except when the exporter is not the proprietor of the bonded premises from which the spirits are withdrawn. An application on Form 206, is especially needed in this instance in order to enable the assigned officer to determine whether or not the exporter has sufficient bond coverage for the transaction. The proposed changes would require written approval by the alcohol, tobacco and firearms officer when Form 206 is submitted and processed as an application; however, written approval and release of spirits will not be required when Form 206 is processed as a notice. Form 206 would continue to be prepared as a notice for specially denatured spirits withdrawn for exporation.

(§§ 252.92, 252.96, 252.105, 252.107, 252.118, 252.152, 252.153, and 252.163 amended.)

c. *Form 1577, Destruction of Spirits.* Form 1577 currently functions as an application for the destruction of distilled spirits, whether the destruction takes place while the spirits are in bond or after they have been withdrawn from bond on payment or determination of tax for rectification or bottling. It is proposed to provide for the preparation of Form 1577 as a notice for destruction of spirits in bond, thereby eliminating the necessity for the assigned officer's written approval of the operation. However, Form 1577 would continue to be prepared as an application for the destruction of spirits withdrawn from bond on payment or determination of tax for rectification or bottling. Section 5008(b)(2) of Title 26 of the United States Code requires that an application be filed before spirits withdrawn from bond on payment or determination of tax for rectification or bottling, may be destroyed. Therefore, Form 1577 will be retained as an application for destruction of such spirits.

(§ 201.562 amended.)

d. *Form 2633, Withdrawal of Spirits Free of Tax.* It is proposed to amend the requirements for the use of Form 2633 for withdrawal of spirits free of tax, to change the function of the form from an application to a notice, thereby eliminating the necessity for written release of spirits by the assigned officer.

(§ 201.390 amended.)

e. *Miscellaneous transaction forms.* Removal of spirits from storage for redistillation and withdrawal of spirits for use in wine production are currently made pursuant to written approval by the assigned officer on Form 2629, Gauge Report. Form 2634, Denaturation of Spirits, is prepared to indicate notice and gauge for denaturation of spirits and is signed by an assigned officer to indicate verification of denaturation. The proposed regulations eliminate the necessity for written approval or verification of the respective operations by assigned officers; however, regulations would continue to provide for the direct supervision of such operations. The elimination of written verification or release of spirits by the assigned officer is also proposed for several additional distilled spirits plant transaction forms.

(§§ 201.370, 201.387, 201.390, 201.407, 201.562, 201.583, 252.105, and 252.153 amended; § 201.412 revoked.)

3. *Reconsignment of spirits transferred in bond.* Special conditions such as natural disasters, labor strife, or mechanical failure at the original consignee's plant, may preclude delivery or acceptance of spirits transferred in bond. For this reason, the Bureau proposes to provide greater operational freedom for proprietors by providing for the reconsignment of spirits transferred in bond prior to, or upon arrival at the premises of a consignee distilled spirits plant. The reconsignment will be allowed if the spirits are found to be unsuitable for the purpose for which intended, shipped in error, or for other bona fide reasons. The bond of the proprietor to whom the spirits are reconsigned will cover spirits in transit after such reconsignment.

(§ 201.368a added.)

4. *Multiple bulk gauging for tax determination.* The Bureau received generally favorable comments from the distilled spirits industry on the proposed simplified bulk gauging procedures for tax determination outlined in ATF Industry Circular 72-14. The Bureau now proposes to allow proprietors of distilled spirits plants to implement this new gauging concept on an optional basis, with the approval of the alcohol, tobacco and firearms officer at the plant. The proposed procedures would allow multiple withdrawals for tax-determination from a storage tank without determining the proof of the spirits upon each withdrawal. The first daily withdrawal from the storage tank would be proofed and the tax would be determined, based on that proof and the weight for that withdrawal. Subsequent withdrawals from the storage tank would only be weighed, using the proof established at the first withdrawal to determine the tax due. One application Form 179, Withdrawal of Spirits Tax paid, would cover all tax determinations for one day from each storage tank under this system. All storage tanks utilized for multiple bulk gauging would be required to be equipped with suitable agitation devices to ensure that the initial proof of the tank's contents would be representative of the contents for the remainder of the day, provided no additional spirits were added.

(§§ 186.41, 201.378, 201.385 amended; § 201.374a added.)

5. *Bottling in bond.* Existing regulations provide that no spirits shall be bottled in bond, either before or after tax determination, until the assigned officer has verified the quantity and proof of the spirits and has released the spirits for bottling at the specified proof. It is proposed to eliminate the requirement for mandatory verification of quantity and proof by an alcohol, tobacco and firearms officer and the requirement for written release of spirits specifically designated for bottling-in-bond. This change would

not eliminate the regulatory requirement for direct supervision of bottling-in-bond operations by the alcohol, tobacco and firearms officer. The change would provide proprietors with greater operational freedom, particularly in scheduling operations, since bottling-in-bond operations would not be delayed solely for the gauging and releasing of spirits by the alcohol, tobacco and firearms officer.

(§§ 201.327 and 201.470h amended.)

6. *Distilled spirits stamps.* Supplies of distilled spirits stamps are currently maintained by alcohol, tobacco and firearms officers for issuance to distilled spirits plant proprietors upon tax determination of distilled spirits. The Bureau has determined that, as in the case of bottle strip stamps, control of distilled spirits stamps is properly that of the proprietor. Transfer of the custody of distilled spirits stamps to proprietors will work to the advantage of both the proprietors and the Bureau. Proprietors' operations will be expedited by not having to request stamps from the assigned officer each time a transaction requiring the issuance of distilled spirits stamps takes place, and Bureau personnel will be relieved of the time consuming task of controlling and issuing the stamps. Verification of proper stamp usage by Bureau inspectors will not be difficult as each stamp bears a unique serial number which is entered on appropriate transaction records, and because either the lot identification number or the serial number of the container to which the stamp is applied must be entered on the stamp itself. The proposed regulations transfer custody of distilled spirits stamps to proprietors and require the proprietor to maintain daily records of their receipt and use.

(§§ 201.385, 201.464, 201.550, 201.551, 201.633a and 252.101 amended; §§ 201.550a, 201.551a, and 201.624a added.)

7. *Authority to denature spirits.* Existing regulations provide that facilities for denaturing spirits may be established only on the bonded premise of a plant operated by a proprietor who is authorized to produce spirits or by a controlled or wholly-owned subsidiary of such a proprietor. However, no provisions are made in the regulations specifying the procedures to be followed for continuing denaturing operations if such proprietors discontinue production operations. The existing regulations also prohibit a proprietor from conducting denaturing operations pursuant to its subsidiary's authority to produce spirits. Since it is within the scope of the law to permit proprietors to denature spirits based on their subsidiary's authority to produce spirits, it is proposed to amend the regulations accordingly. The proposed regulations will also establish a procedure to be followed by proprietors who discontinue production operations and wish to continue denaturing operations.

(§ 201.120 amended.)

8. *Clarifying, editorial, and conforming changes.* A number of minor clarifying, editorial, and conforming changes are proposed.

(§§ 201.11, 201.378, 251.172, 201.385, 201.411, 201.507, 201.510, 201.628a, 201.629, 252.11, 252.92, and 252.96 amended.)

PUBLIC PARTICIPATION

Prior to final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, (Attn: Chief, Regulations and Procedures Division) on or before November 16, 1976. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. Any interested person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Bureau of Alcohol, Tobacco and Firearms, within the 60-day period.

The proposed regulations are to be issued under the authority contained in section 26 U.S.C. 7805 (68A Stat. 917).

In consideration of the foregoing, it is proposed that 27 CFR be amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATIVE TO LIQUOR

PARAGRAPH 1. Section 170.59 is revised to provide for flexible scheduling of physical inventories of controlled stock. As amended, § 170.59 reads as follows:

§ 170.59 Inventories of controlled stock.

(a) *Inventories.* (1) Each proprietor of bottling premises shall establish an inventory, in proof gallons, of his controlled stock on hand as of the close of each return period.

(2) The inventory shall differentiate between stocks of mixtures and products which derive less than half of their proof gallon content from tax-determined spirits and other controlled stocks.

(b) *Physical inventories.* (1) Physical inventories shall be taken for the return periods ending June 30, and December 31, each year, and for other return periods as may be required by the regional director.

(2) On approval of an application filed in duplicate with the regional director, required physical inventories may be taken on dates other than June 30, and December 31, if the dates established for taking such inventories:

(i) Coincide with the end of a return period, and

(ii) Are six months apart.

(3) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30, or December 31, inventory.

(4) Physical inventories may be taken within a period of a few days before or after June 30, or December 31 (or other dates approved by the regional director), if:

(i) Such period does not include more than one complete weekend; and

(ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of controlled stock on hand at the prescribed times.

(c) *Waiver of physical inventory.* (1) The regional director, on receipt of an application filed in duplicate, may relieve a proprietor of the requirement of taking the June 30 or December 31 (or other date as approved under the provisions of paragraph (b) of this section) physical inventory, if he finds that only one such inventory during any 24 consecutive return periods is necessary to law enforcement or protection of the revenue.

(2) The regional director may reimpose the requirement for the waived inventory if he finds that it is necessary to law enforcement or protection of the revenue.

(d) *Notification of physical inventory.* Whenever a physical inventory of controlled stock is to be taken, the proprietor shall, at least 5 business days in advance, notify the assigned alcohol, tobacco and firearms officer, if any, otherwise the area supervisor, of the date and time he will take such inventory.

(e) *Supervision of physical inventories.* Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner, as the regional director may require.

PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS

PAR. 2. Section 173.33 is revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised, § 173.33 reads as follows:

§ 173.33 Indicia for domestic liquor bottles.

There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each liquor bottle (a) the words "Liquor Bottle" and (b) the bottle manufacturer's number assigned under § 173.33: *Provided,* That distinctive liquor bottles not bearing the indicia required by this section may be manufactured on receipt from a bottler or importer of a copy of an application, in letter form, approved by the Director. Additional information, such as the bottler's or importer's permit number, may also be permanently placed on the liquor bottles by the manufacturer thereof provided such information does not conflict with information required to be placed on labels and is so located as not to obscure indicia required by this section or interfere

with the labeling or stamping of the bottle, when filled, as provided in Parts 201, 250, and 251 of this chapter.

PAR. 3. Paragraphs (a) and (b) of § 173.34 are revised to (1) eliminate reference to Form 4329, and (2) provide for the application to be made in letter form. As revised paragraphs (a) and (b) read as follows:

§ 173.34 Indicia for imported liquor bottles.

(a) *Empty liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any other method approved by the Director, on each imported empty liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the bottle manufacturer (either in the language of such country or in English); *Provided,* That empty distinctive liquor bottles not bearing such indicia may be released from customs custody, as excepted from the marking requirements of this paragraph, on receipt by the customs officer at the port of entry of a copy of an application, in letter form, approved by the Director, covering the use of such bottles.

(b) *Filled liquor bottles.* There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on each imported filled liquor bottle (1) the words "Liquor Bottle" and (2) the city or country of address of the manufacturer of the spirits, or of the exporter abroad, or the city of address of the importer in the United States; or, in the case of domestic bottles exported and filled abroad, the indicia required under § 173.33: *Provided,* That filled distinctive liquor bottles not bearing such indicia may be imported pursuant to an application (in letter form and approved by the Director) filled by the importer, as excepted from the marking requirements of this paragraph. The city or country of address of the manufacturer of the spirits or of the exporter abroad may be in the language of such country or in English.

* * * * *

PART 186—GAUGING MANUAL

PAR. 4a. Section 186.11 is amended, in alphabetical order, by revising the definition of "Director", and by adding the definition of "Regional Director". As amended, § 186.11 reads as follows:

§ 186.11 Meaning of terms.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Regional Director. A regional director who is responsible to, and functions under the supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

* * * * *

PAR. 4b. Section 186.41 is revised to provide for the multiple gauging of spirits. As revised, § 186.41 reads as follows:

§ 186.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 186.31: *Provided,* That with regard to proofing, bulk spirits being withdrawn on multiple gauges in accordance with the provisions of § 201.374a of this chapter, from tanks approved for such withdrawals, may be withdrawn on the basis of the proof determined for the first such gauge that day: *Provided,* That where the spirits are to be reduced in proof as authorized by this chapter, the spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to table No. 4: *Provided,* That in the case of spirits which contain solids in excess of 600 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 186.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 600 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 186.23, to determine the apparent proof of the spirits (if the specific gravity at the temperature of the spirits is not more than 1.0) and reference to table No. 4 for the wine gallons per pound; or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 186.24b, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60° F.) into the factor 0.120074 (the wine gallons per pound for water at 60° F.).

When it is desired to withdraw a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(72 Stat. 1357, 1358 (26 U.S.C. 5202, 5204).)

PAR. 5. Seven new sections, §§ 186.52, 186.53, 186.54, 186.55, 186.56, 186.57, and 186.58 relating to quantity determination of bottled spirits and a new center heading, are inserted immediately following § 186.51 to read as follows:

DETERMINATION OF QUANTITY FOR BOTTLED SPIRITS

§ 186.52 General requirements.

Tests as to quantity of spirits in a bottle will be made (a) by utilization of a graduated glass measuring flask standardized at 60° F.; (b) by weighing a given number of empty bottles and reweighing the same bottles after filling; or (c) by any other method approved by the regional director.

§ 186.53 Graduated glass measuring flasks.

In order to verify volumetrically the contents of a bottle of spirits, a graduated glass measuring flask standardized at 60° F. and calibrated for use with a specific proof of spirits is required. One such flask is required for each size bottle to be tested. A flask of this type is calibrated for use with spirits of a specific proof (such as 80° or 90°), as the graduations show the actual variation in volume with changes in temperature, and the amount of variation depends upon the proof. The flask may, however, be used over a range of two degrees of proof on either side of the calibrated proof shown on the side of the flask, as the change in amount of variation over this proof range is insignificant. Flasks graduated in milliliters (or some other unit of volume) may also be used, provided a chart or table for use in determining the correct fill at temperatures other than 60° F. is furnished with each flask. Flasks with a small neck diameter are recommended for accuracy because of the small meniscus and the greater space between graduations. In addition to the flasks, a 5 ml pipette graduated in 1/10 divisions from 0 to 5 ml is necessary to determine the amount of overfill or underfill.

§ 186.54 Volumetric test of bottle fill.

To test bottle fill volumetrically, use a glass graduate or flask.

(a) *Flasks graduated in degrees of temperature.* If the measuring flask is graduated in degrees of temperature, thoroughly wet the inside of the measuring flask with spirits from the same lot as in the bottles to be checked. After wetting the flask, empty and drain for at least thirty seconds. Pour the spirits directly from the bottle to be checked into the measuring flask and allow the bottle to drain for at least thirty seconds. Take the measuring flask reading at the point where the bottom of the liquid meniscus intersects with the graduation on the neck of the measuring flask (be sure the flask is held in a vertical position and the line of sight is perpendicular to the neck of the flask at the bottom of the meniscus). After reading the liquid height, take the temperature of the liquid in the flask. If the temperature reading obtained is below the mark for the temperature of the liquid, the bottle tested is underfilled. If the temperature reading is above the mark for the temperature of the liquid, the bottle is overfilled.

(b) *Flasks graduated in milliliters or other units of volume.* If the measuring flask is graduated in milliliters or other units of volume requiring a table or chart

to determine the temperature corresponding to the scale on the neck of the flask, proceed with the test as described above until the reading on the flask and the temperature of the spirits in the flask have been taken. Then, by means of the chart or table supplied, determine the point, or reading, on the neck of the flask corresponding to the proper fill for the temperature of the spirits. If the liquid is above this point, the bottle is overfilled, and if below this point, the bottle is underfilled.

§ 186.55 Determining amount of overfill or underfill by volumetric method.

To determine the amount of overfill or underfill volumetrically, a 5 ml pipette (calibrated as described in § 186.53) will be used.

(a) *Flasks graduated in degrees of temperature.* If the fill is low, measure spirits into the flask by means of the pipette until the height of the liquid in the flask corresponds to the mark for the temperature of the contents. If the fill in the flask is high, measure spirits removed from the flask by means of the pipette until the amount of the liquid in the flask corresponds to the mark for the temperature of the contents. From the number of milliliters of spirits added to, or removed from the flask, the percent of error in fill may be calculated by use of the following factors:

Liquid measure	Milliliter equivalent	Factor (percent per milliliter)
1 gal	3,785.33	0.026
½ gal	1,892.66	.053
1 qt	946.33	.11
⅓ qt	757.06	.13
1 pt	473.17	.21
½ pt	236.58	.42
⅛ pt	59.15	1.7
1/10 pt	47.32	2.1

For example, a pint sample tested for fill is found to read 60° F on the neck of the flask and the temperature of the spirits contained in the flask is found to be 80° F. It is found necessary to add 4.0 ml of spirits by means of the pipette to bring the level of the liquor to the 80° F. mark on the flask. Using the one pint factor from the table above, the percent underfill would be:

4.0 ml × .21 = 0.84% underfill

(b) *Flasks graduated in milliliters or other units of volume.* To calculate overfill or underfill for spirits tested in flasks graduated in milliliters or other units of volume, calculate the actual volume contained in the flask at the temperature of measurement and multiply this volume by the factor given in table 7 of the Gauging Manual for the temperature and true proof of the product to obtain their volume at 60° F. Comparison of the actual (corrected) volume with the given corrected volume for a specific temperature and proof will indicate amount of overfill or underfill.

EXAMPLE: A quart flask graduated in milliliters is used for measuring the volume of fill of a quart bottle of 86 proof whisky and the reading on the flask is plus 5 at a temperature of 80° F. According to the engraving on the flask, 1 division on the scale is equal to 2 ml (milliliters) and 5 divisions would be equal to 10 ml. Since 1 ml is equal to 0.0338 fluid ounces (volume to 0 mark), 10 times 0.0338 equals 0.34 fluid ounces, which is the actual volume of overfill in excess of the capacity of the flask (one quart) at the temperature of measurement. The total volume of whisky in the flask is 32.34 fluid ounces. The temperature correction is determined by multiplying 32.34 times 0.992, the factor from table 7 of the Gauging Manual for 86 proof and 80° F temperature. This equals a volume of 32.08 fluid ounces at 60° F, or an overfill of 0.08 fluid ounces (0.25%).

§ 186.56 Test of bottle fill by weight.

To test bottle fill by weight, one or more clean, dry, empty bottles are weighed, filled using the filling machine, and weighed again (scales used shall be graduated to 0.01 pounds, for scales which weigh in pounds, or to 5 grams, for scales which weigh in grams). The gross weight of the filled bottles minus the tare weight of the empty bottles, as previously determined, gives the net weight of the spirits contained in the bottles tested. The empty bottles selected for testing should be picked by selecting different mold numbers in a manner that will give the best average sample of bottles being filled at the time of the test. As an alternate to the above method, weigh the number of bottles equivalent to one gallon of spirits and then weigh the same bottles after they are filled on the bottling line. The gross weight (bottles plus spirits) minus the tare weight (empty bottles) is the per gallon weight of the spirits bottled. As the proof of the spirits being bottled is known, the required pounds per wine gallon may be determined from table 5 in the Gauging Manual, and the percent of overfill or underfill may be calculated from the following formulas:

$$\frac{\text{(Weight of spirits} - \text{Weight in table 5)}}{\text{Weight in table 5}} \times 100 = \text{percent overfill}$$

$$\frac{\text{(Weight in table 5} - \text{Weight of spirits)}}{\text{Weight in table 5}} \times 100 = \text{percent underfill}$$

If the scales employed for determining the weight of spirits in one or more bottles weighs in grams instead of pounds, the weight found may be compared with the weight required to give proper fill by employing the following table:

WEIGHT OF SPIRITS IN GRAMS AT VARIOUS PROOFS TO GIVE PROPER VOLUME AT 60° F —

Proof	Pint	4/5 qt.	Quart	Gallon
80.0	442.4	712.0	836.8	3,595.2
81.0	442.0	718.5	836.1	3,592.3
82.0	448.7	717.8	837.3	3,589.3
83.0	448.3	717.3	836.6	3,586.2
84.0	447.9	716.6	835.8	3,583.1
85.0	447.5	716.0	835.0	3,580.1
86.0	447.1	715.4	834.2	3,576.9
86.8	446.8	714.9	833.6	3,574.4
87.0	446.7	714.7	833.4	3,573.7
88.0	446.3	714.1	832.6	3,570.5
89.0	445.9	713.4	831.8	3,567.2
90.0	445.5	712.8	831.0	3,564.0
91.0	445.1	712.1	830.2	3,560.6
92.0	444.7	711.5	829.3	3,557.3
93.0	444.2	710.8	828.5	3,553.9
94.0	443.8	710.1	827.6	3,550.4
95.0	443.4	709.4	826.7	3,547.0
96.0	442.9	708.7	825.9	3,543.4
97.0	442.5	708.0	825.0	3,539.9
98.0	442.0	707.3	824.1	3,536.3
99.0	441.6	706.5	823.2	3,532.7
100.0	441.1	705.8	822.2	3,529.0
101.0	440.7	706.1	821.3	3,525.3
102.0	440.2	704.3	820.4	3,521.6
103.0	439.7	703.6	819.5	3,517.8
104.0	439.3	702.8	818.5	3,514.1
105.0	438.8	702.1	817.6	3,510.3

IMPORTANT: In calculating the net wine gallon content of bottles by weight employing table 5 of the Gauging Manual, or the above table, the apparent proof before correction for obscuration should be used for blended whiskies as the apparent proof indicates the true density of the solution.

§ 186.57 Precautions to be observed in testing bottle fill.

In the test by volume or weight of individual bottles, it is important that the fill be determined on no fewer than, but not limited to, three different bottles with different mold numbers, and that the average fill be taken to determine whether the fill on the line is high or low. This is important as the capacity of bottles from different molds and the amount of spirits delivered from various filling heads may vary, consequently a sample consisting of a single bottle may not be representative of the fill on the line. The most satisfactory method to be used for determining the fill on the bottling line is to determine the fill of a complete round of the filling machine. This will give the average fill for each round of the filling machine, and will indicate whether the average fill is over or under. For example, if a filling machine has 18 heads, the average fill would be correctly determined by a weight gauge of 1 round of 18 consecutive bottles filled with interruption.

§ 186.58 Quantity determination by other methods.

A proprietor desiring to utilize methods of quantity determination other than those described in this part, shall file a description of his procedure (in written application form), in duplicate, with his regional director. The application shall include charts, tables or other data that

will be utilized for the fill tests. A proprietor may not use an alternate form of fill determination until his description is approved by the regional director.

PART 194—LIQUOR DEALERS

PAR. 6. Section 194.225 is revised to eliminate the requirement in paragraph (a) for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.225 reads as follows:

§ 194.225 Records of receipt.

(a) *Information required.* Every wholesale dealer in liquors shall maintain a daily record of the physical receipt of each individual lot or shipment of distilled spirits, which record shall show (1) name and address of consignor, (2) date of receipt, (3) brand name, (4) name of producer or bottler, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying the producer or bottler with the brand name, (5) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (6) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any difference from the quantity shown on the commercial papers covering the shipment), and (7) package identification numbers. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of consignors' invoices (or, where such invoices are not available on the day the shipment is received, memorandum receiving records prepared on the day of receipt of the distilled spirits), and credit memorandums covering distilled spirits returned to the dealer, which contain all required information. Each such invoice (or memorandum receiving record) and credit memorandum shall be numbered by the consignee dealer in the sequence of the physical receipt of the spirits covered thereby. The consignee dealer may start a new series of such numbers annually, or on approval of the regional director, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 7. Section 194.226 is revised to eliminate the requirement in paragraph (a)) for recording the serial numbers of cases, and to make an editorial change in paragraph (b). As revised, § 194.226 reads as follows:

§ 194.226 Records of disposition.

(a) *Information required.* Every wholesale dealer in liquors shall prepare a daily record of the physical disposition of each individual lot of distilled spirits, which record shall show (1) name and address of consignee, (2) date of disposition, (3) brand name, (4) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (5) number of packages, if any, and number of cases by size of bottle, and (6) package identification numbers. Additional information may also be shown.

(b) *Form of record.* The record prescribed by paragraph (a) of this section shall consist of the wholesale dealer's invoices (or, where such invoices are not available at the time the spirits are removed, memorandum shipping records prepared at the time of removal of the distilled spirits) which contain all required information. Each such invoice (or memorandum shipping record) shall be preprinted with the name and address of the wholesale dealer in liquors and shall be serially numbered in consecutive order. The wholesaler may start a new series of such numbers annually, or on approval of the regional director, more frequently.

(72 Stat. 1342, 1395 (26 U.S.C. 5114, 5555).)

PAR. 8. Section 194.231 is amended to revise the requirements for preparation of Form 338, and to make an editorial change. As revised, § 194.231 reads as follows:

§ 194.231 Wholesale liquor dealer's semiannual report, Form 338.

As of the close of business on June 30 and December 31 of each year, every wholesale dealer in liquors who is required to keep the records prescribed in § 194.221 shall prepare, on Form 338, in duplicate, a report showing the total quantities of distilled spirits received and disposed of during the 6-month period ending on such day. If there were no receipts or disposals of distilled spirits during the period, Form 338 shall be prepared showing the quantity on hand the first day of the period and the quantity on hand the last day of the period and marked "No transactions during period". The original of Form 338 shall be filed with the regional director not later than the 15th day of the month succeeding the period for which rendered, and the copy shall be retained by the dealer; however, the regional director, upon receipt of an application filed in duplicate, and a finding that such reporting is not necessary to law enforcement or protection of the revenue, may relieve a dealer from the requirement of submitting such semiannual report on Form 338 until otherwise notified.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 9. Section 194.233 is amended to revise the requirements for preparation of Form 338 and to make an editorial change. As revised, § 194.233 reads as follows:

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions from the first day of the 6-month period (referred to in § 194.231) in which business is discontinued, through the date of such discontinuance, mark such report "Final", and file the form with the regional director within 15 days of the date of such discontinuance, unless the dealer has applied for and received relief from the requirement for submitting reports on Form 338, in which case no final report need be submitted.

(72 Stat. 1342 (26 U.S.C. 5114).)

PAR. 10. Section 194.237 is amended by deleting the requirement for serial numbers of cases received and disposed of, and by making an editorial change. As revised § 194.237 reads as follows:

§ 194.237 Package identification numbers.

The package identification numbers of distilled spirits received, or disposed of, shall be reported on Form 52A or Form 52B unless the omission of such numbers is specifically authorized by the regional director.

PAR. 11. Paragraph (b) of § 194.238 is amended to revise the requirements for the filing of Form 338. As amended, paragraph (b) reads as follows:

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

* * * * *

(b) Where retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225, keep records as prescribed in § 194.239 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, he shall prepare records of disposition on all distilled spirits sold at wholesale, and shall prepare recapitulation records of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, shall be considered as having been transferred to the wholesale department at the time of sale. The semiannual report on Form 338 shall be submitted in accordance with the provisions of § 194.231 (unless the dealer has been relieved of this requirement), even if there have been no wholesale transactions in distilled spirits. Unless relieved of the requirement, pursuant to application under § 194.234, the dealer shall submit daily or periodic reports on Forms 52A and 52B of all his wholesale liquor dealer transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(72 Stat. 1342, 1345, 1395 (26 U.S.C. 5114, 5124, 5555).)

PART 201—DISTILLED SPIRITS PLANTS

PAR. 12. Section 201.11 is amended, in alphabetical order by adding a definition of "Area supervisor" and "Kind," and deleting the definition of "Sealed con-

veyance". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Area supervisor. The supervisory officer of a Bureau of Alcohol, Tobacco and Firearms area office.

* * * * *

Kind. Except as otherwise provided in this part, "kind" in the phrase "kind of spirits" shall mean the class and type of the spirits, as provided in Part 5 of this chapter.

* * * * *

PAR. 13. The center heading, heading and text of § 201.100 are revised to read as follows:

SEALING OF CONVEYANCES USED FOR TRANSPORTING SPIRITS

§ 201.100 Sealing of conveyances.

(a) *Construction for sealing.* If a conveyance is required by this part to be sealed, the conveyance shall be constructed in such manner that all openings, including valves (if any) on bulk conveyances, may be closed and secured.

(b) *Approval of certain sealing devices.* (1) All seals, locks, or other devices that are to be used on conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, shall be approved by the regional director prior to use.

(2) Seals, locks or other devices that are used on conveyances to transport: (i) Taxpaid spirits, or (ii) denatured spirits transferred in bond or withdrawn free of tax, need not be approved.

(c) *Furnishing and affixing seals.* (1) Seals, locks, or other devices for use on conveyances shall be furnished and affixed by the proprietor.

(2) The regional director may, if he deems necessary, require conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, to be secured by seals, locks, or other devices approved and furnished by the Bureau and affixed by an alcohol, tobacco and firearms officer.

(3) Seals, locks, or other devices shall be affixed: (i) As soon as the conveyance is loaded for shipment, and (ii) in such a manner that access to the contents of the conveyance cannot be gained without showing evidence of tampering.

(d) *Numbers and marks on proprietor's seals.* Seals, locks, or other devices that are furnished by the proprietor for use on conveyances shall be serially numbered and dissimilar in markings from those furnished by the Bureau.

(72 Stat 1360 (26 U.S.C. 5206).)

PAR. 14. Section 201.120 is amended to revise the requirements for establishing and operating denaturing facilities. As revised, § 201.120 reads as follows:

§ 201.120 Denaturing facilities.

Facilities for denaturing spirits may be established only on the bonded premises of a plant operated by a proprietor who is authorized to produce spirits, by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor, or by a proprietor whose controlled or wholly-owned subsidiary is authorized to produce spirits. If a proprietor (or his parent or subsidiary corporation) discontinues production operations and surrenders his authority to produce spirits, the proprietor (or his parent or subsidiary corporation, as applicable) authorized to denature spirits may be permitted to continue denaturing operations, pursuant to approval of a written application, filed in duplicate with the regional director.

(72 Stat. 1369 (26 U.S.C. 5241).)

PAR. 15. Section 201.147 is revised to provide a statement of certification of accurate calibration for certain tanks on distilled spirits plant premises. As revised, § 201.147 reads as follows:

§ 201.147 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Mash tubs and cookers (serial number and capacity).

(b) Fermenters (serial number and capacity).

(c) Tanks used in the production, storage, denaturation, rectification, bottling, and measurement of spirits and tanks used in the storage and the measurement of denatured spirits (designated use (or uses), serial number, capacity, and method of gauging or measurement).

(d) Permanently installed scales and other measuring equipment (including meters).

(e) Bottling lines (list separately as to use and serial number.)

(f) Stills (serial number, kind, capacity, and intended use). (The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)

(g) Other items of fixed equipment used in the production, storage, rectification and/or bottling of spirits, if valued at $5,000 or more (description and use). The description shall show, as to each item of equipment, the location thereof in the plant, and the premises (bonded or bottling) and the facility (production, storage, denaturation, or bottling on bonded premises, and rectification or bottling on bottling premises) in which it is to be used. A statement of certification of accurate calibration shall be included in the description of receiving tanks that are part of production facilities, tanks in storage facilities from which packages are filled, and bottling tanks. Such certification may be executed for all tanks in a specific category (e.g., a blanket certification for all bottling tanks) or for individual tanks. Where any equipment is to be used in two or more facilities, it shall be identified as for multiple use, and its use in each facility shall be shown.

(72 Stat. 1349 (26 U.S.C. 5172).)

PAR. 16. Paragraph (a) of § 201.243 is amended to delete the requirement for Form 244 and to make conforming changes. As revised, paragraph (a) reads as follows:

§ 201.243 Tanks.

(a) *General.* All tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped so as to be suitable for the intended purpose and to permit ready examination. An accurate means of measuring the contents of each such tank shall be provided by the proprietor; in any case where such means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device which will enable the approximate contents to be determined readily. Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales; and in addition thereto shall be provided with another suitable device for quickly and accurately determining the contents. Storage tanks used for multiple withdrawals for tax determination purposes as provided in § 201.374a, must be equipped with a suitable agitation device. The proprietor shall install walkways, landings, and stairways to afford safe access to all parts of tanks where the presence of an alcohol, tobacco and firearms officer is required. Tanks may be equipped with vents, flame arresters, foam devices, or other safety devices, if the construction is such to prevent extraction of the spirits. The proprietor shall be responsible for establishing and maintaining accurate calibration of all tanks. Receiving tanks which are part of the production facilities, tanks in the storage facilities from which packages are to be filed, in the manner provided in paragraph (c) (2) or (3) of § 201.269 as authorized by § 201.294, and bottling tanks shall not be used until they have been accurately calibrated and a statement of certification of accurate calibration included in the notice of registration, as provided in § 201.147. If such tanks or their fixed gauging devices are to be moved in location or position subsequent to original calibration, the alcohol, tobacco and firearms officer shall be notified in writing of such change. After the change has been made, the tank shall not be used until it is recalibrated. Pursuant to tax determination, spirits in a tank may be removed from bonded premises, and received on bottling premises, in the tank in which they are contained, if (1) the bonded premises are alternated to bottling premises in the manner provided in § 201.175, (2) the tank and/or all necessary connections thereto are locked or sealed in such manner as to prevent the mingling of spirits in bond with tax determined spirits, (3) the tank is properly redesignated, and (4) the structural separation of bonded and bottling premises required by § 201.231 is maintained.

* * * * *

PAR. 17. Section 201.261 is amended to make editorial and conforming changes

for the preparation of Form 2610. As revised, § 201.261 reads as follows:

§ 201.261 Notice by proprietor.

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file notice on Form 2610 with the assigned officer, if any, otherwise with the regional director, specifying the date on which he desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form, and sufficiently in advance to afford the regional director an opportunity to make arrangeemnts for supervision of the operations. The proprietor may not commence or resume operations until the time specified in the notice.

(b) *Suspension of operations.* Any proprietor desiring to suspend production operations for a period of 30 days or more shall file notice on Form 2610 with the assigned officer, if any, otherwise with the regional director, specifying the date on which he will suspend operations. The notice shall be filed in accordance with instructions on the form and (where no officer is available) shall be filed sufficiently in advance to afford the regional director an opportunity to detail an officer to the plant. In case of an accident which makes it apparent that operations cannot be conducted for 30 days or more, the proprietor shall give immediate notice of suspension on Form 2610.

(72 Stat. 1364 (26 U.S.C. 5221).)

PAR. 18. Section 201.312 is amended by adding in item (3) of the first provisio, the words "either tax-exempt or" before the words "taxable rectification", and by making editorial and conforming changes. As revised § 201.312 reads as follows:

§ 201.312 Importation of spirits.

The proprietor may withdraw from customs custody, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001, imported spirits in bulk containers and transfer such spirits to his bonded premises in such bulk containers or by pipeline. A proprietor intending to receive imported spirits from customs custody shall obtain an approved application, Form 2609, in the manner provided in § 251.172 of this chapter. Imported spirits transferred to bonded premises, as provided in this section, (a) may not be bottled in bond under 26 U.S.C. 5233, (b) may be redistilled or denatured only if of 185 degrees or more of proof, and (c) may be withdrawn for any purpose authorized by chapter 51, 26 U.S.C., in the same manner as domestic spirits. Imported spirits shall be kept separate at the bonded premises and shall not be mixed with domestic spirits or with other imported spirits, except as follows: Imported spirits (1) may, if of 185 degrees or more of proof, be mingled with domestic spirits or with other such imported spirits if the mingled spirits are to be immediately denatured, (2) may, if eligible under § 201.296, be mingled with other imported spirits similarly eligible which have been duty paid at the same rate, (3) may, if imported as beverage spirits, be mingled with heteorogeneous spirits if the mingled spirits are for immediate removal to bottling premises exclusively for use in either tax-exempt or taxable rectification, and (4) may, if eligible under § 201.297, be mingled with other distilled spirits similarly eligible: *Provided,* That if the spirits to be so mingled have been treated, compounded, or blended prior to importation, the proprietor must establish to the satisfaction of the regional director that the spirits to be mingled were treated, compounded, or blended at the same foreign plant by the same person, are of the same formulation, and are in fact homogenous: *Provided further,* That the preceding proviso shall not be applicable to the mingling of spirits of the same kind, imported under the same customs entry, and treated, compounded, blended, or produced at the same foreign plant by the same person. Imported spirits shall not be filled into packages, or subjected to treatment, which would modify the taste, aroma, or other characteristics generally attributed to that class and type of spirits. The provisions of this section with respect to the separation from other spirits and of §§ 201.312a and 201.312b are applicable to imported spirits received on bonded premises under this section, whether or not redistilled. Imported spirits to be redistilled shall be appropriately identified on Form 2629.

(72 Stat. 1367, 82 Stat. 1328 (26 U.S.C. 5234, 5232).)

PAR. 19. Section 201.327 is amended to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.327 reads as follows:

§ 201.327 Bottling.

Spirits may be bottled in bond only from approved bottling tanks. The proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and make entry thereof on Form 1515, and shall then attach a copy of Form 1515 to the bottling tank. Where two or more bottling tanks are used for one lot of spirits, Form 1515 shall be attached to one tank and the other tanks shall be marked to bear a reference to the tank to which the Form 1515 is attached. Where two or more lots of spirits are to be bottled at the same time, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled for export and the proof of such spirits is further reduced, the proprietor shall determine the quantity and proof of the spirits after such further reduction and make entry therof on Form 1515. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. Tanks containing spirits deposited for bottling-in-bond, or the rooms or building in which such tanks are located shall be locked at all times except when bottling-in-bond operations, or activities related thereto, are being conducted as provided in this part and the assigned officer is on the premises. Where bottling facilities are alternated as provided in § 201.175, operations shall be conducted in such manner as to prevent the mingling of tax determined spirits and spirits in bond.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 20. Section 201.330 is revised in its entirety to read as follows:

§ 201.330 Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1366, 1374 (26 U. S. C. 5233, 5301).)

PAR. 21. Section 201.333 is revised in its entirety to read as follows:

§ 201.333 Filling of bottles.

(a) *General.* Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity with that stated on the label or bottle. Tests as to proof and quantity will be conducted in accordance with the applicable provisions of this part and Part 186 of this chapter. If the contents do not agree as to quantity (except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 1515) or as to proof (subject to a normal drop in proof occurring during bottling operations, but not to exceed three-tenths of a degree) with the respective data on the label or botle, the proprietor shall rebotle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(b) *Proof and fill test records.* Proprietors shall record, daily, the results of all proof and fill tests made. These records shall contain, but not be limited to, the following information:

(1) Date
(2) Time of test
(3) Form 1515 serial number
(4) Bottling line identification (numerical or letter designation)
(5) Size of bottle
(6) Number of bottles tested
(7) Label proof
(8) Apparent proof
(9) Obscuration (if any)
(10) True proof
(11) Bottle mold numbers
(12) Percentage of overfill or underfill, and
(13) Corrective action taken (if any)

(c) *Proof and fill test procedures.* The proprietor shall submit a description of his prof and fill test procedures, in duplicate, to his regional director for approval, and the regional director shall approve such procedures if he determines they are adequate to protect the revenue and insure the label accuracy of the bottled product. The description shall include the following information:

(1) A sample daily record of proof and fill tests.

(2) The method used to determine fill (e.g., volumetric, by weight, or other method as approved by the regional director pursuant to 27 CFR 186.58.

(3) Tolerance (variance from perfect fill allowed before a bottle filler is adjusted).

(4) Intervals at which proof and fill tests are to be conducted (e.g., each hour, every two hours, when bottle size or manufacturer is changed, etc.), and

(5) Number of bottles to be checked when each fill test is conducted.

The proprietor's copy of the approved description of the test procedures shall be filed at the bottling facilities, available for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PAR. 22 § 201.342 is amended to provided for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.342 reads as follows:

§ 201.342 Trade names.

Before a proprietor may bottle or label botled-in-bond spirits under a trade name, he shall secure approval of such name in the maner prescribed by Subpart F of this part. The serial numbers (including a separate listing for each trade name of all cases of spirits bottled-in-bond on Form 1515 shall be shown on that form. The separate listing of serial numbers under each trade name may be shown on commercial records in lieu of entry on Form 1515, if such records are readily accessible for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 23. Section 201.368 is amended to change the function of Form 236 from an application to a notice for transfers in bond and to transfer responsibilities for sealing conveyances from alcohol, tobacco and firearms officers to proprietors. As revised, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General.* (1) Notice on Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. Except as otherwise provided herein, a Form 236 shall be prepared for each conveyance. Each Form 236 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging or bottling proprietor in the case of spirits of 190° of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Prior to lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for transfer from bonded premises, the proprietor shall submit a notice copy of Form 236 to the alcohol, tobacco and firearms officer. In the case of transfers made in accordance with the provisions of paragraph (a) (2) of this section, the proprietor shall submit the authorized shipment and delivery orders to the alcohol, tobacco and firearms officer prior to commencing transfer operations. The serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits or denatured spirits in bond shall be entered on Form 236 by the proprietor. On completion of lading (or completion of transfer by pipeline), the proprietor shall dispose of the remaining copies of Form 236 as provided in the instructions on the form.

(2) The proprietor may, on approval of the regional director, cover on one Form 236 all packages of spirits shipped by truck on the same day from his production facilities or storage facilities for deposit for storage in bond in another distilled spirits plant located in the same region. In such case, the proprietor shall deliver, to the alcohol, tobacco and firearms officer at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their package identification numbers, the name of the producer, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the Form 236 shall be disposed of as provided in the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the alcohol, tobacco and firearms officer, or (3) when this requirement has been waived by the regional director on a finding that, because of the location of the premises and the proposed method of operation, the transfer can be made under the control of the alcohol, tobacco and firearms officer, and there will be no jeopardy to the revenue. The proprietor shall load and seal the conveyance, if it is to be sealed, except, that the regional director may require sealing by an alcohol, tobacco and firearms officer (see § 201.100.) When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipping weight on Form 2630. A copy of Form 2630 shall accompany each copy of Form 236.

(c) *Bulk conveyances and pipelines.* When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits under the direct supervision of the alcohol, tobacco and firearms officers and record the quality so determined on Form 236. Bulk conveyances of spirits shall be sealed by the proprietor except that the regional director may require sealing by an alcohol, tobacco and firearms officer. (See § 201.100.)

(72 Stat. 1367 (26 U.S.C. 5222).)

PAR. 24. A new section, § 201.368a., concerning reconsignments of spirits in transit, is inserted, immediately following § 201.368, to read as follows:

§ 201.368a Reconsignment in transit.

Where, prior to or on arrival at the premises of a consignee, spirits (including denatured spirits) are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee on notification to the regional director of the consignor's region of such reconsignment. In such case, application to receive spirits by transfer in bond (on Form 2609) shall have been previously approved for the consignee and the bond of the proprietor to whom the spirits are reconsigned shall cover such spirits while in transit after reconsignment. Notice of cancellation of the Form 236 covering the shipment to the original consignee shall be made by the consignor to each person receiving a copy of such Form 236. Where the reconsignment is to another proprietor, a new Form 236 shall be prepared and prominently marked with the word "Reconsignment".

PAR. 25. Paragraphs (a) and (b) of § 201.369 are amended to acquire the proprietor to determine and report losses in transit and to make procedural changes concerning disposition of Form 236. As revised, paragraphs (a) and (b) read as follows:

§ 201.369 Consignee premises.

(a) *General.* When spirits are received by transfer in bond, the consignee proprietor shall notify the alcohol, tobacco and firearms officer of their delivery. The proprietor shall examine each sealed conveyance to determine whether the seals are intact upon arrival at his premises. If the seals are not intact, he shall immediately, before removal of any spirits from the conveyance, notify the alcohol, tobacco and firearms officer. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the alcohol, tobacco and firearms officer. Spirits after examination (and, if held, after release by the alcohol, tobacco and firearms officer) shall be deposited in the warehouse immediately, or, if the spirits are to be redistilled, they shall be deposited in the production facilities immediately. Losses

shall be determined and reported on Form 236 by the proprietor, with a written notation (by package identification number for packages or serial numbers for cases) as to the cause of the loss. Losses in excess of normal transit losses or as a result of theft or unauthorized destruction shall be reported in accordance with § 201.311. After execution on the transfer forms of his receipt of the shipment of spirits (including denatured spirits), the consignee shall dispose of Form 236 as provided in the instructions on the form.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals or other devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 201.368(b)(3). If Form 2630 accompanies the shipment, the consignee proprietor shall record the receiving weight of each package on the Form 2630. If no Form 2630 accompanies the shipment, the consignee proprietor shall prepare a list showing the package identification number of each package and its receiving weight and attach one copy to each copy of Form 236 in his possession. All packages in a sealed conveyance on which the seals or other devices are not intact on arrival, and all packages not intact on receipt, shall be segregated, after weighing, and held until released by the alcohol, tobacco and firearms officer. When denatured spirits are received in packages, the consignee proprietor shall prepare Form 1476, appropriately modified, to record their deposit on bonded premises; a separate sheet shall be used for each formula.

* * * * *

(72 Stat. 1358, 1362 (26 U.S.C. 5204, 5213).)

PAR. 26. Section 201.370 is revised to (1) provide for submission of a notice copy of Form 2629, (2) provide for reporting of losses, and (3) delete the assigned officer's approval of Form 2629. As revised, § 201.370 reads as follows:

§ 201.370 Removal of spirits from storage for redistillation.

A proprietor intending to remove spirits (including denatured spirits) from storage to production facilities on the same bonded premises for redistillation, in accordance with the provisions of §§ 201.272 and 201.273, shall prepare Form 2629 to cover such removal and shall submit a copy of the form to the alcohol, tobacco and firearms officer before commencing the dumping and gauging operations. Each lot of spirits (except bottled spirits) shall be gauged by the proprietor under the direct supervision of the alcohol, tobacco and firearms officer. Such gauge may be made either in the storage or the production facilities and shall be reported on Form 2629. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, or loss in excess of normal storage losses, such loss shall be reported to the alcohol, tobacco and firearms officer and the package or case shall not be dumped until released by him; Form 2629 shall be amended when necessary.

PAR. 27. A new section, § 201.374a, authorizing multiple gauges of spiirts withdrawn for tax determination, is added immediately following § 201.374, to read as follows:

§ 201.374a Multiple bulk gauge for tax determination.

(a) *Procedure.* (1) Spirits may be withdrawn for tax determination on a multiple gauge basis only if the spirits are withdrawn from a storage tank equipped with a suitable agitation device.

(2) The multiple gauge concept shall be optional at each plant.

(b) *Withdrawal and gauging of spirits.* (1) Prior to the initial withdrawal from the storage tank the spirits shall be thoroughly agitated.

(2) The alcohol, tobacco and firearms officer shall determine the proof of the first withdrawal of spirits from the storage tank and shall calculate the tax due based on the established proof and weight of the spirits in the gauge tank for that withdrawal.

(3) Subsequent withdrawals from the storage tank need only be weighed in the gauge tank by the alcohol, tobacco and firearms officer, using the proof established at the first withdrawal to calculate the tax due.

(4) One Form 179 shall cover all tax determinations for one day for each storage tank.

(c) *Restrictions.* The addition of spirits to a storage tank from which a multiple gauge withdrawal has been made will require, prior to the next withdrawal of spirits from such tank:

(1) Thorough agitation of spirits in the storage tank.

(2) Determination of a new proof of the spirits in the gauge tank by the alcohol, tobacco and firearms officer, and

(3) Preparation of a new Form 179 to cover any multiple gauge withdrawal made subsequent to the addition of spirits to the storage tank.

(72 Stat. 1320, 1358 (26 U.S.C. 5006, 5204).)

PAR. 28. Section 201.378 is amended by designating the existing language as paragraph (a) and revising it, and by establishing a new paragraph (b) for multiple gauging. As revised, § 201.378 reads as follows:

§ 201.378 Withdrawal procedures; bonded premises.

(a) *General.* Except as provided in paragraph (b) of this section, the spirits to be taxpaid shall be inspected or gauged and the amount of tax found due shall be entered on Form 179 by the assigned officer. If the tax is to be prepaid, as indicated by the withdrawing proprietor on Form 179, the assigned officer will inform the proprietor from whose premises the spirits are being withdrawn of the amount of tax determined. The proprietor will deliver to the assigned officer the prepayment return, Form 2521, with remittance, or when prepayment is made in cash to the district director, the proprietor will deliver a receipted Form 2521 to the assigned officer. Once the tax is prepaid, or, if the tax is not to be prepaid, and the bond of the withdrawing proprietor is adequate, the assigned officer will execute his statement of tax determination, release the spirits in accordance with § 201.385, retain one copy of Form 179, and return the original and remaining copies and any accompanying reports to the proprietor as authority to remove the spirits from bonded premises. At the time of removal the proprietor will assign to and enter on each Form 179 a release number, assigned in serial order, starting with "1" for the first such form each calendar year. Distribution of Form 179 will be made according to instructions on the form.

(b) *Multiple Gauge.* When spirits are withdrawn in a series of multiple bulk gauges, they shall be inspected or gauged in accordance with § 201.374a. In addition to entering the tax gallons and amount of tax due for each withdrawal on Form 179 at the time of gauging, the alcohol, tobacco and firearms officer shall enter the total for all withdrawals on the form when he executes his statement of tax determination. The release number for Form 179 shall be assigned to and entered on the form at the time of the first removal of spirits.

PAR. 29. Section 201.385 is revised to (1) add a reference to multiple bulk gauging, (2) delete the reference to the assigned officer's issuance of distilled spirit stamps, and (3) make editorial changes. As revised, § 201.385 reads as follows:

§ 201.385 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his statement of tax determination authorizing the removal of the spirits. The assigned officer shall not execute his statement or certification of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown as chargeable against his bond on Form 179. If Form 2521 has been filed with the district director, as required by § 201.383(b), the statement regarding tax determination shall not be executed before the assigned officer has received a receipted copy of the return from the district director. When a proprietor of bottling premises has made application for withdrawal of

spirits for bottling in bond after tax determination, the assigned officer shall not execute his statement or certification of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the statement or certification of tax determination authorizing removal of the spirits, the proprietor shall apply distilled spirits stamps to the packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be immediately removed from the bonded premises. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the statement or certification of tax determination shall be attached to the gauge tank, and shall remain thereon until the spirits have been removed from the tank. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits that shall be equal to or more than the quantity of spirits that he expected to withdraw. In such case the assigned officer shall execute the statement of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at the time of bottling and that Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn (and any adjustments); such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form. However, when spirits are withdrawn in a series of multiple bulk gauges as provided in § 2041.374a, the proprietor shall execute the statement of removal when all spirits covered by the appropriate Form 179 have been removed from bonded premises. Bulk conveyances used to transport tax-paid spirits withdrawn from bonded premises shall be sealed. (See § 201.100.)

PAR. 30. Section 201.387 is revised to (1) provide for an advance copy of Form 2629 for the alcohol, tobacco and firearms officer, (2) provide for sealing of conveyances by the proprietor, and (3) delete the requirement for written release of spirits by the officer. As revised, § 201.387 reads as follows:

§ 201.387 Withdrawals of spirits for use in wine production.

Wine spirits withdrawn without payment of tax for use in wine production may be removed in approved containers for shipment to a bonded wine cellar on receipt of an approved application, Form 257, submitted by the proprietor of the bonded wine cellar in accordance with the provisions of Part 240 of this chapter. Each package of wine spirits (unless withdrawn on the original gauge) and each lot of wine spirits transferred by pipeline or by bulk conveyance shall be gauged by the proprietor under the direct supervision of the assigned officer: *Provided,* That spirits transferred by pipeline may be so gauged on the bonded wine cellar premises. Form 2629 shall be prepared by the consignor to cover each removal of wine spirits pursuant to an approved Form 257. Prior to the lading of spirits aboard any conveyance (or commencement of pumping operations in the case of pipeline transfers) for removal from the bonded premises, the proprietor shall submit a copy of Form 2629 to the alcohol, tobacco and firearms officer as notice of the operation. When wine spirits in packages are to be removed (unless to be withdrawn on the original gauge), the consignor shall also gauge the packages and prepare Form 2630. Bulk conveyance shall be sealed (see § 201.100) and the conveyance shall bear a label, dated and signed by the proprietor, showing the intended use of the wine spirits and the name and plant number of the consignor and the name and registry number of the consignee.

(72 Stat. 1362, 1382 (26 U.S.C. 5214, 5373).)

PAR. 31. Section 201.390 is revised to (1) designate Form 2633 as a notice, and (2) delete from its provisions the requirement for written release of spirits by the assigned officer. As revised, § 201.390 reads as follows:

§ 201.390 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under § 201.389 (a), (b), and (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. The proprietor shall submit a copy of the notice of withdrawal, Form 2633, to the assigned officer prior to the lading of the spirits aboard the transfer conveyance. Unless the spirits are in cases or are to be withdrawn on the original gauge, the proprietor shall gauge each container under the direct supervision of the assigned officer. For each shipment, the proprietor shall prepare Form 1473 and distribute the form in accordance with the instructions thereon. Bulk conveyances used to transport spirits withdrawn free of tax under this section shall be sealed. (See § 201.100.)

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 32. Paragraph (a) of § 201.393 is amended by adding the requirement for the sealing of bulk conveyances. As revised, paragraph (a) reads as follows:

§ 201.393 Removal of denatured spirits.

(a) *Specially denatured spirits.* Specially denatured spirits withdrawn free of tax under § 201.389(d) shall be shipped in approved containers to the consignee designated in the permit. If such spirits are for export or for transfer to a foreign-trade zone, they shall be withdrawn under the applicable provisions of Part 252 of this chapter. If such spirits are for shipment to a qualified user or a bonded dealer, the proprietor shall prepare notice of shipment on Form 1473 and distribute the copies of the form in accordance with the instructions thereon. Bulk conveyances used to transport specially denatured spirits shall be sealed in accordance with the provisions of § 201.100.

* * * * *

PAR. 33. Section 201.407 is revised to delete the provisions for the assigned officer's written verification of denaturation. As revised, § 201.407 reads as follows:

§ 201.407 Notice and gauge for denaturation.

The proprietor, when he wishes to denature, shall execute his notice of intent on Form 2634, in triplicate, in accordance with the instructions thereon and deliver one copy, as a notice, to the assigned officer before any spirits are released for denaturation. The guage of the spirits, when required, and the denaturation thereof, shall be under the direct supervision of the assigned officer. On completion of denaturation, the proprietor shall execute his report of denaturation on Form 2643 and dispose of the forms in accordance with the instructions on the form. All spirits shall be gauged by the proprietor: *Provided,* That spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not be again gauged. Measurements of spirits and denaturants shall be made by volume or by weight or, when approved by the Director, by meter or other device.

(72 Stat. 1358, 1369 (26 U.S.C. 5204, 5241).)

PAR. 34. Par. (a) of § 201.411 is amended by providing for specific denaturants for conversion of specially denatured alcohol. As revised, paragraph (a) reads as follows:

§ 201.411 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3–A and No. 30, may be converted into specially denatured alcohol, Formula No. 1, by the addition of methyl alcohol and denatonium benzoate, N.F. (Bitrex) or methyl isobutyl ketone in accordance with the formulations prescribed in § 212.16 of this chapter. For specially denatured alcohol Formulas No. 3–A and No. 30, the methyl alcohol content shall be reduced to the level prescribed for specially denatured alcohol Formula No. 1 by the addition of ethyl

alcohol before adding the other ingredient prescribed in § 212.16 of this chapter.

* * * * *

(72 Stat. 1369 (26 U.S.C. 5242).)

§ 201.412 [Revoked]

PAR. 35. Section 201.412 is revoked.

PAR. 36. Section 201.432 is revised in its entirety to eliminate the requirement for preparation of Forms 122 by proprietors, and to provide for the preparation of dump and batch records. As revised, § 201.432 reads as follows:

§ 201.432 Record of use.

(a) *Dump record.* Whenever any spirits or wines are to be dumped for use in rectification, or are to be dumped for bottling or packaging without rectification (or are to be reduced in proof, filtered, or otherwise manipulated for such bottling or packaging), or are to be removed from the bottling premises by pipeline or bulk conveyance, the proprietor shall prepare a dump record. Spirits or wines received by pipeline or bulk conveyance and deposited in a tank for storage shall be considered as "dumped" when they are removed from such tank for rectification or bottling; spirits or wines so received but not so deposited shall be considered "dumped" immediately on receipt. Each dump record shall be serially numbered and shall identify the spirits or wines dumped for use. The proprietor shall, at the time of dumping, gauge spirits (1) where required in § 201.494, and (2) whenever it is necessary to insure that the quantity used is within the limitation of the approved formula. The proof gallon content of wines and alcoholic flavoring materials (contained ineligible spirits) shall be determined, at the time of dumping, by the proprietor.

(b) *Batch record.* A rectifier shall prepare a batch record (1) to report the dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a rectified product (in this instance one record may serve both as a dump and batch record), (2) to report the use of spirits or wines previously dumped (and reported on dump records) and retained in processing tanks or receptacles, and (3) to report any combination of paragraph (b) (1) and (2) of this section used in preparing a batch of a rectified product. The proprietor shall also record on batch records the use of alcoholic flavoring materials manufactured on premises other than a bottling premises. Materials covered by a manufacturer's affidavit (see § 201.424) that drawback has not been, and will not be claimed thereon, must be reported and separately identified from materials not so covered. Each batch record shall be serially numbered and shall identify the spirits, wines, alcoholic flavoring materials, and nonalcoholic flavoring materials and ingredients used in the batch.

(c) *Format of dump and batch records.* Proprietor's dump and batch records shall contain, as applicable, the following:

(1) General information:

(i) Serial number;

(ii) Name and address of bottler; and

(iii) Distilled spirits plant number.

(2) Information relating to preparation of dumps:

(i) Kind of spirits (indicate if treated with oak chips and specially identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(ii) Serial or identification number of tank or container from which spirits were removed;

(iii) Proof gallons dumped, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(iv) Serial number of source transaction record (e.g., tax determination record or commercial record);

(v) Date spirits were dumped;

(vi) Quantity, by ingredient, of other ingredients dumped (both alcoholic and non-alcoholic); and

(vii) Total proof gallon dumped (listing separately ineligible, eligible, and grand totals).

(3) Information relating to preparation of a batch:

(i) Formula number;

(ii) Trade name(s), if any, under which the product is rectified;

(iii) Kind of spirits (indicate if treated with oak chips and identify imported spirits and spirits from Puerto Rico and the Virgin Islands);

(iv) Serial or identification number of tank or container from which spirits were removed;

(v) Proof gallons entered into the batch, distinguishing between ingredients eligible and ineligible for operating losses, as provided in § 201.482(b);

(vi) Proof gallons used in the batch that have been previously dumped (and reported on dump records) and retained in processing tanks or receptacles;

(vii) Quantity, by ingredient, of other ingredients entered into the batch (both alcoholic and non-alcoholic); and

(viii) Total proof gallons entered into the batch (listing separately ineligible, eligible, and grand totals).

(4) Disposition information:

(i) Serial number of form (e.g., bottling tank report or another dump/batch record) to which the spirits were transferred; (ii) Proof gallons transferred; (iii) Total proof gallons disposed of; (iv) Gain or loss in proof gallons; and (v) Date of each disposition of spirits.

(d) *Time and manner for making entries.* The proprietor shall keep the required entries on dump and batch records current with the operations covered by such records, and shall maintain such records in a manner that will enable alcohol, tobacco and firearms officers (1) to verify and trace the quantity and movement of spirits, flavoring materials and ingredients (both alcoholic and nonalcoholic), or wines used in each operation or transaction, (2) to verify claims and statements of losses affecting claims, and (3) to verify compliance with law and regulations. Where the format or contents of the proprietor's dump and batch records is such that the required information is not clearly or accurately reflected, the regional director shall require the proprietor to modify such records so that the format and contents clearly and accurately reflect the required information.

(72 Stat. 1370 (26 U.S.C. 5251).)

PAR. 37. Section 201.433 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.433 reads as follows:

§ 201.433 Identifying spirits and wines in process.

The proprietor shall mark or otherwise indicate (for example, by attachment of a dump or batch record) on each tank or receptacle on bottling premises containing spirits or wines in process the kind and quantity of the contents and the serial number of the dump or batch record under which the spirits or wines are held.

(72 Stat. 1356, 1358, 1360 (26 U.S.C. 5201, 5204, 5206).)

PAR. 38. Section 201.444 is revised to delete the reference to Form 122 and insert a reference to dump and batch records. As revised, § 201.444 reads as follows:

§ 201.444 Blending of straight whiskies, rums, and pure fruit brandies differing as to type.

The rectification tax (as provided in § 201.29(l) and (m)) does not attach to blends made exclusively of two or more pure straight whiskies, differing as to type, aged in wood for a period of not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below 80 proof; nor to blends made exclusively of two or more pure fruit brandies, differing as to type, distilled from the same kind of fruit, or blends made exclusively of two or more rums, differing as to type, where the brandies or rums have been aged in wood for a period of not less than two years and without the addition of coloring or flavoring matter (other than caramel added in bond, under Subpart I or J of this Part) or any other substance than pure water and if not reduced below 80 proof. In addition to the information required to be recorded on dump and batch records as provided by § 201.432, the proprietor shall show the age of each package of whisky, brandy, or rum to be blended, the proof to which the blended whisky, brandy, or rum is to be reduced, and the tank in which the spirits will be blended; he shall also include a statement that no coloring, flavoring, or other substance will be added except pure water necessary to reduce the spirits to the desired proof. Blending operations shall be under the general supervision of the assigned officer. The addition of any coloring, flavoring, or other substance, or the reduction of the spirits below 80 proof, will subject the blended

whisky, brandy, or rum to the rectification tax.

(72 Stat. 1328, as amended (26 U.S.C. 5025).)

PAR. 39. Section 021.448 is amended by eliminating the requirement for submission of a copy of Form 2367 to the regional director and by making conforming changes. As revised, § 201.448 reads as follows:

§ 201.448 Gauge of rectified products.

On completion of the process of rectification, the rectifier shall gauge the spirits or wines in accordance with the provisions of Subpart D of this part, determine the applicable taxes under 26 U.S.C. 5021, 5022, and/or 5041, and report such gauge and determination of tax on Form 2637. Each Form 2637 shall be serially numbered.

(72 Stat. 1330, 1335, 1358 (26 U.S.C 5026 5061, 5204).)

PAR. 40. Section 201.456 is revised in its entirety to read as follows:

§ 201.456 Labels to agree with contents of tanks and containers.

Labels affixed to bottles (and packages in the case of wine) shall agree in every respect with the spirits or wines in the tanks from which the containers were filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled container. If an alcohol, tobacco and firearms officer finds that the label and the spirits do not agree in every respect, he shall not permit the spirits or wines to be bottled, or if the spirits or wines are labeled with labels which do not agree in every respect, he shall require the proprietor to relabel the spirits or wines with a proper label.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 41. Section 201.459 is revised in its entirety to read as follows:

§ 201.459 Filling of bottles.

(a) *General.* Proprietors shall test and examine bottled spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity with that stated on the label or bottle. Tests as to proof and quantity will be conducted in accordance with the applicable provisions of this part and Part 186 of this chapter. If the contents do not agree as to quantity (except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 2637) or as to proof (subject to a normal drop in proof occurring during bottling operations, but not to exceed three-tenths of a degree) with the respective data on the label or bottle, the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(b) *Proof and fill test records.* Proprietors shall record, daily, the results of all proof and fill tests made. These records shall contain, but not be limited to, the following information:

(1) Date,
(2) Time of test,
(3) Form 2637 serial number,
(4) Bottling line identification (numerical or letter designation),
(5) Size of bottle,
(6) Number of bottles tested,
(7) Label proof,
(8) Apparent proof,
(9) Obscuration (if any),
(10) True proof,
(11) Bottle mold numbers,
(12) Percentage of overfill or underfill, and
(13) Corrective action taken (if any).

(c) *Proof and fill test proccdures.* The proprietor shall submit a description of his proof and fill test procedures, in duplicate, to his regional director for approval, and the regional director shall approve such procedures if he determines they are adequate to protect the revenue and insure the label accuracy of the bottled product. The description shall include the following information:

(1) A sample daily record of proof and fill tests,

(2) The method used to determine fill (e.g., volumetric, weight, or other method as approved by the regional director pursuant to 27 CFR 186.58),

(3) Tolerance (variance from perfect fill allowed before a bottle filler is adjusted),

(4) Intervals at which proof and fill tests are to be conducted (e.g., each hour, every two hours, when bottle size or manufacturer is changed, etc.), and

(5) Number of bottles to be checked when each fill test is conducted.

The proprietor's copy of the approved description of the test procedures shall be filed at the bottling facilities, available for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1356, 1361, 1374, 1395, (26 U.S.C. 5201, 5207, 5301, 5555).)

PAR. 42. Section 201.460 is revised to extend the deadline for making entries on Form 2637. As revised § 201.460 reads as follows:

§ 201.460 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on Form 2637 covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 201.617, in which case entries may be made not later than the close of the following business day. He may elect to make such daily entries only on the original of the form but shall complete the bottling tank copy when the tank has been emptied. When the tank has been emptied, he shall complete the Form 2637, deliver the original to the assigned officer, and file the copy.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 43. Section 201.464 is amended by deleting the reference to the assigned officer's issuance of distilled spirits stamps, and by making conforming changes. As revised § 201.464 reads as follows:

§ 201.464 Filling packages.

Rectified or unrectified products may be drawn into packages from a tank (conforming to the requirements of § 201.243) on bottling premises. Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on Form 2630 and attach a copy of Form 2630 to each copy of Form 2637 covering the product. Such packages shall be marked as prescribed by Subpart P of this part. On completion of Form 2637 and Form 2630, the proprietor shall affix a distilled spirits stamp to each package of spirits in the manner required by § 201.550a. The stamps shall bear the information required by § 201.549.

(72 Stat. 1356, 1358 (26 U.S.S. 5201, 5205).)

PAR. 44. Section 201.465 is amended by adding the requirement for sealing bulk conveyances. As revised § 201.465 reads as follows:

§ 201.465 Removals in bulk.

Where spirits or wines on bottling premises are to be removed in bulk to other bottling premises, the proprietor shall execute one additional copy of Form 2637 and shall forward it to the proprietor at the receiving premises. In the case of pipeline transfers, the additional copy shall be delivered before the transfer is commenced. Bulk conveyances shall be marked as provided in Subpart P of this part, and distilled spirits stamps shall be issued and affixed to the conveyances as provided in Subpart Q of this part. Bulk conveyances used to transport taxpaid spirits withdrawn from bottling premises shall be sealed. (See § 201.100.)

(72 Stat. 1356 (26 U.S.S. 5201).)

PAR. 45. Section 201.466 is amended by deleting the words "Forms 122 and 2637" and inserting the words "Forms 2637 and dump and batch records". As revised, § 201.466 reads as follows:

§ 201.466 Rebottling, relabeling, and restamping of bottled spirits.

Bottlers desiring to rebottle, restamp, or relabel distilled spirits shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise, in triplicate, to the regional director. The application shall state specifically (a) the reason for the rebottling, relabeling, or restamping, (b) the serial numbers of the cases, and (c) the name of the original bottler. If the spirits were originally bottled by a bottler other than the applicant, the application shall be accompanied by a statement from the original bottler consenting to the rebottling or relabeling thereof by the applicant. When spirits are rebottled, the strip stamps on the original bottles shall be destroyed and new strip stamps used.

Liquor bottles used for rebottling shall comply with the provisions of § 201.457. When spirits are relabeled, the new label shall be covered by an appropriate certificate of label approval or certificate of exemption from label approved issued under the Federal Alcohol Administration Act. Form 2637, appropriately modified, shall be prepared by the proprietor to cover the relabeling or restamping of spirits. Forms 2637 and dump and batch records shall be prepared in accordance with this part to cover the rebottling of spirits.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 46. Paragraph (c) of § 201.470 is revised to provide for the separate listing of serial numbers by trade name on commercial records. As revised, paragraph (c) reads as follows:

§ 201.470 Changes in name or proprietorship.

* * * * *

(c) *Trade names.* Before a proprietor may rectify, bottle and label, or package spirits or wines under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part. The serial numbers (including a separate listing for each trade name) of all cases or packages of spirits or wines bottled or packaged on Form 2637 shall be shown separately on that form. The separate listing of serial numbers under each trade name may be shown on commercial records in lieu of entry on Form 2637, if such records are readily accessible for inspection by alcohol, tobacco and firearms officers.

PAR. 47. Section 201.470c is amended by deleting the words "Form 122" and inserting the words "dump and batch records". As revised, § 201.470c reads as follows:

§ 201.470c Handling of spirits.

The proprietor shall inspect containers of spirits at the time of their receipt in accordance with § 201.430. Unless spirits are held under the provisions of § 201.430, spirits to be bottled in bond which are received on bottling premises shall be promptly dumped for bottling. No more spirits shall be received and dumped at any one time than can be bottled expeditiously. If the proprietor intends to bottle as other than bottled in bond, or to package or otherwise remove, any portion of a lot of spirits which are entered on Form 179 for bottling in bond, he shall indicate in his schedule of operations required by § 201.89 that portion of the lot which is to be otherwise bottled, packaged, or removed and shall make appropriate notations on the Form 179, dump and batch records, and Form 2637, as applicable, which are involved.

PAR. 48. Section 201.470f is amended to delete the references to Form 122 and insert, instead, references to dump and batch records. As revised, § 201.470f reads as follows:

§ 201.470f Record of use.

Whenever any spirits intended for bottling-in-bond are to be dumped or received by pipeline on bottling premises for bottling (or are to be reduced in proof, filtered, or stabilized for such bottling), the proprietor shall prepare a dump record. Each dump record shall (a) identify the spirits to be dumped, (b) show the trade name under which the distiller produced and warehoused the spirits, if any, in addition to the real name of the distiller, (c) be prominently marked in the top margin with the words "Spirits to be bottled in bond", and (d) be serially numbered within the same series as dump and batch records covering spirits dumped for other purposes.

(72 Stat. 1356 (26 U.S.C. 5201).)

PAR. 49. Section 201.470h is revised to delete the requirement for the assigned officer's verification and release of spirits. As revised § 201.470h reads as follows:

§ 201.470h Bottling.

Spirits may be bottled in bond only from approved bottling tanks. On completion of any filtration, stabilization, and reduction of spirits to be bottled in bond, the proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and shall prepare Part I of Form 2637. Form 2637 shall be attached to the bottling tank. Where two or more lots of spirits are to be bottled in bond at the same time, or where a lot of spirits to be bottled in bond is to be bottled simultaneously with a lot of spirits to be otherwise bottled, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits is to be bottled in bond for export and the proof is further reduced, the proprietor shall determine the quantity and proof of the spirits after further reduction and enter the results of the gauge in the first unused line of Part II of Form 2637. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. So long as any spirits which are to be bottled in bond remain in a bottling tank, the tank shall be locked with Government locks at all times that the assigned officer is not on the plant premises.

(72 Stat. 1356, 1357 (26 U.S.C. 5201, 5202).)

PAR. 50. Section 201.470j is revised in its entirety to read as follows:

§ 201.470j Labels to agree with contents of tanks and bottles.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the bottles are filled. The proprietor's records shall be such that they will enable alcohol, tobacco and firearms officers to readily determine, by case serial number, which label was used on any given filled bottle. If an alcohol, tobacco and firearms officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled, or if the bottles are labeled with labels which do not agree with the spirits in every respect, he shall require the proprietor to relabel the bottles with proper labels.

(72 Stat. 1353, as amended, 1374 (26 U.S.C. 5178, 5301).)

PAR. 51. Section 201.470k is revised in its entirety to read as follows:

§ 201.470k Filling of bottles.

(a) *General.* Proprietors shall test and examine bottles of bottled-in-bond spirits at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity with that stated on the label or bottle. Tests as to proof and quantity will be conducted in accordance with the applicable provisions of this part and Part 186 of this chapter. If the contents do not agree as to quantity (except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled on Form 2637) or as to proof (subject to a normal drop in proof occurring during bottling operations, but not to exceed three-tenths of a degree) with the respective data on the label or bottle, the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(b) *Proof and fill test records.* Proprietors shall record, daily, the results of all proof and fill tests made. These records shall contain, but not be limited to, the following information:

(1) Date
(2) Time of test
(3) Form 2637 serial number
(4) Bottling line identification (numerical or letter designation)
(5) Size of bottle
(6) Number of bottles tested
(7) Label proof
(8) Apparent proof
(9) Obscuration (if any)
(10) True proof
(11) Bottle mold numbers
(12) Percentage of overfill or underfill, and
(13) Corrective action taken (if any)

(c) *Proof and fill test procedures.* The proprietor shall submit a description of his proof and fill test procedures, in duplicate, to his regional director for approval, and the regional director shall approve such procedures if he determines they are adequate to protect the revenue and insure the label accuracy of the bottled product. The description shall include the following information:

(1) A sample daily record of proof and fill tests,

(2) The method used to determine fill (e.g., volumetric, weight, or other method as approved by the regional director pursuant to 27 CFR 186.58),

(3) Tolerance (variance from perfect fill allowed before a bottle filler is adjusted),

(4) Intervals at which proof and fill tests are to be conducted (e.g., each hour, every two hours, when bottle size or manufacturer is changed, etc.), and

(5) Number of bottles to be checked when each fill test is conducted.

The proprietor's copy of the approved description of the test procedures shall be filed at the bottling facilities, avail-

able for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1353, as amended, 1361, 1374, 1395, (26 U.S.C. 5178, 5207, 5301, 5555).)

PAR. 52. Section 201.470n is amended by deleting, in the last sentence, the words "Form 122" and inserting the words "dump or batch record". As revised, § 201.407n reads as follows:

§ 201.470n Salvaged spirits.

Spirits to be bottled in bond which are salvaged from the filtering or bottling operation may be added, under the direct supervision of the assigned officer, to a tank on bottling premises containing the same spirits or another lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season which are also to be bottled in bond. Such spirits may also be mingled with homogeneous spirits or added to heterogeneous spirits in accordance with the provisions of Subpart N of this part. Salvaged spirits shall be reported on the dump or batch record covering the lot to which they were added, unless they are returned to the lot from which they were salvaged.

(72 Stat. 1356, 1366 (26 U.S.C. 5201, 5233).)

PAR. 53. Section 201.470p is amended by providing for the separate listing of case serial numbers by trade name on commercial records. As revised, § 201.470p reads as follows:

§ 201.470p Trade name.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part. The serial numbers (including a separate listing for each trade name) of all cases of spirits bottled-in-bond on Form 2637 shall be shown on that form. The separate listing of serial numbers under each trade name may be shown on commercial records in lieu of entry on Form 2637, if such records are readily accessible for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1366 (26 U.S.C. 5233).)

PAR. 54. Paragraph (d) of § 201.470q is amended by deleting the words "Forms 122 and 2637" and by inserting instead the words "Form 2637 and dump and batch records". As revised, paragraph (d) reads as follows:

§ 201.470q Rebottling, relabeling, or restamping.

* * * * *

(d) *Form 2637 and dump and batch records.* Form 2637 and dump and batch records shall be prepared in accordance with the provisions of this subpart to cover the rebottling of spirits under this section by the proprietor of bottling premises. Form 2637, appropriately modified, shall be prepared to cover the relabeling or restamping of such spirits by the proprietor of the bottling premises.

PAR. 55. Section 201.487 is revised to require accounting for closed system operations on dump and batch records. As revised, § 201.487 reads as follows:

§ 201.487 Losses in manufacture of gin and vodka.

(a) *General.* Where gin or vodka is manufactured on bottling premises by the proprietor who withdrew the spirits from bond on payment or determination of tax, in a closed system (approved as such by the regional director), in a manner similar to that authorized for bonded premises, the proprietor may be allowed actual determined losses of spirits incurred in such manufacture in addition to being allowed the losses otherwise allowable under this subpart.

(b) *Closed system accounting.* The proprietor shall record on dump or batch records, the quantity of spirits entered into the closed system and the quantity of product removed therefrom. The dump or batch records of closed systems operations shall be prepared and maintained in accordance with the provisions of § 201.432. Dump and batch records shall show the quantities, by actual gauge, entered into and removed from, the closed system, and shall show the losses occurring therein.

(72 Stat. 1323 (26 U.S.C. 5008).)

PAR. 56. Section 201.507 is amended by adding, at the end of the last sentence, a reference to paragraph (f) of § 201.386, to correct an editorial error. As revised, § 201.507 reads as follows:

§ 201.507 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 201.510 may be used (a) on bonded premises for original entry of spirits, and for filling from storage tanks, storing, transferring in bond, and withdrawing from bond of taxpaid spirits and of denatured spirits, and (b) on bottling premises for receiving, storing, and removing taxpaid spirits and wines. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for the use of the United States, or if the Director has authorized the proprietor, as provided in § 201.501, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 201.386 (a), (b), (c), (e), and (f).

(72 Stat. 1360 (26 U.S.C. 5206).)

PAR. 57. Section 201.510 is amended by deleting paragraph (a) (1), renumbering paragraphs (a) (2) through (a) (8) and deleting the words "internal revenue" in paragraph (b) and inserting the words "alcohol, tobacco and firearms". As revised, § 201.510 reads as follows:

§ 201.510 Construction of bulk conveyances.

(a) *Construction.* All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two of more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities shall be provided on tank trucks and tank cars to permit ready examination of manholes or other openings.

(6) A route board, or other suitable device, for carrying required marks, brands, and stamps shall be provided on each bulk conveyance.

(7) Calibrated charts, prepared or certified by competent and recognized authorities or engineers, showing the capacity of each compartment in wine gallons for each inch of depth, shall be carried with each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits or denatured spirits, and he shall refrain from, or discontinue, using any such conveyance found by him or by an alcohol, tobacco and firearms officer to be unsuitable.

(72 Stat. 1357, 1360, 1362 (26 U.S.C. 5202, 5206, 5212, 5213, 5214).)

§ 201.511 [Revoked]

PAR. 58. Section 201.511 is revoked.

PAR. 59. Section 201.532 is amended by deleting reference to submission of the daily stamp report, and by making a conforming change. As revised, § 201.532 reads as follows:

§ 201.532 Relabeling and restamping of bonded or bottling premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, or restamp bottled taxpaid spirits (including taxpaid bottled-in-bond spirits) on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. A proprietor who so desires to relabel, restamp, or affix brand labels shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise such application shall be submitted in triplicate to the regional director: *Provided*, That individual bottles constituting less than a full case may be relabeled and restamped with labels and stamps without the necessity of prior application. The approving officer may give continuing authority to conduct the operations described in applications submitted under this section.

(72 Stat. 1356, 1366 (26 U.S.C. 5201, 5233).)

PAR. 60. Section 201.540d is revised in its entirety to read as follows:

§ 201.540d Distinctive liquor bottles.

A proprietor desiring approval of a domestic liquor bottle of distinctive shape or design, including bottles of less than one-half pint capacity, whether or not such bottles bear the indicia required under Part 173 of this chapter, or, to use such distinctive liquor bottle, shall submit a letter application to the Director for approval. Each application shall be accompanied by nine 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation accepable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to use the bottle, and names, addresses and distilled spirits plant numbers of the plants where the bottle will be used,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter, and

(j) Signature and title of applicant,

Properly submitted applications for approval of a distinctive liquor bottle, or for use of a distinctive liquor bottle, will be approved provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application to the applicant and one photocopy to each regional director.

§ 201.540e [Revoked]

PAR. 61. Section 201.540e is revoked.

Par. 62. Paragraph (a) of § 201.543 is revised to delete the requirement for the assigned officer's approval of Form 428. As revised, paragraph (a) reads as follows:

§ 201.543 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional director of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the regional director. Requisitions shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428 returned by the regional director, forward one copy of the Form 428 to the regional director, and retain one copy in his files.

* * * * *

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 63. The heading and text of § 201.550 are revised in their entirety to read as follows:

§ 201.550 Procurement of distilled spirits stamps.

(a) *General.* Distilled spirits stamps may be obtained by the proprietor, without charge, in reasonable anticipation of current needs, from the regional director of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional director. On receipt of the stamps from the regional director the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepencies on both copies of Form 428 returned by the regional director, (3) forward one copy of the receipted Form 428 to the regional director, and (4) retain a copy for his files.

(b) *Alternate method.* When the regional director determines that the interests of the government will be served best thereby, the distilled spirits stamps may be supplied to the proprietor from a location other than the office of the regional director. In such case, the regional director shall notify the proprietor that the stamps will be supplied from an alternate location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form will be returned to the proprietor. Upon receipt of the stamps the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned, (3) forward one copy of Form 428 to the regional director, and (4) retain a copy for his files.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 64. A new section, § 201.550a, is added immediately following § 201.550 to read as follows:

§ 201.550a Affixing of distilled spirits stamps.

Distilled spirits stamps shall be affixed and canceled by the proprietor before packages or conveyances are removed from the bonded premises or bottling premises, as the case may be. The stamps shall be securely affixed to the government head of the package, or the route board, or other suitable device of the bulk conveyance, or to an appropriate part of any other approved container, and thereupon canceled by drawing or otherwise imprinting a line (not less than one-eighth inch wide) in durable red ink diagonally across the stamp. Such stamps (except in the case of packages to be transferred to contiguous premises) shall be covered with a transparent coating of shellac, lacquer, varnish, or equally suitable material to protect the markings on the stamp. Where the bulk conveyance consists of separate compartments, a separate stamp shall be canceled and affixed to the appropriate route board for each compartment. Distilled spirits stamps shall remain on the containers or conveyances until the spirits therein are emptied. Such stamps shall be destroyed, as provided in § 201.531, when the containers are emptied.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 65. Section 201.551 is amended to require a notice, rather than an application, for the restamping of packages, conveyances, or other containers to which distilled spirits stamps are affixed. As revised § 201.551 reads as follows:

§ 201.551 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Notice of restamping shall be made in writing, in triplicate, to the assigned officer, if any, otherwise to the regional director for the region in which the package, conveyance or other container to be restamped is located. The notice, which shall be executed under the penalties of perjury, shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported, by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 66. A new section, § 201.551a, is added immediately following § 201.551, to read as follows:

§ 201.551a Distilled spirits stamp accounting.

Proprietors are responsible for proper control of and accounting for all distilled spirits stamps received. Stamps that have been mutilated shall be destroyed under the supervision of an alcohol, tobacco and firearms officer, and unused stamps for which the proprietor has no use shall be disposed of in accordance with the instructions of the regional director. Proprietors shall not transfer or dispose

of distilled spirits stamps charged to their account except as provided in this part. Proprietors shall keep records and submit reports relating to such stamps in accordance with the provisions of Subpart U of this part.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 67. Section 201.562 is revised in its entirety to read as follows:

§ 201.562 Application or notice, Form 1577.

(a) *Destruction of spirits withdrawn from bond.* Spirits that have been withdrawn from bond on payment or determination of tax for rectification or bottling may be destroyed pursuant to application on Form 1577, filed in triplicate with the alcohol, tobacco and firearms officer, or if none is regularly assigned, with the regional director. The spirits may be destroyed before removal from the bottling premises of the distilled spirits plant to which removed from bond or after return to such bottling premises.

(b) *Destruction of spirits in bond.* Spirits in bond (including denatured spirits) may be destroyed pursuant to notice on Form 1577, prepared in quadruplicate. A copy of the notice shall be delivered to the assigned alcohol, tobacco and firearms officer before dumping spirits for destruction.

(c) *Conditions.* (1) The proprietor shall furnish such supporting documents as the approving officer may request.

(2) If the proprietor desires to destroy spirits at some place other than on bonded or bottling premises, as the case may be, the approving officer may require that the spirits be moved to a more convenient location.

(3) The quantity of spirits to be destroyed shall be gauged by the proprietor and the result shall be entered on Form 1577 by the proprietor.

(4) The extent of supervision to be provided for the destruction of spirits shall be determined by the approving officer.

(5) The original and copies of the form shall be distributed in accordance with instructions on the form.

(72 Stat. 1323, as amended (26 U.S.C. 5008).)

PAR. 68. Section 201.583 is amended to make changes in the preparation and distribution of Form 2612. As revised, § 201.583 reads as follows:

§ 201.583 Receipt of returned taxpaid spirits.

On receipt of tax paid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and dispose of all copies of the form in accordance with the instructions thereon. When containers of such spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531.

(72 Stat. 1364, as amended (26 U.S.C. 5215).)

PAR. 69. Section 201.613 is amended to delete the reference to Form 122. As revised, § 201.613 reads as follows:

§ 201.613 Forms to be provided by user at own expense.

Forms 338 and 2637 shall be provided by the users at their own expense and shall be in the form prescribed by the Director.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 70. Section 201.622 is amended by inserting a new paragraph (b) (3) (iii), and by redesignating the present text of paragraphs (b) (3) (iii), (iv), (v), and (vi), as paragraphs (b) (3) (iv), (v), (vi), and (vii), respectively. As amended, paragraph (b) reads as follows:

§ 201.622 Daily bonded storage records.

* * * * *

(b) *Other transactions.* Each proprietor shall also maintain records reflecting:

(1) The mingling of spirits under §§ 201.297 and 201.301;

(2) The blending of beverage rums and brandies under §§ 201.307 and 201.308;

(3) The bottling of spirits under Subpart K of this part, including—

(i) Spirits entered for bottling in bond,

(ii) Spirits bottled and cased for domestic use or for export,

(iii) The results of bottling proof and fill tests (as provided in § 201.333),

(iv) Bottled spirits returned to storage,

(v) The rebottling, relabeling, or restamping of bottled spirits (domestic spirits rebottled, relabeled, or restamped for export shall be appropriately identified on the Form 1515),

(vi) Alcohol bottled, and

(vii) The gains and losses determined during bottling;

(4) The change of packages under § 201.295; and

(5) The quick-aging of spirits, or the addition of oak chips to spirits or burnt sugar or caramel to brandy and rum under § 201.292.

Records for storage tanks on bonded premises which contain spirits of less than 190° of proof shall show the gauge, in tax gallons, of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering the removal from the tank. If the spirits in such tanks are filled into packages, the record for each tank shall also indicate the gauge of the spirits in the tank both before and after the filing operations; the number, average tax gallons per package, and the package identification numbers, of the packages filled; and the serial numbers of the related Form 2323 (Form 1685 in the case of blended rums or brandies) covering spirits deposited in the tank. The disposition of packages so filled shall be recorded by identifying the related transaction form (such as Form 179, 236, or 2629) and its serial number, and the number of packages involved in each transaction. The records shall meet the requirements of § 201.630b.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 71. Section 201.623 is amended by (1) making conforming changes for the elimination of Form 122 in paragraphs (b) and (c), (2) requiring proprietors to maintain proof and fill test records in a new paragraph (g), and (3) redesignating the present texts of paragraphs (g), (h), (i), (j), (k), and (l) as paragraphs (h), (i), (j), (k), (l), and (m) respectively. As amended, § 201.623 reads as follows:

§ 201.623 Daily bottling premises records.

* * * * *

(b) The spirits and wines dumped for rectification, or bottling or packaging without rectification, showing the serial number of the dump or batch record covering such dump.

(c) The spirits, wines, and alcoholic flavoring materials and non-alcoholic flavoring materials and other ingredients used for rectification, showing the serial number of the batch record covering such use.

* * * * *

(g) The results of bottling proof and fill tests (required by §§ 201.459 and 201.470k).

(h) The rebottling, relabeling and restamping of bottled products.

(i) The spirits, wines, an alcoholic flavoring materials removed from the premises. The total removals for each day shall be summarized showing (1) The spirits and wines removed after rectification but without bottling or packaging, (2) Rectified products removed after bottling or packaging, (3) The spirits and wines removed after bottling or packaging without rectification, and (4) The spirits, wines, and alcoholic flavoring materials removed without rectification, bottling, or packaging.

(j) The samples of spirits and rectified products removed from the bottling premises and the name and address of the consignee of such samples.

(k) The accumulation and taxpayment of rinsings on bottling premises.

(l) The voluntary destruction of spirits, showing separately (1) Spirits destroyed before completion (including spirits returned to the bottling premises and dumped for reprocessing or rebottling), and (2) spirits destroyed after completion (including spirits returned to the bottling premises and not dumped for reprocessing or rebottling).

(m) The losses which occur (1) by reason of accident while being removed from bond to bottling premises (where such losses occur, the actual quantity of spirits received shall be reported in the record required by paragraph (a) of this section), (2) by reason of accident while on the bottling premises and that amount to 10 proof gallons or more in respect of

any one accident, (3) by theft, or (4) by reason of flood, fire, or other disaster.

* * * * *

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 72. A new section, § 201.624a, is added immediately following § 201.624 to read as follows:

§ 201.624a Daily record of distilled spirits stamps.

Each proprietor of bottling premises or bonded premises shall maintain, for each day a transaction in distilled spirits stamps occurs, a daily record of distilled spirits stamps, showing the number received, used, or otherwise disposed of, and on hand at the beginning of the day and at the end of the day. The record shall also show the transaction form and its serial number covering the use of the distilled spirits stamps.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 73. Section 201.625 is amended by revising the requirement for the filing of Form 338, (2) revising the requirement for mandatory information shown on records of receipt and disposition, and (3) making conforming changing. As revised, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all restamping operations conducted under the provisions of § 201.532. A separate record shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary to enable alcohol, tobacco and firearms officers to identify and trace such receipts and dispositions, and to ascertain whether there has been compliance with all internal revenue laws and regulations relating thereto, and to provide the proprietor with records from which to compile data for his semiannual report on Form 338 when so required by the regional director. In addition to any other information shown therein, such records shall include:

(a) *As to receipts and dispositions.* (1) The date of the transaction (or date of discovery in the case of casualty or theft),

(2) The name and address of each consignor or consignee, as the case may be,

(3) The brand name,

(4) The kind of spirits,

(5) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons if in bottles),

(6) The package identification numbers or serial numbers of packages involved,

(7) The name of the producer, and

(8) The country of origin, if imported spirits.

(b) *As to case dispositions.* In addition to the requirements listed in paragraph (a) of this section, the serial numbers of cases involved; however, the regional director may, upon receipt of an application, in duplicate, and a finding that such recording is not necessary to law enforcement or protection of the revenue, relieve a dealer from the requirement of recording such case serial numbers.

(c) *As to restamping operations.* (1) The date of the transaction,

(2) The serial numbers of the cases involved,

(3) The total number of bottles,

(4) The name of the bottler, and

(5) The number and kind of strip stamps used.

PAR. 74. Paragraphs (b), (d), and (e) of § 201.629 are amended to make conforming changes. As revised, paragraphs (b), (d) and (e) read as follows:

§ 201.629 Warehouse summary accounts.

* * * * *

(b) *Basic accounts of spirits in packages and cases.* Separate basic accounts for spirits in packages and for spirits in cases shall be maintained on Form 1621 for each producer (bonded warehouse proprietor in the case of blended rums or brandies and spirits of 190° or more of proof), by kind of spirits (class), and by season of production, showing the number of packages or cases, and the total tax gallons therein, deposited in, withdrawn from, and remaining in the warehouse. Basic accounts for spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been so mingled. The basic accounts shall be arranged as follows: (1) For domestic spirits, other than blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the producer (spirits produced under trade names, for the purpose of this record, shall be treated as being produced under the real name of the producer);

(2) For demestic blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who blended the rums or brandies or who filled the packages of spirits of 190° or more of proof, as the case may be;

(3) For imported spirits, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who received the spirits from customs custody; and

(4) For Virgin Islands or Puerto Rican spirits, alphabetically by the name of the producer in the Virgin Islands or in Puerto Rico.

* * * * *

(d) *Basic accounts of spirits of 190° or more of proof in tanks.* A basic account shall be maintained on Form 1621 for each kind (class) of spirits of 190° or more of proof stored in tanks (including tank cars, tank trucks, or similar vessels). The account shall show the total tax gallons deposited in, withdrawn from, and remaining in all tanks covered by such account.

(e) *Summary of containers and kinds.* The basic accounts maintained in accordance with paragraphs (b), (c), and (d) of this section shall, at the end of each month (or such lesser period as required by the regional director) be summarized to show, for each type of container, the total tax gallons deposited in, withdrawn from, and remaining in the warehouse by each kind (class) of spirits, and the total tax gallons deposited in, withdrawn from, and remaining in the warehouse for all kinds (classes) of spirits. Such summaries shall be maintained on Form 1621, and shall include all losses (or gains) such as those disclosed by inventory or on emptying a tank (see § 201.311).

(72 Stat. 1361 (26 U.S.C. 5207).)

§ 201.630 [Revoked]

PAR. 75. Section 201.630 is revoked.

PAR. 76. Section 201.631 is amended to make conforming changes regarding the disposition of copies of transaction forms and reports. As revised, § 201.631 reads as follows:

§ 201.631 Submission of transaction forms and reports.

(a) *Transaction forms.* Completed copies of transaction forms required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional director no later than the close of the business day next succeeding the date of the transaction, as provided by this part and by instructions on the individual forms.

(b) *Timely submission of operational notices.* Where this part requires an advance copy of a notice to be submitted to an alcohol, tobacco and firearms officer before commencing an operation, such notice shall be submitted at such time to provide the officer sufficient opportunity to determine whether such operation should be conducted in his immediate presence.

(c) *Reports.* (1) Semimonthly reports (taxable samples) required by this part shall be submitted to the alcohol, tobacco and firearms officer and/or the regional director, on or before the third business day preceding the due date for filing a return covering the period during which the samples were taken, and in accordance with the instructions on the form.

(2) Monthly, quarterly, and semiannual reports required by this part shall be submitted by the proprietor to the alcohol, tobacco and firearms officer and/or the regional director in accordance with the instructions on the form.

(72 Stat. 1361 (26 U.S.C. 5207).)

PAR. 77. The heading and text of § 201.633a are revised as follows:

§ 201.633a Quarterly report of bottle strip stamps and distilled spirits stamps, Form 2260.

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps or distilled spirits stamps shall prepare Form 2260, in accordance with the instructions on the form. A separate report shall be prepared for each kind of stamp used. Copies of the completed report shall be filed as provided in the instructions on the form.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

PAR. 78. Paragraph (d) of § 201.634 is amended to provide for the submission of Form 338 only when required by the regional director. As revised, § 201.634 reads as follows:

§ 201.634 Semiannual reports.

(a) *General.* Semiannual reports required by this section shall be prepared in triplicate; the original and one copy shall be filed as provided in § 201.631, and the remaining copy retained by the proprietor.

(b) *Form 332.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 332, a statement by kind, season, and year of production, of spirits in his bonded warehouse. A separate Form 332 shall be prepared for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. Spirits of 190° or more of proof (on which a record of age is not kept) shall be reported as a single item on Form 332; however, the quantity of such domestic spirits and of such imported spirits shall be reported separately. Imported spirits of less than 190° of proof shall be reported on a separate line, appropriately identified as "imported," giving the total quantity of each kind of such imported spirits in the appropriate column on Form 332.

(c) *Form 2546.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 2546, a report of spirits mingled under § 201.301 during the preceding 6-month period. A separate report shall be prepared for each kind of spirits.

(d) *Form 338.* When required in writing by the regional director, each proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, as of the close of business June 30 and December 31, of each year, a report showing the total quantity of distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395 (26 U.S.C. 5207, 5555).)

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

PAR. 79. Section 250.314 is revised in its entirety to read as follows:

§ 250.314 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half pint capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be brought into the United States from Puerto Rico or the Virgin Islands by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter application to the Director for approval prior to bringing such bottles into the United States. Each application shall be accompanied by nine 5" x 7" photographs, and, if the bottle has not previously been declared distinctive, a specimen bottle or an authenic model or representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,

(b) Name, address and permit number of applicant,

(c) Description of the bottle,

(d) Size of the bottle,

(e) Kind of spirits to be contained in the bottle,

(f) A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director),

(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director),

(h) A request to bring the distilled spirits into the United States in the distinctive liquor bottle,

(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter,

(j) Location of ports of entry, and

(k) Signature and title of applicant.

Properly submitted applications to bring distinctive liquor bottles, either filled or empty, into the United States from Puerto Rico or the Virgin Islands will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. if the application is approved, the Director will send one photocopy of the approved application to the applicant and one photocopy to each regional director. The applicant is responsible for furnishing Customs officials at each affected port of entry with a copy of the approved application to authorize the release of the bottles from Customs custody.

§ 250.315 [Revoked]

PAR. 80. Section 250.315 is revoked.

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

PAR. 81a. Paragraph (a) of § 251.172 is amended by deleting the parenthetical phrase concerning consent of surety. As amended, paragraph (a) reads as follows:

§ 251.172 Application, Form 2609.

(a) *Application for continuing Form 2609.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall submit an application on Form 2609, in triplicate, to the alcohol, tobacco and firearms officer. The application shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn. If spirits are to be withdrawn through more than one port of entry, a separate continuing Form 2609 shall be filed for each port. The application will not be approved unless the applicant's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of spirits in bulk containers be approved unless the applicant has provided suitable facilities as provided in § 201.239. When the alcohol, tobacco and firearms officer approves Form 2609, he shall retain one copy for his files and return the original and one copy to the applicant. The applicant shall retain one copy and forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form to the customs officer at the port of entry from which the distilled spirits will be withdrawn. The customs officer shall retain the form in his records.

* * * * *

PAR. 81b. Section 251.204 is revised in its entirety as follows:

§ 251.204 Distinctive liquor bottles.

Liquor bottles of distinctive shape or design, including bottles of less than one-half capacity (whether or not such bottles bear the indicia required under Part 173 of this chapter), may be imported by an importer (filled bottles) or a bottler (empty bottles). The importer or bottler, as applicable, shall submit a letter of application to the Director for approval, prior to importation of the bottles. Each application shall be accompanied by nine 5" x 7" photographs and, if the bottle has not previously been declared distinctive, a specimen bottle or an authentic model or other representation acceptable to the Director. Each application shall contain the following information as applicable:

(a) Date of application,
(b) Name, address and permit number of applicant,
(c) Description of the bottle,
(d) Size of the bottle,
(e) Kind of spirits to be contained in the bottle,
(f) A request to have the bottle declared distinctive (if the bottle has not been so declared by the Director),
(g) Distinctive container number (if the bottle has been previously declared distinctive by the Director).
(h) A request to import the distilled spirits in the distinctive liquor bottles,
(i) A request for waiver of headspace requirements, as provided in § 5.48 of this chapter,
(j) Location of ports of entry, and
(k) Signature and title of applicant.

Properly submitted applications to import distinctive liquor bottles will be approved, provided such bottles are found by the Director to meet the requirements of Part 5 of this chapter, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application to the applicant and one photocopy to each regional director. The applicant is responsible for furnishing Customs officials at each affected port of entry with a copy of the approved application to authorize the release of the bottles from Customs custody.

§ 251.205 [Revoked]

PAR. 82. Section 251.205 is revoked.

PART 252—EXPORTATION OF LIQUORS

PAR. 83. Section 252.11 is amended, in alphabetical order, by (1) adding a definition for "Alcohol, tobacco and firearms officer", (2) making conforming changes for the definitions of "Assistant regional commissioner", "Director, Alcohol, Tobacco and Firearms Division", and "Internal revenue officer", and (3) adding a definition for "Regional director". As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

* * * * *

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

Assistant regional commissioner. Whenever used in this part shall mean a regional director as defined in this section.

* * * * *

Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Internal revenue officer. Whenever used in this part and in Chapter 51 of 26 U.S.C. shall mean the alcohol, tobacco and firearms officer as defined in this section.

* * * * *

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

* * * * *

PAR. 84. Section 252.92 is amended to (1) designate Form 206 as an application or notice, and (2) make conforming changes. As amended, § 252.92 reads as follows:

§ 252.92 Application or notice, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare Form 206 as an application in accordance with the instructions on the form and shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62 (b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section. Where the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare Form 206 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, except that where the withdrawals are being made under the limitations set forth in § 252.64(b), all copies of Form 206 shall be submitted to the alcohol, tobacco and firearms officer at the designated distilled spirits plant as provided in that section and in applicable provisions of § 252.62(b).

(72 Stat. 1362, 1393, 84 Stat. 1965 (26 U.S.C. 5214, 5522, 5066).)

PAR. 85. Section 252.96 is amended to make conforming and editorial changes. As amended, § 252.96 reads as follows:

§ 252.96 Notice of intention to withdraw; approval of application.

(a) *Bond coverage previously approved.* Where Form 206 has been approved as to bond coverage by an alcohol, tobacco and firearms officer at another distilled spirits plant, as provided for in §§ 252.62(b) and 252.64(b), the proprietor shall present all copies of the Form 206 to the alcohol, tobacco and firearms officer at his plant for his information, and notify him of his intention to withdraw distilled spirits without payment of tax pursuant to such Form 206. If the alcohol, tobacco and firearms officer is satisfied that the spirits described on the form are eligible for withdrawal, he shall return all copies of the form to the proprietor.

(b) *Bond coverage not approved.* Where prior approval of bond coverage has not been obtained, the proprietor shall submit all copies of Form 206 to the alcohol, tobacco and firearms officer at his plant for approval of the application. If the alcohol, tobacco and firearms officer is satisfied that the Form 206 has been properly executed, that the required bond has been filed in a sufficient amount, and that described spirits are eligible for withdrawal, he shall indicate his approval of the application on all copies of the form and return them to the proprietor.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 86. Section 252.101 is amended by deleting the reference to the issuance of distilled spirits stamps by the assigned officer. As amended, § 252.101 reads as follows:

§ 252.101 Packages to be stamped.

Every package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall have a distilled spirits stamp, overprinted with the word "Export", affixed thereto at the time of its removal from the bonded premises. Such stamps shall be overprinted, affixed, and canceled, in accordance with the provisions of Part 201 of this chapter.

(72 Stat. 1358 (26 U.S.C. 5205).)

PAR. 87. The heading and text of § 252.105 are amended to reflect changes in the processing and distribution of Form 206. As amended, § 252.105 reads as follows:

§ 252.105 Report of inspection and tax liability.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of Form 206.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 88. Section 252.107 is revised in its entirety to read as follows:

§ 252.107 Disposition of forms.

Form 206 (and accompanying Form(s) 2630, if any) shall be distributed by the

proprietor in accordance with the instructions on the form.

(72 Stat. 1362 (26 U.S.C. 5214).)

PAR. 89. Section 252.118 is amended to reflect changes in forms disposition. As amended, § 252.118 reads as follows:

§ 252.118 Disposition of forms.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge, Form 2630, from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall retain a copy of the endorsed application and Form 2630 for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned spirits. That proprietor shall forward the original Form 206, with attachments, to the regional director designated on the form, the original of the endorsed application (with Form 2630) to the regional director of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the spirits were withdrawn, and retain a copy of Form 206 (with attachments) and a copy of Form 2630 for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

PAR. 90. The heading and text of § 252.152 are amended to (1) provide for changes in the disposition of Form 206, and (2) make conforming changes. As amended, § 252.152 reads as follows:

§ 252.152 Notice, Form 206.

Notice of withdrawal of specially denatured spirits, as authorized in § 252.151, shall be made on Form 206, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. Prior to the lading of spirits aboard any conveyance for removal from the bonded premises, a copy of the form shall be submitted to the alcohol, tobacco and firearms officer.

(48 Stat. 998, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 91. Section 252.153 is amended to make a conforming change. As amended, § 252.153 reads as follows:

§ 252.153 Withdrawal procedure.

The provisions of §§ 252.93, 252.94, 252.98, 252.105, and 252.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and shipment, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362 (19 U.S.C. 81c, 26 U.S.C. 5214).)

PAR. 92. Section 252.163 is amended to reflect changes in form disposition. As amended, § 252.163 reads as follows:

§ 252.163 Disposition of forms.

The receipt, gauge, and disposition of the specially denatured spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge from the proprietor, the alcohol, tobacco and firearms officer shall endorse, on each copy of the approved application to return the specially denatured spirits, the date received and the total amount in wine gallons, and affix his signature and title. He shall retain a copy of the endorsed application and a report of gauge for his files and return the remaining copies to the proprietor of the distilled spirits plant receiving the returned specially denatured spirits. That proprietor shall forward the original Form 206, with attachments, to the regional director designated on the form, the original of the endorsed application, with Form 2630, to the regional director of his region, a copy of the endorsed application to the distilled spirits plant proprietor from which the specially denatured spirits were withdrawn, and retain a copy of Form 206 (with attachments) for his files.

(72 Stat. 1362, 1365 (26 U.S.C. 5214, 5223).)

§ 252.175 [Revoked]

Par. 93. Section 252.175 is revoked.

§ 252.176 [Revoked]

Par. 94. Section 252.176 is revoked.

§ 252.177 [Revoked]

Par. 95. Section 252.177 is revoked.

Par. 96. Section 252.195a is amended by (1) deleting reference to Form 122 and inserting reference to dump and batch records, (2) providing for submission of evidence of tax payment, when requested by the regional director, for imported distilled spirits or wines that are rectified, and (3) making confirming changes. As amended, § 252.195a reads as follows:

§ 252.195a Claim.

The bottler or packager of the spirits shall compute the drawback rate, unless the regional director has, under the provisions of § 252.173, established a standard drawback rate, and shall complete Parts II and III on both copies of Form 1582. If a standard drawback rate has been established for a rectified product other than gin and vodka produced exempt from rectification tax, the date of approval of the formula and the number shall be shown in any available space in Part II of Form 1582. The bottler or packager shall file one copy as the claim for drawback of tax with the regional director for the region in which the claimant's premises are located, and retain one copy for his files. Each claim on Form 1582 shall be supported, as applicable, by a copy of each related dump and batch record, Form 2630, and Form 2637 covering the dumping and bottling or packaging of the spirits; and in the case of spirits bottled in bond on bonded premises, a copy of each Form 179 covering the taxpayment. Upon application, and a finding by the regional director, that dumping, bottling, or packaging records are not essential, he may waive the requirement for the filing of supporting forms with each claim for drawback except the requirement for filing Form 179 covering taxpayment of spirits bottled in bond on bonded premises. *Provided*, That in the case of any such waiver, the claimant shall insert in Part II the formula number, if any, or a statement that the alcoholic content of the product is derived solely from fully taxpaid spirits. In lieu of a waiver of the filing of supporting forms, the regional director may approve an alternate method of furnishing information. The authorization shall provide that the authority may be withdrawn if, in the opinion of the regional director, there is a need for the supporting forms. Where distilled spirits stamped and marked, or restamped and marked (if in cases), or marked (if in packages), especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits (other than such spirits withdrawn from internal revenue bond) or imported wines, the proprietor shall furnish evidence of tax payment for the distilled spirits or wines (such as Customs Forms 7505 or 7501 receipted to indicate payment of taxes) as may be requested by the regional director.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended (19 U.S.C. 1309, 81c, 26 U.S.C. 5062).)

Signed: August 16, 1976.

REX D. DAVIS,
Director.

Approved: September 10, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-27246 Filed 9-16-76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 12]

PROTECTION OF FOREIGN DIPLOMATIC MISSIONS

Assistance to State and Local Governments

The Office of the Secretary of the Treasury is considering the addition of a new Part 12 to Subtitle A of Title 31 of the Code of Federal Regulations to prescribe procedures governing protective and financial assistance to State and local governments in the protection of foreign diplomatic missions as authorized by sections 202 and 208 of title 3, U.S. Code, as amended and added, respectively, by Public Law 94-196 (89 Stat. 1109).

Specifically, section 202, title 3, U.S. Code, as amended by Public Law 94-196, authorizes Executive Protective Service protection of foreign diplomatic missions located in metropolitan areas in the United States (other than the Dis-

trict of Columbia) where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request by the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be extended at places of temporary domicile in connection with such a visit. Further, section 208 of title 3, U.S. Code, as added by Public Law 94–196, provides that the services, personnel, equipment, and facilities of State and local governments may be utilized, with their consent, on a reimbursable basis, to provide protection. These proposed regulations provide procedures for implementing sections 202 and 208, as amended and added, respectively, by Public Law 94–196. The following cities according to State Department figures presently have 20 or more foreign consular offices: Chicago, Houston, Los Angeles, Miami, New Orleans, New York City, and San Francisco.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Assistant Secretary (Enforcement, Operations and Tariff Affairs), Department of the Treasury, Washington, D.C. 20220. Comments received on or before October 18, 1976 will be considered before final action is taken on this proposal. Since the proposed regulations involve a foreign affairs function of the United States, good cause is found not to delay the effective date of any final action taken on this proposal. Copies of all written comments received will be available for examination by interested persons unless the person submitting the information clearly states that the information is privileged or confidential, giving reasons therefor, and the Assistant Secretary (Enforcement, Operations, and Tariff Affairs) agrees that the information contained therein is entitled to exemption from disclosure under Treasury regulations, 31 CFR Part 1.

These amendments are proposed under authority of sections 202 and 208 of title 3, U.S. Code, as amended and added, respectively, by Public Law 94–196 (89 Stat. 1109) and 5 U.S.C. 301.

It is therefore proposed to amend title 31 Code of Federal Regulations, by adding a new Part 12, "Procedures For Providing Assistance To State and Local Governments In Protecting Foreign Diplomatic Missions", as set forth below.

Dated: September 7, 1976.

DAVID R. MACDONALD,
Assistant Secretary (Enforcement, Operations and Tariff Affairs).

PART 12—PROCEDURES FOR PROVIDING ASSISTANCE TO STATE AND LOCAL GOVERNMENTS IN PROTECTING FOREIGN DIPLOMATIC MISSIONS

Sec.

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AUTHORITY: Secs. 202 and 208, title 3, U.S. Code, as amended and added, respectively, by Pub. L. 94–196 (89 Stat. 1109); 5 U.S.C. 301.

§ 12.1 Purpose.

This part prescribes the procedures governing protective and financial assistance to State and local governments when an extraordinary protective need requires the protection of foreign diplomatic missions as authorized by sections 202 and 208 of title 3, U.S. Code, as amended and added, respectively, by Public Law 94–196 (89 Stat. 1109).

§ 12.2 Definitions.

As used in this part, these terms shall have the following meaning:

(a) The term "Assistant Secretary" means the Assistant Secretary of the Treasury (Enforcement, Operations and Tariff Affairs).

(b) The term "extraordinary protective need" means a need for protection requiring heavy reinforcements of police personnel or equipment, or both, significantly beyond the ordinary deployments of the State or local government, arising out of: (1) Violent confrontations between nationalist groups, (2) threats or acts of violence by terrorist groups, or (3) a specific diplomatic event or visit. Such a need is not occasioned by the day-to-day protection of foreign diplomatic missions, or the protection occasioned by an isolated threat of a single individual.

(c) The term "foreign diplomatic mission" means a mission (including foreign consular offices) of a foreign country located in the United States.

(d) The term "full time officers" means permanent officers whose duties as foreign diplomatic officers occupy their full time.

(e) The term "international organization" means those international organizations designated by Presidential Executive Order as being entitled to the privileges, immunities, and exemptions accorded under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. 288).

(f) The term "metropolitan area" means a city in the United States (other than the District of Columbia) and those areas contiguous to it.

(g) The term "observer mission" means a mission invited to participate in the work of an international organization by that organization. The invitation to participate shall be extended by the international organization pursuant to the same internal rules of the international organization as are applicable to any permanent mission.

(h) The term "permanent mission" means a fixed continuing mission staffed by full time officers and maintained by a member state of an international organization.

(i) The term "temporary domicile" means a domicile of limited duration of a visiting foreign dignitary or officer in connection with a visit to a permanent or observer mission to an international organization in a metropolitan area.

§ 12.3 Eligibility to receive protection.

(a) Protection, as determined by the Assistant Secretary, will be provided by the Executive Protective Service pursuant to section 202 of title 3, U.S. Code, as amended by Public Law 94–196, only to foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) where there are located twenty or more such missions, as determined by the Secretary of State, which are headed by full time officers. According to present State Department figures, the following metropolitan areas have 20 or more such foreign diplomatic missions: Chicago, Houston, Los Angeles, Miami, New York City, New Orleans, and San Francisco.

(b) Protection will be provided in the metropolitan areas described in paragraph (a) of this section only if:

(1) The affected metropolitan area requests such protection;

(2) The Assistant Secretary determines that an extraordinary protective need exists; and

(3) The extraordinary protective need arises in association with a visit to or occurs at: (i) A permanent mission to an international organization of which the United States is a member or (ii) an observer mission invited to participate in the work of an international organization of which the United States is a member.

(c) Protection may be extended at places of temporary domicile in connection with a visit under paragraph (b) of this section.

§ 12.4 Requests for protection.

(a) Requests for protection shall be made to: Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Department of the Treasury, Washington, D.C. 20220. Each government requesting the protection authorized pursuant to section 202 of title 3, U.S. Code, as amended by Public Law 94–196, shall submit an application describing the ex-

traordinary protective need. Applications made pursuant to this section shall be submitted to the Assistant Secretary 14 days before the extraordinary protective need is expected to arise. If the extraordinary protective need arises in association with a visit, the application shall include the name and title of the visiting foreign official or dignitary, the country he represents, and the name and location of the international organization or mission he will be visiting. The application shall also include, if available, the temporary domicile of the visiting official or dignitary and his schedule, including dates and times of arrival and departure from the United States. If the extraordinary protective need occurs at a permanent mission to an international organization of which the U.S. is a member or an observer mission invited to participate in the work of such organization, the application shall include the name and location of the mission. State and local governments shall also indicate on the application whether they desire to provide the protection. In order to assist the Assistant Secretary in determining whether to utilize the Executive Protective Service to meet the extraordinary protective need, or to utilize, with their consent, the services, personnel, equipment, and facilities of the State or local government, or both, the application must include an estimate of the approximate number of personnel, by grade and rank, the specific services, equipment, and facilities required, along with an estimate of the cost of such personnel, services, equipment, and facilities. This application must be submitted in the format illustrated in Appendix I of this part.

(b) Upon receipt of a request for protection pursuant to paragraph (a) of this section and for the purposes of reimbursement pursuant to §§ 12.6 and 12.7, the Assistant Secretary will determine whether an extraordinary protective need exists. In making his determination, the Assistant Secretary may consult with appropriate Federal, State, and local government agencies.

§ 12.5 Utilization of the services, personnel, equipment, and facilities of State and local governments.

(a) The Assistant Secretary may decide to utilize, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments of the affected metropolitan area desiring to provide protection, or he may utilize the Executive Protective Service, or both. If only the Executive Protective Service is utilized to meet the extraordinary protective need, the governments of the affected metropolitan area will not be reimbursed. If the Assistant Secretary decides to utilize, with their consent, the services, personnel, equipment, and facilities of such State and local government to meet the extraordinary protective need, he will so notify the government within 7 days after receipt of a request for protection made pursuant to § 12.4.

(b) If the Assistant Secretary decides to utilize the services, personnel, equipment, and facilities of such State and local governments of the affected metropolitan area upon request for protection made pursuant to § 12.4, he will advise those governments within 7 days after receipt of such request for protection regarding the extent of the reimbursement permitted by law for such services, personnel, equipment, and facilities, but such reimbursement shall not exceed the estimates submitted pursuant to § 12.4, unless the Assistant Secretary is further consulted.

§ 12.6 Reimbursement of State and local governments.

(a) State and local governments providing services, personnel, equipment, or facilities to the affected metropolitan area pursuant to § 12.5 may forward to the Assistant Secretary a bill for reimbursement for the personnel, equipment, facilities, and services utilized in meeting the extraordinary protective need. The bill shall be in accordance with the format in Appendix II of this part. The Assistant Secretary will reimburse only those incremental costs directly related to the extraordinary protective need. Costs of an indirect nature such as administrative costs, overhead, and depreciation will not be reimbursable. For the purposes of reimbursement the Assistant Secretary will in all cases determine when the extraordinary protective need began and terminated.

(b) State and local governments requesting reimbursement shall permit representatives of the Assistant Secretary and the General Accounting Office to audit and examine their records and accounts pertaining to any bills for reimbursement at such reasonable times and places as may be mutually agreed upon by the State and local governments and said representatives. Each claimant shall insure access to the such records and accounts.

§ 12.7 Reimbursement when the Assistant Secretary makes no determination to utilize State and local government services, personnel, equipment and facilities.

(a) In the event there is insufficient time to submit a request for protective assistance pursuant to § 12.4 prior to the occurrence of an extraordinary protective need, and State or local governments, or both, utilized their own services, personnel, equipment, and facilities to provide extraordinary protection, an application by such government to the Assistant Secretary for reimbursement otherwise conforming to the requirements of this part will be considered. Each application submitted under such circumstances must explain why there was insufficient time to submit a timely request.

(b) In cases where State or local governments, or both, utilized their own services, personnel, equipment, and facilities to provide protection for an extraordinary protective need, and no request for protective assistance pursuant to § 12.4 was made because the extraordinary protective need occurred prior to the promulgation of this Part but after July 1, 1974, an application by such government to the Assistant Secretary for reimbursement otherwise conforming to the requirements of this part will be considered.

APPENDIX I—FORM OF REQUEST FOR ASSISTANCE

I hereby request assistance from the Department of the Treasury pursuant to section 202 of Title 3, U.S. Code, as amended by Public Law 94-196. This assistance is needed to enable the affected metropolitan area of _____ to meet an extraordinary protective need, which is expected to arise on _____.
(Date)

The nature of the extraordinary protective need prompting this request is as follows:

(If in association with a visit, include the name and title of the visiting foreign official or dignitary, the country represented and the name and location of the international organization or mission to be visited. The temporary domicile of the visiting official or dignitary and his schedule, including dates and times of arrival and departure from the United States, if available, must also be included. If the extraordinary protective need occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of the organization, the application shall include the name and location of the mission.)

The _____ _____
(Governmental entity) (Is or is

not) prepared to provide _____
(All of or a portion of)

the protection required to meet this need. Attached is an estimate of the approximate number of personnel, by grade and rank, and the specific services, equipment and facilities which will be required to meet this extraordinary protective need, along with an estimate of the cost of such personnel, services, equipment, and facilities.

_____
(Date)

_____
(State or local government of the affected metropolitan area)

_____
(Signature)

_____
(Title)

APPENDIX I(A)

Summary of Estimated Direct Costs
for the Period_____to_____

Date (mo/day)	Personnel	Equipment	Facilities	Services	Daily Total
Period Total					

* Attach daily cost estimating sheets (Appendix I(B) through I(E).

APPENDIX I (B)

Estimated Personnel Costs
Date:__________

1 Explanation of Duties to be Performed	2 Number	3 Rank	4 Straight Hourly Rate	5 Straight Manhours	6 Sub-total (4 X 5)	7 Overtime Hourly Rate	8 Overtime Manhours	9 Subtotal (7 X 8)	10 Total (6 + 9)
Total									

Comments:

APPENDIX I (C)

Estimated Equipment Costs

Date:________

1 Explanation of How Equipment is to be Used	2 Nature of Equipment	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)
Total					

Comments:

APPENDIX I (D)

Estimated Facilities Costs
Date:_____

1	2	3	4	5	6
Explanation of How Facilities are to be Used	Nature of Facilities	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

APPENDIX I (E)

Estimated Services Costs
Date:_____

1	2	3	4	5	6
Explanation of How Services are to be Used	Nature of Services	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

APPENDIX II—FORM OF BILL FOR REIMBURSEMENT

I hereby request that _____ (Governmental entity) be reimbursed by the Department of the Treasury pursuant to sections 202 and 203 of title 3, U.S Code, as amended and added, respectively by Public Law 94-196 (89 Stat 1109) for extraordinary expenses incurred while providing an adequate level of protection during the extraordinary protective need arising in association with a visit of _____ of (Official or dignitary s name and title) _____ to or occurring at the _____ (Country) _____ to _____ (Permanent or observer mission) (International organization) _____ during the period _____ through _____ (Month/day/year) (Month/day/year)

I certify that the level of protection provided was both reasonable and necessary; that the costs herein billed are only those direct incremental costs associated with meeting the extraordinary protective need; and that the costs herein billed are not costs of an indirect nature such as administrative costs overhead and depreciation.

Access to all records accounts receipts etc pertaining to the costs herein billed will be accorded to representatives of the Assistant Secretary (EOTA) and the General Accounting Office at such reasonable times and places as may be mutually agreed upon by said representatives and _____ (Governmental entity)

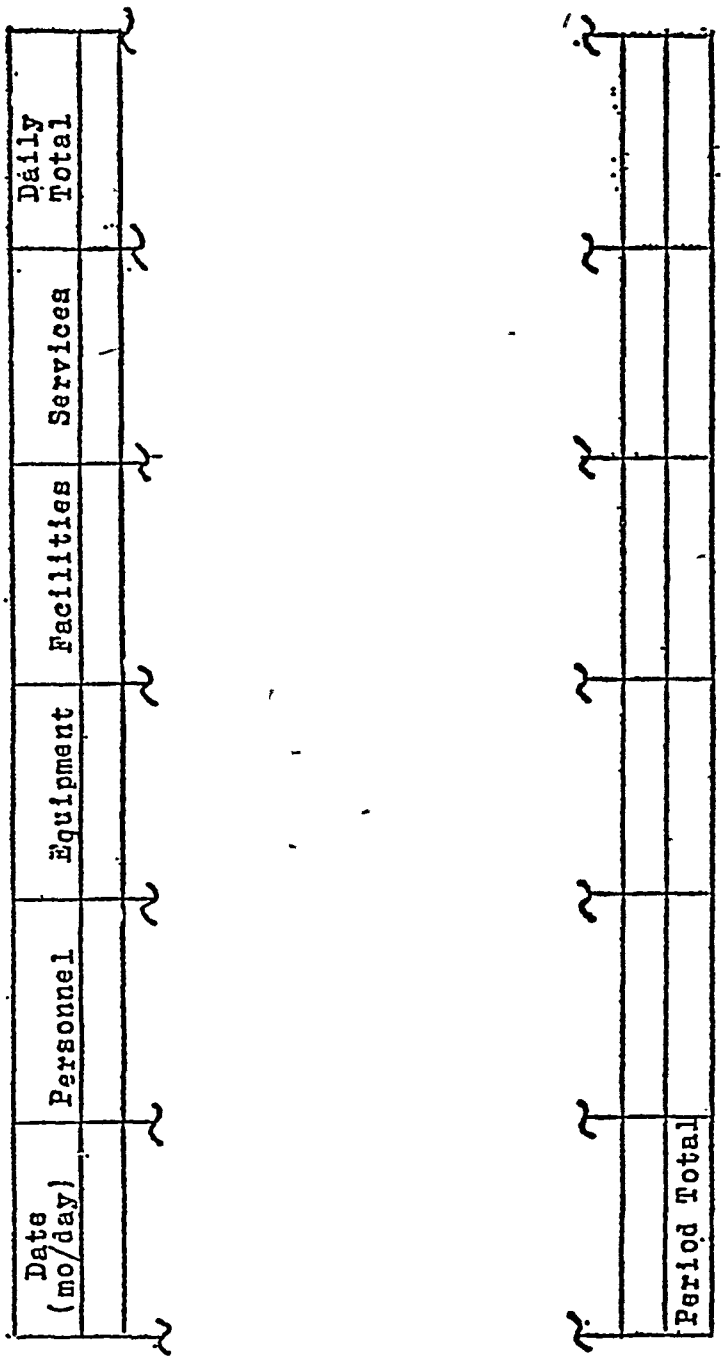
Date: _____

_____ (Signature)

_____ (Title)

APPENDIX II(A)

* Summary of Direct Costs Incurred for the Period _____ to _____



* Attach daily cost sheets (Appendix I(B) through I(E).

APPENDIX III (B)

Personnel Costs
Date:

1	2	3	4	5	6	7	8	9	10
Explanation of duties to be performed	Number	Rank	Straight Hourly Rate	Straight Manhours	Sub-total (4 X 5)	Overtime Hourly Rate	Overtime Manhours	Sub-total (7 X 8)	Total (6 + 9)
Total									

Comments:

APPENDIX II(C)

Equipment Costs
Date:_____

1	2	3	4	5	6
Explanation of How Equipment Was Used	Nature of Equipment	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

APPENDIX II(D)

Facilities Cost_____
Date:_____

1	2	3	4	5	6
Explanation of How Facilities Were Used	Nature of Facilities	Unit Measure	Total Units	Unit Cost	Total Cost (4 X 5)
Total					

Comments:

APPENDIX II(E)

Services Costs
Date:_____

1 Explanation of How Services Were Used	2 Nature of Services	3 Unit Measure	4 Total Units	5 Unit Cost	6 Total Cost (4 X 5)
Total					

Comments:

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED RIPE OLIVES

Standards for Grades

Notice is hereby given that the United States Department of Agriculture is proposing a revision of the United States Standards for Grades of Canned Ripe Olives (7 CFR 52.3751).

These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, 7 U.S.C. 1622, 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such service.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate by March 1, 1977 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Statement of consideration leading to the proposed revision. The current United States Standards for Grades of Canned Ripe Olives have been in effect since September 1, 1971. There have been a number of significant changes in the preparation, processing and marketing of canned ripe olives in the past several years.

The proposed revision includes:

1. Reducing the number of sizes incorporated in the standards from ten (10) to five (5).
2. Redesignating the olive sizes to eliminate confusing descriptive terms.
3. Changing the method of determining sizes of olives from a count per pound to a diameter criteria.
4. Providing more accurate methodology for determining drained weights of canned ripe olives.
5. Designating the grades as U.S. Grade A, U.S. Grade B, U.S. Grade C, and Substandard, dropping the descriptive names of Fancy, Choice and Standard.
6. Editorial changes such as the elimination of text where graphic tables will reduce misunderstanding.

The need for reducing the number of olive sizes has been recognized by the Department for some time. Consumer groups have long chided the Department for perpetuating a sizing and nomenclature system that has two or three different names for the same size of olives, and in which a medium sized olive is next to the smallest of ten recognized sizes.

Many grocery stores have, for a long time, limited their inventories to five (5) sizes. The proposed names for the sizes are small, medium, large, extra large and colossal. Consumers can more readily judge the relative size of olives with these terms than they can with the 10 names currently used.

The Department is proposing that diameters are a more realistic criteria of size than count per pound. The processors, in fact, size grade olives by their diameters and then adjust to meet the current count per pound criteria.

Current official drained weight procedures are incorporated in these proposals to provide more accuracy and uniformity. Limits for individual low weights are proposed to define the extent of variability expected in good commercial practice.

Descriptive grade terms such as "U.S. Fancy" for Grade A are eliminated to conform to consumer preference for a single letter grade designation.

The proposed revisions are as follows:

Subpart—United States Standards for Grades of Canned Ripe Olives

Sec.

52.3751 Product description.
52.3752 Types of canned ripe olives.
52.3753 Styles of canned ripe olives.
52.3754 Size designation for whole and pitted styles.
52.3755 Minimum drained weight requirements.
52.3756 Grades of canned ripe olives.
52.3757 Determining the grade of a sample unit.
52.3758 Determining the rating for the factors which are scored.
52.3759 Color.
52.3760 Defects.
52.3761 Character.
52.3762 Determining the grade of a lot.
52.3763 Score sheet for canned ripe olives.

AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

§ 52.3751 Product description.

Canned ripe olives are prepared from properly matured olives which have first been properly treated to remove the characteristic bitterness; are packed in a solution of sodium chloride, with or without spices and are sufficiently processed by heat in hermetically-sealed containers. Canned olives which are not oxidized in processing and which possess a tan to light bronze color indicative of preparation from olives of advanced maturity and commonly referred to as "tree-ripened" or "home-cured" are not covered by the standards in this subpart.

§ 52.3752 Types of canned ripe olives.

Canned ripe olives are processed as two distinct types. Unless a specific type is stated in this subpart, "canned ripe olives" refers to olives of either "ripe-type" or "green-ripe type."

(a) *Ripe type.* "Ripe type" olives are those which have been treated and oxidized in processing to produce a typical dark brown to black color.

(b) *Green-ripe type.* "Green-ripe type" olives are those which have not been oxidized in processing; which range in color from yellow-green, green-yellow or other greenish casts; and which may be mottled.

§ 52.3753 Styles of canned ripe olives.

(a) *Whole.* "Whole" olives are those which have not been pitted.

(b) *Pitted.* "Pitted" olives are those from which pits have been removed.

(c) *Halved.* "Halved" olives are pitted olives in which each olive is cut lengthwise into two approximately equal parts.

(d) *Segmented.* "Segmented" olives are pitted olives in which each olive is cut lengthwise into three or more approximately equal parts.

(e) *Sliced.* "Sliced" olives consist of parallel slices of fairly uniform thickness prepared from pitted olives.

(f) *Chopped or Minced.* "Chopped or Minced" olives are random-size cut pieces or cut bits prepared from pitted olives.

(g) *Broken pitted.* "Broken pitted" olives consist substantially of large pieces that may have been broken in pitting but have not been sliced or cut.

§ 52.3754 Size designations for whole and pitted styles.

(a) *General.* The diameters of canned whole and pitted ripe olives are determined by measuring the smallest diameters of the largest circumferences at right angles to the longitudinal axes of the olives. The longitudinal axis is a line running from the stem to the apex of the olive.

(b) *Determining compliance.* Canned whole and pitted olives shall be considered of a declared size designation if 90 percent, by count, of the olives equal or exceed the minimum diameter specified in Table I of this section; Provided, That not more than two percent, by count, are smaller than 15 millimeters in diameter, or smaller than the next smaller size.

TABLE I

SIZE—CANNED WHOLE AND PITTED RIPE OLIVES

Designation	Minimum diameter (mm) (whole and pitted)	Count per pound (whole)[1]
Small	16	100 to 140.
Medium	18	80 to 105.
Large	20	60 to 79.
Extra large	22	44 to 59.
Colossal	24	43 or less.

[1] For reference only.

§ 52.3755 Minimum drained weight requirements.

(a) *General.* (1) The minimum drained weight recommendations for the various applicable styles in Table II and III are not incorporated in the grade of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for determining drained weight.* The drained weight of canned ripe olives is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (2.3 mm (0.0937 inch), ±3 percent, square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of 17 degrees to 20 degrees to facilitate drainage and allow to drain for two minutes. The weight of drained olives is the weight of the sieve and product less the weight of the dry sieve. A sieve 20 cm (8 inches) in diameter is used for containers with total contents of 1.5 kg (3.3 lbs.) and less, and a sieve 30 cm (12 inches) in diameter is used for containers with total contents greater than 1.5 kg (3.3 lbs.).

(c) *Compliance with drained weight requirements.* A lot of canned ripe olives is considered as meeting the minimum drained weights if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample is equal to or greater than the acceptance value for drained weights for the sample size (designated as "X_d" in Tables II and III); and

(2) The number of sample units which fail to meet the acceptance value for drained weight lower limit for individual containers (designated as "LL" in Tables II and III) does not exceed the applicable acceptance number specified in the sampling plan contained in "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products."

TABLE II

ACCEPTANCE VALUES FOR DRAINED WEIGHTS (OUNCES)

	Small		Medium		Large		Extra large		Colossal	
	X_d	LL	X_d	LL	X_d	LL	X_d	LL	X_d	LL
WHOLE										
305X109	3.7	3.2	3.5	3.0	3.5	3.0	3.5	2.9	3.2	2.6
8 Z (211X304)	4.5	4.0	4.3	3.8	4.2	3.7	4.1	3.5	4.0	3.4
No. 300	7.8	7.1	7.7	6.9	7.4	6.6	7.3	6.5	7.2	6.3
No. 1 T (301X411)	9.0	8.3	9.0	8.2	8.7	7.9	8.5	7.7	8.0	7.1
No. 10	66.0	62.1	65.0	63.0	64.0	62.0	64.0	61.9	64.0	61.8
PITTED										
305X109	2.8	2.3	3.0	2.5	3.0	2.5	3.0	2.5	2.7	2.1
8 Z	3.3	2.8	3.5	3.0	3.4	2.9	3.3	2.7	3.2	2.6
No. 300	6.0	5.3	6.0	5.2	5.8	5.0	5.7	4.9	5.6	4.7
No. 1 T	7.0	6.3	7.5	6.7	7.2	6.4	7.0	6.2	6.5	5.6
No. 10	51.0	49.1	51.0	49.0	51.0	49.0	51.0	48.9	51.0	48.8

TABLE III

ACCEPTANCE VALUE FOR DRAINED WEIGHTS (OUNCES)

	Water capacity oz. avdp.	Halved, segmented, sliced and broken pitted		Chopped	
		X_d	LL	X_d	LL
200X214		2.3	1.9	4.5	4.2
211X200	4.9	2.3	1.9	4.5	4.2
305X109		3.0	2.6	5.5	5.2
211X304	8.65	3.8	3.4	7.6	7.2
No. 300	15.2	6.5	6.1	13.3	12.7
No. 10	109.45	55.0	53.4	93.0	87.8
No. 10 (brine pack)				64.0	62.4

§ 52.3756 Grades of canned ripe olives.

(a) "U.S. Grade A" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped or minced styles that has a good flavor, that has a good color, that is practically free from defects, that has a good character; and that for those factors which are rated in accordance with the scoring system outlined in the subpart, the total score is not less than 90 points: *Provided,* That such canned ripe olives may have a reasonably good color if the total score is not less than 90 points; and *Further provided,* That in the styles of whole and pitted olives that are declared to be of single size, the variation in diameters does not exceed 4 mm, and of the 90 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(b) "U.S. Grade B" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped or minced styles that has a good flavor, that has a reasonably good color, that is reasonably free from defects, that has a reasonably good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 80 points: *Provided,* That for the styles of whole and pitted olives that are declared to be of a single size, the variation in diameters does not exceed 6 mm, and of the 80 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(c) "U.S. Grade C" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, chopped or minced, and broken pitted styles that has a reasonably good flavor, that has a fairly good color, that is fairly free from defects, that has a fairly good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 70 points; and *Provided,* That for the styles of whole and pitted olives that are declared to be of a single size, of the 60 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(d) "Substandard" is the quality of canned ripe olives of any style that fail to meet the applicable requirements for U.S. Grade C.

§ 52.3757 Determining the grade of a sample unit.

(a) *General.* In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

(1) *Factor not rated by score points.*

Flavor.

Uniformity of size (styles of whole and pitted only).

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

	Points
(i) Color	30
(ii) Absence of defects	40
(iii) Character	30
Total score	100

(b) *Definition of flavor.*—(1) *Good flavor.* (i) "Good flavor" in ripe type means a distinctive flavor characteristic of ripe type olives (including that of properly spiced olives) which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(ii) "Good flavor" in green ripe type means a distinctive mellow flavor characteristic of green-ripe type olives which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(2) *Reasonably good flavor.* "Reasonably good flavor" in either ripe type or green-ripe type (including that of properly spiced olives) means that the flavor may be slightly lacking in a distinctly characteristic flavor for the respective type but the olives are free from objectionable flavors of any kind.

§ 52.3758 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is exclusive (for example, "27 to 30 points" means 27, 28, 29, and 30 points).

§ 52.3759 Color.

(a) *General.* The evaluation of color shall be determined within five minutes

after the olives are removed from the container and, as applicable for the type, while olives are moist, is based upon the uniformity of the exterior color or general appearance as to color of the olives within the container. The evaluation of color in "halved" style is based on the uncut surfaces.

(b) *Color measurement of ripe type.* The color of ripe type is determined by comparison with a spinning disc of variations in percentages of the following Munsell color discs: Red (5R 4/14), Yellow (2.5Y 8/12), and Black (N/1 Glossy).

(c) *Composite color standards.* Composite USDA Color Standards for canned ripe olives are available and are comparable to the colors produced by the spinning discs.

(d) *Color appearance of green-ripe type.* Normal color for green-ripe type olives is yellow-green, green-yellow, or other greenish casts, any of which may have a mottled appearance that is typical of green-ripe type olives.

(e) The USDA spinning color discs and the USDA composite color standards cited in paragraphs (b) and (c) of this section are available from the USDA licensed supplier:

Munsell Color Company, Inc., 2441 North Calvert Street, Baltimore, Maryland 21218.

(f) *Grade A.* Canned ripe olives that have a good color may be given a score of 27 to 30 points. "Good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.* (i) Whole; pitted; halved. The olives or units have a practically uniform black color or dark brown color. Not less than 90 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combinations: 3½ percent Red, 3½ percent Yellow, and 93 percent Black.

(ii) Segmented; sliced; chopped or minced. The general color impression of the olives as a mass is normal and typical of these styles prepared from olives with good color.

(2) *Green-ripe type.* The general color appearance of the olives shall be normal, 90 percent by count shall be practically uniform in such normal color for the type, and no off-color olives may be present.

(g) *Grade B.* If the canned ripe olives have a reasonably good color, a score of 24 to 26 points may be given. "Reasonably good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.* (i) Whole; pitted; halved. The olives or units have a reasonable uniform black color or dark brown color. Not less than 80 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) Segmented; sliced; chopped or minced. The general color impression of the olives as a mass is normal and typical of these styles prepared from olives with reasonably good color.

(2) *Green-ripe type.* The general color appearance of the olives shall be normal, 80 percent by count shall be reasonably uniform in such normal color for the type, and no off-color olives may be present.

(h) *Grade C.* If the canned ripe olives have a fairly good color, a score of 21 to 23 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.* (i) Whole; pitted; halved. The olives or units have a fairly uniform black color or a dark brown color or a reddish-brown color not less than 60 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) Segmented; sliced; chopped or minced. The general color impression of the olives as a mass is normal and typical of these styles prepared from olives of fairly good color.

(iii) Broken pitted. The general color impression of the olives as a mass is normal and may be variable, but is typical of this style prepared from olives of good, reasonably good, or fairly good color.

(2) *Green-ripe.* The general color impression of the olives shall be normal but may vary markedly for the type, 10 percent, by count, off-color olives may be present.

(i) *Substandard (SStd.).* Canned ripe olives that are abnormal in color for any reason or that fail to meet the requirements of paragraph (h) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.3760 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from harmless extraneous material, stems and portions thereof, blemishes, wrinkles, mutilated olives, and from any other defects which affect the appearance or edibility of the product.

(b) *Definition of defects.* (1) *Blemishes.* "Blemishes" means dark-colored surface marks in either ripe type or green-ripe type which may or may not penetrate into the flesh. Olives or pieces of olives affected by blemishes are classified as follows:

(i) "Minor blemishes" are olives or pieces of olives with surface blemishes which individually or collectively materially affect the appearance of the unit.

(ii) "Major blemishes" are olives or pieces of olives with black flesh (oxidized) or with surface blemishes which may or may not be associated with a soft texture below the skin and which individually or collectively seriously affect the appearance or edibility of the unit.

(2) *Blowout.* A soft pitted olive in which the pit has been pushed out instead of cut out leaving an irregular ring of flesh that materially affects its appearance.

(3) *Broken piece.* A "broken piece" in halved, segmented and sliced style olives is any piece of olive flesh that appears to be less than three-fourths of a full unit. Also included are poorly cut slices and end slices less than one-half the average size slice.

(4) *Cross pitted.* Olives pitted along an axis other than the stem-flower axis. A defect is a unit where the angle of these two axes exceeds 45 degrees.

(5) *Harmless extraneous material.* "Harmless extraneous material" means any vegetable substance that is harmless.

(6) *Mechanically damaged.* A mechanically damaged unit in whole, pitted and halved styles means a unit that is punctured, cut or damaged by other means so that its appearance is materially affected.

(7) *Mutilated.* A "mutilated" olive in whole or pitted styles means an olive that is so pitter-torn or damaged by other meats that the entire pit cavity is exposed or the appearance of the olive is seriously affected.

(8) *Pitter damage.* A pitted olive with a loss of skin and flesh from the pitter on the cut end exceeding the area of a circle 3 mm in diameter but is not mutilated.

(9) *Plunger damage.* A pitted olive with a loss of skin and flesh equal to or exceeding the area of a circle 5 mm in diameter.

(10) *Stem.* An attached stem is a defect when it measures 3 mm or more from the shoulder of the olive. Attached stems are classified as follows:

(i) A "Minor stem" is an attached stem, that measures 3 mm but not more than 4 mm, from, the shoulder of the olive.

(ii) A "Major stem" is an attached stem that measures more than 4 mm from the shoulder of the olive.

A detached stem is a defect when it measures 4 mm or more.

(11) *Standard sample unit size.* The standard sample unit size for the various styles are as follows:

(i) Whole and pitted—100 olives.

(ii) Halved—200 olives.

(iii) All other styles—255 gm (9 ounces).

(12) *Wrinkles.* "Wrinkles" are grooves 0.5 mm or more in width. Classification of wrinkles shall be determined while olives are moist and any increase in wrinkling due to dehydration after removing from the container shall not be considered. Olives or pieces of olives affected by wrinkles are classified as follows:

(i) "Minor wrinkles" are wrinkles which collectively do not more than slightly affect the appearance or edibility of the unit.

(ii) "Major wrinkles" are wrinkles which collectively more than slightly affect the appearance or edibility of the unit.

(c) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped or minced styles that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that any defects present, but not specifically limited in Table IV may not more than slightly affect the appearance or edibility of the olives; and, in addition; specified defects may be present per 100 whole or pitted olives; per 200 units in halved style; or per 255 gm (9 ounces) in all other styles except "broken pitted" not to exceed the allowances for grade A provided in Table IV.

(d) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped or minced styles are reasonably free from defects, a score of 32 to 35 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that any defects present but not specifically limited in Table V may not materially affect the appearance or edibility of the olives; and in addition; specified defects may be present per 100 whole or pitted olives; per 200 units in halved style; or per 255 gm (9 ounces) in all other styles except "broken pitted" not to exceed the allowances for grade B provided in Table V.

(e) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped and minced, and broken pitted styles are fairly free from defects, a score of 28 to 31 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that any defects present but not specifically limited in Table VI may not seriously affect the appearance and edibility of the olives; and, in addition; specified defects may be present per 100 whole or pitted olives; per 200 units in halved style; or per 255 gm (9 ounces) in all other styles not to exceed the allowances for grade C provided in Table VI.

(f) *Substandard (SStd).* Canned ripe olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE IV

LIMITS FOR DEFECTS IN GRADE A

	Whole per 100 olives	Pitted per 100 olives	Halved per 200 halves	Segmented per 255 g (9 oz)	Sliced per 255 g (9 oz)	Chopped or minced per 255 g
HEM	1	1	1	1		
Detached stems	1	1	1	1	1	1
Attached stem:						
Minor and major defect, included	3					
Major defect	1					
Blemishes—Minor and major defects, minor and major wrinkles, mutilated and mechanical damaged	10	10	20	26		
Provided: Blemishes, major defects, major wrinkles, mutilated and mechanical damaged do not exceed	5	5	10	13	5	
Further provided: Mutilated do not exceed	2	2	4	5		
Broken pieces			16	20	20	
Blowouts, cross pitted, plunger and pitter damage		10				
Obvious split-pit or misshapen	5					

TABLE V

LIMITS FOR DEFECTS IN GRADE B

	Whole per 100 olives	Pitted per 100 olives	Halved per 200 halves	Segmented per 255 g (9 oz)	Sliced per 255 g (9 oz)	Chopped or minced per 255 g
HEM	3	3	3	3		
Detached stems	2	2	2	2	2	2
Attached stem:						
Minor and major defect, included	6					
Major defect	3					
Blemishes—Minor and major defects, minor and major wrinkles, mutilated and mechanical damaged	20	20	40	50		
Provided: Blemishes, major defects, major wrinkles, mutilated and mechanical damaged do not exceed	10	10	20	25	10	
Further provided: Mutilated do not exceed	5	5	10	10		
Broken pieces			30	40	40	
Blowouts, cross pitted, plunger and pitter damage		20				
Obvious split-pit or misshapen	10					

TABLE VI

LIMITS FOR DEFECTS IN GRADE C

	Whole per 100 olives	Pitted per 100 olives	Halved per 200 halves	Segmented per 255 g (9 oz)	Sliced per 255 g (9 oz)	Broken pitted, chopped or minced per 255 g
HEM	3	3	3	3		[1] 2
Detached stems	3	3	3	3	3	3
Attached stem:						
Minor and major defect, included	8					[1] 4
Major defect	4					[1] 4
Blemishes—Minor and major defects, minor and major wrinkles, mutilated and mechanical damaged	(2)	(2)	(2)	(2)	(2)	(2)
Provided: Blemishes, major defects, major wrinkles, mutilated and mechanical damaged do not exceed	25	25	50	65	25	[1] 51
Further provided: Mutilated do not exceed	10	10	20	25		(2)
Broken pieces			50	65	70	(2)
Blowouts, cross pitted, plunger and pitter damage		30				(2)
Obvious split-pit or misshapen	(2)					

[1] Broken pitted.
[2] No limit.

§ 52.3761 Character.

(a) *General.* The factor of character refers to the firmness, tenderness, and texture characteristic for the variety and type.

(b) *Grade A.* Canned ripe olives of whole, pitted halved, segmented, sliced, and chopped or minced styles that have a good character may be given a score of 27 to 30 points. "Good character" means that, for the type, the olives have a fleshy texture characteristic for the variety and size; that not less than 95 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 5 percent may be soft but not excessively soft.

(c) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped or minced styles have a reasonably good character, a score of 24 to 26 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that, for the type, the olives generally have a fleshy texture characteristic for the variety and size; that not less than 90 percent, by count, of whole, pitted and halved olives, and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 10 percent may be soft but not more than ½, or 5 percent, may be excessively soft.

(d) *Grade C.* If canned ripe olives of whole, pitted, halved, sliced, chopped and broken pitted styles possess a fairly good character, a score of 21 to 23 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the olives generally have a fleshy texture characteristic for the variety and size; that not less than 80 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 20 percent may be soft but not more than ½, or 10 percent, may be excessively soft.

(e) *Substandard (SStd).* Canned ripe olives that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.3762 Determining the grade of a lot.

The grade of a lot of canned ripe olives covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification and Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83).

§ 52.3763 Score sheet for canned ripe olives.

Number, size, and kind of container.
Label (including size declaration).
Container mark or identification.
Net weight (ounces).
Vacuum (inches).
Drained weight (ounces).
Size.
Style.

Factors		Score points	
Color	30	(A)	27-30
		(B)	24-26
		(C)	[1] 21-23
		(Substandard)	[1] 0-20
Absence of defects	40	(A)	36-40
		(B)	[1] 32-35
		(C)	[1] 28-31
		(Substandard)	[1] 0-27
Character	30	(A)	27-30
		(B)	[1] 24-26
		(C)	[1] 21-23
		(Substandard)	[1] 0-20
Total score	100		

[1] Indicates limiting rule.

Flavor ( ) Good ( ) Reasonably good ( ) Off. Grade.

Dated: September 13, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-27085 Filed 9-16-76;8:45 am]

[7 CFR Part 1030]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Proposed Temporary Revision of Shipping Percentage

Notice is hereby given that, pursant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1030.7(b) (6) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the month of October 1976.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, not later than September 22, 1976. All documents filed should be in quadruplicate. The period for filing views is beng limited to the above-mentioned date to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during October. Further, the proposed change provides some relaxation of pooling standards and thus will not require extensive preparation or substantial alteration in method of operation for handlers.

All written submissions made pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be revised is the supply plant shipping percentage of 35 percent set forth in § 1030.7(b) (4) that is applicable during the month of October.

Pursuant to the provisions of § 1030.7 (b) (6) the supply plant shipping percentages set forth in § 1030.7(b) (4) shall be increased or decreased by up to 10 percentage points during the months of August-March, if necessary to obtain needed shipments or to prevent uneconomic shipments.

Cooperative Associations representing a majority of producers supplying the Chicago Regional market, request that during October 1976 the supply plant shipping percentage be reduced 5 percentage points. These cooperatives state that the 35 percent shipping requirement in October would cause uneconomic shipments of milk.

To fulfill their fluid milk requirements, distributing plants obtain a major portion of their milk supplies from supply plants, since about 80 percent of the market's milk supply is assembled at supply plants. In recent months, however, Class I sales have been significantly below a year ago. For the months of May-August, for instance, Class I sales were down more than 32 million pounds compared to the same period a year ago. Moreover, receipts of producer milk on the market increased by 325 million pounds for the months of May-August compared to the same months of 1975.

There is a reduced demand for Class I milk and an increase in the milk supply on the market. Thus, there is a reduced demand for supply plant milk in Class I use and a reduction in required shipments may, accordingly, be appropriate. A reduction in the required shipments of supply plant milk during October would allow greater flexibility in obtaining milk as among supply plants in the market and may prevent uneconomic movements of milk merely for purposes of pool plant qualification.

Therefore, it may be appropriate to reduce the aforementioned pool supply plant shipping percentage for the month of October 1976 to prevent uneconomic shipments.

Signed at Washington, D.C., on September 14, 1976.

PAUL W. HALNON,
Acting Director, Dairy Division.

[FR Doc.76-27438 Filed 9-16-76;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Parts 301, 318, 320, 327 and 381]

CANNING OF MEAT AND POULTRY PRODUCTS

Updating of Inspection Requirements

Pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and in the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), notice is

hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending Parts 301, 318, 320, and 327 of the Federal meat inspection regulations (9 CFR Parts 301, 318, 320, and 327), and Part 381 of the poultry products inspection regulations (9 CFR Part 381) to update its inspection requirements concerning canned meat and poultry products.

Statement of considerations. These proposed regulation changes would modernize the existing canning regulations over meat and poultry in accordance with advances in industry practice, strengthen regulatory control in areas where need has been indicated by inspection experience, and present the requirements in clearer and more specific detail than has been done previously. In addition, inspection regulations covering canning will be made nearly identical for meat and poultry products. A few of the older methods of control will be discarded since they are no longer appropriate in light of technological and other changes. The proposal will define the various categories of canned product. It would require that canning be performed in a sanitary environment, using sanitary equipment and facilities, and that the operation be properly monitored for safety. The presence and proper functioning of monitoring instruments will be stressed as crucial factors necessary to insure product safety and stability.

The proposal would require that process schedules for canned products be established by qualified persons having expert knowledge of thermal processing requirements who have adequate facilities at their immediate disposal for making such determinations. In order to insure a good control regime, the proposal would require the submission of a schedule of complete processing procedures to the inspection Program prior to their use in manufacture. This is to give Federal inspectors the opportunity to check any procedures before they are used. Once established, such procedures must be strictly adhered to.

The proposal would allow for the preparation of properly marked product in cans which require refrigeration—so-called pasteurized product. Similarly, it will allow for the preparation of "acidified products," a procedure which relies primarily upon factors other than heat for product safety.

The proposal spells out other industry responsibilities. For example, it would require that trained container closure and retort supervisors be present during operations to properly supervise these vital areas of the canning process. Further, it would require examination of containers after closing to check the closing machine for proper function and, in addition, specifies how often this should be done. It would provide that containers shall be properly heat processed after closing to prevent microbiological growth and consequent deterioration in the wholesomeness and shelf life of the food product. It would require that retort baskets and similar containers be tagged with a marker that will change color after heat processing or be identified by some other means to assure positively that all cans receive proper heat processing. Also, retorts must be supplied with recording thermometers as well as properly designed mercury-in-glass thermometers so that a record can be made of the temperatures and cooking times used during processing—vital information in determining product safety and stability. To insure that the data collected is accurate, the proposal would require that thermometers and pressure gauges be periodically checked for function and accuracy and that the findings be recorded by the establishments.

The proposal calls for use of chlorine in cooling water to prevent introduction of contamination through wet can seams which would lead to subsequent damage to the contents of the container. Canning establishments would also be required to conduct a scientifically designed, condition-of-container inspection prior to shipment of product from the plant. If defective cans are found as a result of this inspection, retention of products prepared by similar processes to that used in the preparation of defective cans will be mandatory. Such shipments will not be released until the cause of the defect is determined and corrected.

The proposal would provide for the production of high acid products without heat processing or incubation. The maximum pH value for this type of product has been changed from 4.5 to 4.6 in accordance with recent studies that have shown that this slight decrease in acidity does not permit growth of *Clostridium botulinum* and other bacteria which could cause botulism and other forms of food poisoning.

A portion of this proposal dealing primarily with incubation was published in the FEDERAL REGISTER for public comment on April 17, 1973. Some worthwhile new information was obtained from that publication and has been incorporated accordingly into this more comprehensive proposal.

Following publication of the proposal in 1973, 10 comments were received. Eight of these comments originated from individual canners and two were received from canning associations.

The original proposal allowed for a plus or minus 2° F temperature variation within the incubator. A variation of plus or minus 5° F is now proposed as it is considered adequate for safety and more practical under field conditions. The original proposal also required new products to have a satisfactory 20-day incubation history for 250 production days before the incubation period could be reduced to 10 days. Considering the warehousing burden presented by this longer period and the fact that many products are produced so infrequently that it might take many years to obtain the necessary satisfactory production days, the Program proposes to consider 30 production days as adequate to insure safety of the new process. Such a schedule would be maintained provided the subsequent 180 marketing days prove satisfactory. We believe this approach to be more practicable and it will still provide the consumer assurance that he is purchasing a wholesome product. The original proposal also included a provision for increased incubation periods for products composed of chunks or patties of meat or poultry in a medium or sauce, with a pH value variation between the meat or poultry and the sauce or medium; and also increased incubation periods for samples of firmly packed poultry products. These requirements were deleted in light of the strengthened processing controls appearing for the first time in this proposal. Other changes that will appear for the first time in this proposal include slight rewording to clarify the term "fully processed" as it is used in the poultry regulations, to mean more specifically shelf-stable, thermally processed products. Certain recordkeeping requirements are imposed. Also, the incubation requirement that imported canned product be held at 95° F (plus or minus 2° F) will be revised to read that the product be held at 95° F (plus or minus 5° F) to make this requirement consistent with the one imposed upon domestic canned products.

Accordingly, the following amendments of the regulations in 9 CFR, Parts 301, 318, 320, 327, and 381 are proposed:

PART 301—DEFINITIONS

1. Section 301.2 of the meat inspection regulations is amended by adding a new paragraph (ooo) to read as follows:

§ 301.2 Definitions.

* * * * *

(ooo) The following definitions apply only to § 318.11 of this chaper relating to canning:

(1) "Incubation" or "sample incubation" means the holding of a sample(s) at a specified temperature for a specified period of time before examination.

(2) "Retort" means any closed vessel or other equipment used for the thermal processing of food.

(3) "Still retort" means a retort in which the cans are heat processed as a batch and are not moved through the retort.

(4) "Continuous retort" means a retort in which cans are heat processed as they move through the retort.

(5) "Closure head" means a part of a closing machine which clamps the can lid to the body of the can.

(6) "Heat processing" or "thermal processing" means the exposure of products to sufficient heat to render them sufficiently free of both pathogenic organisms and spoilage organisms so that they will remain stable and safe under the designated conditions of storage and handling.

(7) "Underprocessed" means product that has not received that degree of heat processing proposed by the establishment and by the Program inspector as the minimum required for stability and

safety under the designated terms and conditions of storage.

(8) "Product safety and stability" means the combination of characteristics which maintain the product in an unadulterated state under the designated conditions of storage and handling.

(9) "Low acid" means having a pH greater than 4.6.

(10) "Tear-down examination" means the examination of a can seam after exposure of a cross section of the double seam used in its closure.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

2. In the Table of Contents relating to Part 318, the section heading for § 318.11 would be amended and the revised section would read as follows:

§ 318.11 Canning; definition; facilities and equipment; processing procedures; employees; cleaning containers; closure; heat processing; identification; marking; monitoring instruments; container inspection; rework; and incubation.

(a) Canned product as referred to in this section shall include any thermally processed product packaged in a rigid, semi-rigid, or flexible container of glass, metal, or other material and hermetically sealed to produce a shelf-stable product when stored at a temperature above 50° F; or any product which is packaged in such a hermetically sealed container and so processed to make it safe and stable when held continuously under refrigeration at or below 50° F; or a high acid product. A high acid product as used in this paragraph is a product in which each component has a pH value of 4.6 or below as measured immediately after processing and which is packaged in a rigid, semi-rigid or flexible container, with or without thermal processing after closure.

(b) Equipment and facilities for processing canned product shall be adequate in design and capacity for intended purposes, maintained in good working order, and kept in a sanitary condition at all times. The establishment shall pay particular attention to the proper functioning of monitoring instruments and other equipment which relate directly to product safety and stability.

(c) Process schedules selected for canned product shall receive a satisfactory evaluation by a qualified person recognized by the Administrator as having expert knowledge of thermal processing requirements, and having adequate facilities for making such determinations at his immediate disposal. A process schedule is a description of the thermal process selected for a given product by the establishment as adequate to produce commercially sterilized or pasteurized product as described in paragraphs (c) (1), (2), or (3) of this section.

(1) The process schedules of any product containing a component with a pH value above 4.6 as measured immediately after processing must include, as a minimum, provision for sufficient thermal processing to achieve commercial sterility. Commercial sterility or commercial sterilization of products as used in this paragraph means the condition achieved by application of heat which renders such products free of viable forms of microorganisms having public health significance as well as microorganisms of nonhealth significance capable of reproducing in the products under normal nonrefrigerated conditions of storage and distribution.

(2) When a combination of heat and curing ingredients is relied upon for commercial sterilization of canned products, such product must contain a sufficient concentration of curing ingredients and be processed at such temperatures and for such periods of time as to maintain the wholesomeness of the product when such product is maintained under usual nonrefrigerated conditions of storage and transportation.

(3) If heat is relied upon to achieve pasteurization but not commercial sterilization in any product, the Administrator may permit the products to be processed under such specific time, temperature, and storage conditions, labeling, and formulation requirements as are needed, in his determination, to maintain product safety and stability.

(d) Canned products which do not rely upon heating for preservation shall be prepared under such conditions of acidity, brine concentration, dehydration, and the like as the Administrator determines are required to maintain product safety and stability.

(e) Prior to the manufacture of any canned product identified in paragraphs (c) and (d) of this section, a complete processing procedure for each product in each container size shall be submitted in duplicate by the establishment to the inspector in charge. A complete processing procedure shall include a detailed formulation, a step-by-step description of the method of manufacture, a process schedule if thermal treatment is used for product preservation, and such other information as is pertinent to compliance with the requirements of this section. The filing for acceptance of such information, however, does not constitute approval of the procedure by the Program. The Program reserves the right to comment on the adequacy of the procedure at any time. Once submitted, the processing procedures shall not be changed without submittal of the revised processing procedure to the inspector in charge. Revised process schedules must also receive satisfactory evaluation by qualified persons having expert knowledge of the processing requirements of such products.

(f) Establishments shall assign competent and trained employees to canning operations in the number needed to insure strict adherence to processing procedures submitted in accordance with paragraph (e) of this section. At least one closure supervisor and one retort supervisor (who may be the same person), certified by the establishment as having attended a training program approved by the Administrator, shall be on duty during all hours of operation of each establishment when it is preparing thermally processed, low acid meat products packaged in hermetically sealed containers.

(g) All containers shall be thoroughly cleaned before filling. Containers may be cleaned with water, vacuum, or a jet stream device so that the entire inner surface of the containers is well drained and free from any soilage at the time of filling. Subsequent soiling of the inner surfaces must be avoided. Lids and pouches and the like which are enclosed in their original wrapping and are clean and sanitary, in the opinion of the Program employee, need not be washed or sprayed before use. Plant management shall examine such containers and lids for cleanliness prior to the start of operations and a minimum of once every hour thereafter during operations.

(h) Immediately following closure, a representative of the establishment shall visually examine one container for each closure head or a similar representative number of containers for closure defects. These examinations shall be conducted at intervals not to exceed 30 minutes. Any closure deviation requiring correction must be brought to the immediate attention of the designated closure supervisor. When closure defects are reported, the establishment shall reinspect containers produced since the last satisfactory closure examination for defects and take appropriate corrective action immediately. Records shall be maintained and made available at all times for review by the Program inspector. Records of these examinations shall include time, number of cans examined, nature of defects, and corrective action taken.

(i) Unless otherwise approved by the Administrator in specific cases, heat processing shall follow promptly after closing. The maximum time lapse between closing and initiation of heat processing shall be 1 hour, but the Program may specify a shorter period of time if the temperature of the product during canning or the nature of the product so warrants such action.

(j) Canned product in the retort area shall be identified prior to, during, and after heat processing by tagging the baskets, cages, or cans with an identification device that will change color upon undergoing heat processing, or by other effective means so as to positively preclude failure to heat process after closing.

(k) All containers of canned product shall be plainly and permanently marked, by code or otherwise, with the identity of the contents and the date of canning. The code used and its meaning shall be on record in the office of the inspector in charge. If calendar dating is used, it must be accompanied by an explanatory statement, as provided in § 317.8(b) (32) (ii) of this chapter.

(l) All operating retorts, both still and continuous, shall be supplied with working, accurate, mercury-in-glass

thermometers and with recording thermometers.

(m) All monitoring instruments such as pressure gauges and thermometers must be checked periodically for function and accuracy by a qualified establishment employee and maintenance records must be logged and available at all times for review by inspectors.

(n) The establishment shall monitor the processing times and temperatures required by the stated procedures to insure that the procedure is being correctly followed and shall maintain all time and temperature records. These records must be available at all times for review by the Program inspector.

(o) Cooling water, except that used in retorts or cookers, must contain a minimum residual chlorine level of one part per million, in order to prevent contamination of products through wet can seams.

(p) The establishment shall perform comprehensive closure examinations of containers, including tear-down examinations for double seam containers, at least once every 4 hours to insure that operations are within the tolerances required, as determined by the Program inspector, to maintain product safety and stability. In making such determination, the inspector shall consider the seam tolerances recommended by the container or closing machine suppliers. The establishment shall maintain records of these examinations and keep them available at all times for review by the Program inspector. Appropriate adjustments to the closing machine shall be taken as necessary to provide for the safety and stability of the product.

(1) Tear-down examinations for double seam cans shall include:

(i) If a micrometer measurement system is used: Three measurements shall be made at points aprroximately 120° apart, excluding the side seam, for each double seam characteristic. The double seam characteristics to be measured are cover hook, body hook, and width (length, height), tightness; or,

(ii) If a seam scope or projector is used: Two measurements shall be made at different locations, excluding the side seam, for each double seam characteristic: The double seam characteristics to be measured are body hook, overlap, and tightness.

(2) For closures other than double seams, appropriate tests shall be conducted in accordance with the recommendations of the container or closing machine suppliers.

(q) After final labeling, the establishment shall perform a condition-of-container examination in which a sample of individual cans are visually examined to determine if the integrity of the can is sufficient to maintain the safety and stability of the canned product. The condition-of-container inspection criteria used by the Program inspector to make his determination of the adequacy of containers at this point shall be made freely available for establishment use if desired. However, should the establishment desire to use another examination, substantially equivalent to that of the Program, it shall be submitted to the Administrator for approval. Such application shall include a range of lot sizes, a sample size for each range, control limits, and such other information as the Administrator may require to determine the adequacy of the plan. No canned product shall leave the establishment if found to be unsatisfactory with regard to condition of containers, until it has been sorted, re-examined, and determined to be satisfactory.

(r) If, upon incubation, or for any other reason a product is suspected of being, or determined to be underprocessed, appropriate corrective action, including recall of defective lots, must be taken to assure that only wholesome product reaches the consumer. The circuit supervisor may permit lots of canned product to be shipped from the official establishment prior to completion of sample incubation when he has no reason to suspect unsoundness in the particular lots, under circumstances which will assure the return of the product to the establishment for reinspection, should such action be indicated by the incubation results.

(s) If defective containers are found within the establishment, all canned product prepared by a similar process shall be retained, or if located outside the official establishment, they shall be detained, until the nature and extent of the defective condition is fully determined and appropriate corrections are made.

(t) Reworking of product resulting from insufficient or interrupted processing must be accomplished under sufficient safeguards of time and temperature to assure that only wholesome product is reused. Proposals for the reworking of product shall be submitted to the inspector in charge for approval before implementation.

(u) Facilities shall be provided by the operator of the official establishment for the incubation of representative samples of thermally processed, shelf-stable products packaged in hermetically sealed containers. The incubation shall consist of holding samples for such periods of time and at such temperatures as are prescribed in paragraphs (u) (1) and (3) of this section.

(1) Incubation tests shall be made to the extent required by the circuit supervisor, but in no cases for periods of time less than those specified in paragraph (u) (3) of this section. The extent to which incubation tests shall be required depends upon the conitions at the official establishment, such as the record of the official establishment in conducting canning operations, the extent to which the establishment furnishes competent supervision and inspection in connection with the canning operation, the kind of equipment used, and the degree of efficiency with which such equipment is maintained.

(2) In the event of failure by an official establishment to provide suitable facilities for incubation of test samples, the circuit supervisor may require holding of the entire lot from which the sample originated under such conditions and for such period of time as he deems necessary to establish the safety and stability of the product.

(3) Products in which all components have a pH value of 4.6 or below, as measured immediately after processing, do not require incubation. The means used to measure pH must be sufficiently reliable to insure the safety and stability of the product as determined by the Administrator.[1] Establishments shall maintain a pH control program approved by the Administrator as adequate, if properly used, to assure product safety and stability. Approval may be obtained by application to the Regional Director, stating the pH range and the frequency of the checking procedures. The range must be sufficiently controlled to assure product safety and stability. The frequency of checking shall, at minimum, be once every other batch or twice in an 8-hour day, whichever is more frequent. If the inspector determines upon inspection that the pH range is not in compliance, he shall retain production of that product until the pH control program can again function as approved. All product not in compliance shall be retained until it is brought into compliance or condemned if it is determined by a Program employee to be adulterated. Samples of product shall be incubated at 95° F. (plus or minus 5° F) as follows:

(i) Products containing any component which has a pH value above 4.6, as measured immediately after processing, shall be incubated for not less than 10 days.

(ii) New products (or product prepared under a new process) with a pH value above 4.6, as measured immediately after processing, shall be incubated for not less than 20 days. The incubation period for such products may be reduced to not less than 10 days when satisfactory incubation testing of 30 production days (or shift) indicates that the thermal processing used is adequate to insure product safety and stability. However, if the subsequent 180-day market history is not satisfactory, an incubation cycle as for a new product shall be reinstated immediately.

(iii) Sausages of the chorizos type packed in lard shall be incubated for not less than 20 days.

PART 320—RECORDS, REGISTRATION, AND REPORTS

3. Section 320.1, paragraph (b) of the meat inspection regulations would be amended by adding new paragraph (b) (5) to read as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(5) Records as required by § 318.11 of this chapter.

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[1] A list of all such approved means of measurement shall be maintained by the Administrator and be made available to the public upon request.

4. Section 320.3 of the meat inspection regulations would be amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 320.3 Record retention period.

* * * * *

(b) Copies of all records required by § 318.11 shall be maintained at the establishment for a period of not less than 3 years.

PART 327—IMPORTED PRODUCTS

§ 327.6 [Amended]

5. In § 327.6, paragraph (k), subparagraph (1), the incubation temperature shown at the end of the first sentence would be changed to read "95°F (plus or minus 5°F)".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

6. Section 381.1 of the poultry products inspection regulations is amended by adding a new paragraph (d) to read as follows:

§ 381.1 Definitions.

* * * * *

(d) The following definitions apply only to § 381.149 relating to canning:

(1) "Incubation" or "sample incubation" means the holding of a sample(s) at a specified temperature for a specified period of time before examination.

(2) "Retort" means any closed vessel or other equipment used for the thermal processing of food.

(3) "Still retort" means a retort in which the cans are heat processed as a batch and are not moved through the retort.

(4) "Continuous retort" means a retort in which cans are heat processed as they move through the retort.

(5) "Closure head" means a part of a closing machine which clamps the can lid to the body of the can.

(6) "Heat processing" or "thermal processing" means the exposure of products to sufficient heat to render them sufficiently free of both pathogenic organisms and spoilage organisms so that they will remain stable and safe under the designated conditions of storage and handling.

(7) "Underprocessed" means product that has not received that degree of heat processing proposed by the establishment and by the Program inspector as the minimum required for stability and safety under the designated terms and conditions of storage.

(8) "Product safety and stability" means the combination of characteristics which maintain the product in an unadulterated state under the designated conditions of storage and handling.

(9) "Low acid" means having a pH greater than 4.6.

(10) "Tear-down examination" means the examination of a can seam after exposure of a cross section of the double seam used in its closure.

7. In the Table of Contents relating to Subpart O, Part 381, the section heading for § 381.149 would be amended and the revised section would read as follows:

§ 381.149 Canning; definition; facilities and equipment; processing procedures; employees; cleaning containers; closure; heat processing; identification; marking; monitoring instruments; container inspection; rework; and incubation.

(a) Canned product as referred to in this section shall include any thermally processed product packaged in a rigid, semi-rigid, or flexible container of glass, metal, or other material and hermetically sealed to produce a shelf-stable product when stored at a temperature above 50° F; or any product which is packaged in such a hermetically sealed container and so processed to make it safe and stable when held continuously under refrigeration at or below 50° F; or a high acid product. A high acid product as used in this paragraph is a product in which each component has a pH value of 4.6 or below as measured immediately after processing and which is packaged in a container with or without thermal processing after closure.

(b) Equipment and facilities for processing canned product shall be adequate in design and capacity for intended purposes, maintained in good working order, and kept in a sanitary condition at all times. The establishment shall pay particular attention to the proper functioning of monitoring instruments and other equipment which relate directly to product safety and stability.

(c) Process schedules selected for canned product shall receive a satisfactory evaluation by a qualified person recognized by the Administrator as having expert knowledge of thermal processing requirements, and having adequate facilities for making such determinations at his immediate disposal. A process schedule is a description of the thermal process selected for a given product by the establishment as adequate to produce commercially sterilized or pasteurized product, as described in paragraph (c) (1), (2), or (3) of this section.

(1) The process schedules of any product containing a component with a pH value above 4.6, as measured immediately after processing, must include, as a minimum, provision for sufficient thermal processing to achieve commercial sterility. Commercial sterility or commercial sterilization of products as used in this paragraph means the condition achieved by application of heat which renders such products free of variable forms of micro-organisms having public health significance as well as micro-organisms of nonhealth significance capable of reproducing in the products under normal nonrefrigerated conditions of storage and distribution.

(2) When a combination of heat and curing ingredients is relied upon for commercial sterilization of canned products, such products must contain a sufficient concentration of curing ingredients and be processed at such temperatures and for such periods of time as to maintain the wholesomeness of the product when such product is maintained under usual nonrefrigerated conditions of storage and transportation.

(3) If heat is relied upon to achieve pasteurization but not commercial sterilization in any product, the Administrator may permit the products to be processed under such specific time, temperature, and storage conditions, labeling, and formulation requirements as are needed, in his determination, to maintain product safety and stability.

(d) Canned products which do not rely upon heating for preservation shall be prepared under such conditions of acidity, brine concentration, dehydration, and the like as the Administrator determines are required to maintain product safety and stability.

(e) Prior to the manufacture of any canned product identified in paragraphs (c) and (d) of this section, a complete processing procedure for each product in each container size shall be submitted in duplicate by the establishment to the inspector in charge. A complete processing procedure shall include a detailed formulation, a step-by-step description of the method of manufacture, a process schedule if thermal treatment is used for product preservation, and such other information as is pertinent to compliance with the requirements of this section. The filing of such information, however, does not constitute approval of the procedure by the Program. The Program reserves the right to comment on the adequacy of the procedure at any time. Once submitted, the processing procedures shall not be changed without submittal of the revised processing procedure to the inspector in charge. Revised process schedules must also receive satisfactory evaluation by qualified persons having expert knowledge of the processing requirements of such products.

(f) Establishments shall assign competent and trained employees to canning operations in the number needed to insure strict adherence to processing procedures submitted in accordance with paragraph (e) of this section. At least one closure supervisor and one retort supervisor (who may be the same person), certified by the establishment as having attended a training program approved by the Administrator, shall be on duty during all hours of operation of each establishment when it is preparing thermally processed, low acid poultry products packaged in hermetically sealed containers.

(g) All containers shall be thoroughly cleaned before filling. Containers may be cleaned with water, vacuum, or a jet stream device so that the entire inner surface of the containers is well drained and free from any soilage at the time of filling. Subsequent soiling of the inner surfaces must be avoided. Lids and pouches and the like which are enclosed in their original wrapping and are clean and sanitary in the opinion of the Program employee, need not be washed or sprayed before use. Plant management shall examine such containers and lids for cleanliness prior to the start of operations and a minimum of once every hour thereafter during operations.

(h) Immediately following closure, a representative of the establishment will visually examine one container for each closure head, or a similar representative number of containers for closure defects. These examinations shall be conducted at intervals not to exceed 30 minutes. Any closure deviation requiring corection must be brought to the immediate attention of the designated closure supervisor. When closure defects are reported, the establishment shall reinspect containers produced since the last satisfactory closure examination for defects and take appropriate corrective action immediately. Records shall be maintained and made available at all times for review by the Program inspector. Records of these examinations shall include time, number of cans examined, nature of defects, and corrective action taken.

(i) Unless otherwise approved by the Administrator in specific cases, heat processing shall follow promptly after closing. The maximum time lapse between closing and initiation of heat processing shall be 1 hour, but the Program may specify a shorter period of time if the temperature of the product during canning or the nature of the product so warrants such action.

(j) Canned product in the retort area shall be identified prior to, during, and after heat processing by tagging the baskets, cages, or cans with an identification device that will change color upon undergoing heat processing, or by other effective means so as to positively preclude failure to heat process after closing.

(k) All containers of canned product shall be plainly and permanently marked, by code or otherwise, with the identity of the contents and the date of canning. The code used and its meaning shall be on record in the office of the inspector in charge. If calendar dating is used, it must be accompanied by an explanatory statement, as provided in § 381.129(c)(2).

(l) All operating retorts, both still and continuous, shall be supplied with working, accurate, mercury-in-glass thermometers and with recording thermometers.

(m) All monitoring instruments such as pressure gauges and thermometers must be checked periodically for function and accuracy by a qualified establishment employee and maintenance records must be logged and available at all times for review by inspectors.

(n) The establishment shall monitor the processing times and temperatures required by the stated procedures to insure that the procedure is being correctly followed and shall maintain all time and temperature records. These records must be available at all times for review by the Program inspector.

(o) Cooling water, except that used in retorts or cookers, must contain a minimum residual chlorine level of one part per million, in order to prevent contamination of products through wet can seams.

(p) The establishment shall perform comprehensive closure examinations of containers, including tear-down examinations for double seam containers, at least once every 4 hours to insure that operations are within the tolerances required, as determined by the Program inspector, to maintain product safety and stability. In making such determination, the inspector shall consider the seam tolerances recommended by the container or closing machine suppliers. The establishment shall maintain records of these examinations and keep them available at all times for review by the Program inspector. Appropriate adjustments to the closing machine shall be taken as necessary to provide for the safety and stability of the product.

(1) Tear-down examinations for double seam cans shall include:

(i) If a micrometer measurement system is used: Three measurements shall be made at points approximately 120° apart, excluding the side seam for each double seam characteristic. The double seam characteristics to be measured are cover hook, body hook, and width (length, height), tightness; or,

(ii) If a seam scope or projector is used: Two measurements shall be made at different locations, excluding the side seam, for each double seam characteristic. The double seam characteristics to be measured are body hook, overlap, and tightness.

(2) For closures other than double seams, appropriate tests shall be conducted in accordance with the recommendations of the container or closing machine suppliers.

(q) After final labeling, the establishment shall perform a condition-of-container examination in which a sample of individual cans are visually examined to determine if the integrity of the can is sufficient to maintain the safety and stability of the canned product. The condition-of-container inspection criteria used by the Program inspector to make his determination of the adequacy of containers at this point shall be made freely available for establishment use if desired. However, should the establishment desire to use another examination, substantially equivalent to that of the Program, it shall be submitted to the Administrator for approval. Such application shall include a range of lot sizes, a sample size for each range; control limits, and such other information as the Administrator may require to determine the adequacy of the plan. No canned product shall leave the establishment if found to be unsatisfactory with regard to condition of containers, until it has been sorted, re-examined, and determined to be satisfactory.

(r) If, upon incubation, or for any other reason product is suspected of being, or determined to be underprocessed, appropriate corrective action, including recall of defective lots, must be taken to assure that only wholesome product reaches the consumer. The circuit supervisor may permit lots of canned product to be shipped from the official establishment prior to completion of sample incubation when he has no reason to suspect unsoundness in the particular lots, under circumstances which will assure the return of the product to the establishment for reinspection, should such action be indicated by the incubation results.

(s) If defective containers are found within the establishment, all canned product prepared by a similar process shall be retained, or if located outside the official establishment, they shall be detained, until the nature and extent of the defective condition is fully determined and appropriate corrections are made.

(t) Reworking of product resulting from insufficient or interrupted processing must be accomplished under sufficient safeguards of time and temperature to assure that only wholesome product is reused. Proposals for the reworking of product shall be submitted to the inspector in charge for approval before implementation.

(u) Facilities shall be provided by the operator of the official establishment for the incubation of representative samples of thermally processed, shelf-stable products packaged in hermetically sealed containers. The incubation shall consist of holding samples for such periods of time, and at such temperatures as are prescribed in paragraphs (u) (1) and (3) of this section.

(1) Incubation test shall be made to the extent required by the circuit supervisor, but in no cases for periods of time less than those specified in paragraph (a)(3) of this section. The extent to which incubation tests shall be required depends upon the conditions at the official establishment, such as the record of the official establishment in conducting canning operations, the extent to which the establishment furnishes competent supervision and inspection in connection with the canning operation, the kind of equipment used, and the degree of efficiency with which such equipment is maintained.

(2) In the event of failure by an official establishment to provide suitable facilities for incubation of test samples, the circuit supervisor may require holding of the entire lot from which the sample originated under such conditions and for such period of time as he deems necessary to establish the safety and stability of the product.

(3) Products in which all components have a pH value of 4.6 or below, as measured immediately after processing, do not require incubation. The means used to measure pH must be sufficiently reliable to insure the safety and stability of the product as determined by the Administrator.[1] Establishments shall maintain a pH control program approved by the Administrator as adequate, if properly used, to assure product safety and stability.

Approval may be obtained by application to the Regional Director, stating the pH range and the frequency of the checking procedures. The range must be

[1] A list of all such approved means of measurement shall be maintained by the Administrator and be made available to the public upon request.

sufficiently controlled to assure product safety and stability. The frequency of checking shall, at minimum, be once every other batch or twice in an 8-hour day, whichever is more frequent. If the inspector determines upon inspection that the pH range is not in compliance, he shall retain production of that product until the pH control program can again function as approved. All product not in compliance shall be retained until it is brought into compliance or condemned if it is determined by a Program employee to be adulterated. Samples of product shall be incubated at 95° F (plus or minus 5° F) as follows:

(i) Products containing any component which has a pH value above 4.6 as measured immediately after processing, shall be incubated for not less than 10 days.

(ii) New products (or product prepared under a new process) with a pH value above 4.6, as measured immediately after processing, shall be incubated for not less than 20 days. The incubation period for such products may be reduced to not less than 10 days when satisfactory incubation testing of 30 production days (or shifts) indicates that the thermal processing used is adequate to insure product safety and stability. However, if the subsequent 180-day market history is not satisfactory, an incubation cycle as for a new product shall be reinstated immediately.

8. In the Table of Contents relating to Part 381, the section heading for § 381.126 would be amended to read as follows:

Sec.
381.126 Date of processing.

9. Section 381.126 of the poultry products inspection regulations would be amended by deleting paragraph 381.126 (c), designating § 381.126(d) as § 381.126(c), and revising the section heading which would read as follows:

§ 381.126 Date of processing.

10. Section 381.175, paragraph (b) of the poultry products inspection regulations would be amended by adding new paragraph (b) (3) to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(3) Records as required by § 381.149 of this part.

11. Section 381.177 of the poultry products inspection regulations would be amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 381.177 Record retention period.

* * * * *

(b) Copies of all records required by § 381.149 shall be maintained at the establishment for a period of not less than 3 years.

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, or if the material is deemed to be confidential, with the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, by January 15, 1977.

Any person desiring opportunity for oral presentation of views should address such requests to the Staff identified in the preceding paragraph, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person which is privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be kept confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be kept confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on: September 9, 1976.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-27169 Filed 9-16-76;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1421]

TUNG NUTS

Support Program for 1976 Crop

Pursuant to sections 201 and 401 of the Agricultural Act of 1949, as amended (Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421)), the Secretary is preparing to determine and announce the support program for 1976-crop tung nuts.

Section 201 provides that the price of tung nuts shall be supported through loans, purchases, or other operations at a level not in excess of 90 percentum nor less than 60 percentum of the parity price therefor; *Provided*, That in any crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 percentum of the parity price therefor.

The program will include:

1. The level of support.
2. The method of support.
3. Conditions of eligibility.
4. Area and period of program.
5. Other program operating provisions.

Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed by law, consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price-support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Grains, Oilseeds and Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m.-4:45 p.m.) (7 CFR 1.27(b)). All submissions must, in order to be sure of consideration, be received by the Director not later than October 18, 1976.

Signed at Washington, D.C., on September 8, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 76-27251 Filed 9-16-76; 8:45 am]

Packers and Stockyards Administration

[9 CFR Part 201]

MARKET AGENCY, DEALER AND PACKER BONDS

General Bonding Provisions

Notice is hereby given that, pursuant to the authority contained in an Act of Congress approved July 12, 1943, as amended on September 13, 1976, (7 U.S.C. 204), and in section 407(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 228), the Packers and Stockyards Administration proposes to amend §§ 201.27 through 201.34 (9 CFR 201.27 through 201.34) of the regulations under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

Statement of consideration. On September 13, 1976, the Packers and Stockyards Act, 1921, was further amended and the provision in 57 Stat. 422 for bonds required from market agencies and dealers was amended to authorize the Secretary of Agriculture to require

the bonding of all packers whose livestock purchases exceed $500,000 annually (7 U.S.C. 204). A restatement of that provision as amended on September 13, 1976, is set out below:

Packers and Stockyards Act: For carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921, as amended by the Act of August 14, 1935 (7 U.S.C. 181–229), $364,070: *Provided*, That hereafter the Secretary may require reasonable bonds from every market agency (as defined in title III of the Act), every packer (as defined in title II of the Act) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in title III of the Act), under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 208 requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act.

* * * * *

For purposes of clarification as to the need for the amendment of the statutory provisions and the Administration's proposal to amend §§ 201.27 through 201.34 of the regulations, excerpts from pages 4 and 5 from the Report of the Committee on Agriculture and Forestry, Senate, on H.R. 8410 as issued on June 4, (legislative day June 3), 1976, are made a part of this statement of consideration. Following are excerpts from that Report:

BACKGROUND AND NEED FOR LEGISLATION

I. The Packers and Stockyards Act, 1921, was enacted at a time when well over 80 percent of all livestock was sold through large terminal markets. The Act provided for close supervision by the Secretary of Agriculture of transactions involving the purchase and sale of livestock at such markets.

The Act served its purpose well, and, in 1935, was amended to bring the purchase and sale of poultry at major markets within the Secretary's regulatory jurisdiction.

The failure by Congress to include in the Act a provision requiring bonds of market agencies and dealers was early recognized, and discretionary authority to require such bonds was granted to the Secretary in the annual Department of Agriculture Appropriation Acts from 1924 until 1942. This authority was made permanent by the Act of July 12, 1943 (57 Stat. 422, U.S.C. 204).

II. However, in the decades following enactment of the basic statute in 1921, and especially in the decade following World War II, the pattern of livestock marketing in the United States changed drastically. Fewer and fewer livestock moved to slaughter through the great terminal markets. By the mid-1950's, it had become clear that packers were purchasing a large percentage of their slaughter livestock through country auction markets. In 1958, Congress amended the Act to subject such markets to supervision by the Secretary.

National livestock marketing patterns continued to change as packers continued to push to acquire slaughter livestock at its source. In 1973, the 10 major meat packers (including American Beef Packers) purchased more than 75 percent of their slaughter cattle, hogs, sheeps, and lambs from country sources (direct). Today the Department of Agriculture estimates that well over 80 percent of all slaughter livestock is purchased by packers directly from producers and custom feedlots.

The consequences of these changes in livestock marketing patterns are perhaps best reflected in statistics of the Packers and Stockyards Administration, which picture the results of the increased exposure of livestock producers to the risks created by certain business practices engaged in by members of the packing industry. Between 1958 and early 1975, 167 packers failed, leaving livestock producers unpaid for over $43 million worth of livestock.

Year	Packers	Original amount owed for livestock	Amount paid [1]	Amount still owed [1]
1958	7	$568,679	$96,726	$472,953
1959	10	1,370,328	158,266	1,212,062
1960	7	408,833	235,315	173,518
1961	7	434,032	113,637	320,395
1962	17	1,612,153	6,723	1,605,430
1963	6	826,423	90,000	736,423
1964	2	115,098	33,007	82,091
1965	13	1,922,351	73,000	1,849,351
1966	9	2,189,099	363,582	1,825,517
1967	9	1,997,748	18,907	1,978,841
1968	10	1,041,371		1,041,371
1969	12	870,004	5,260	864,745
1970	14	2,021,342	450,000	1,571,342
1971	12	1,666,505	525,394	1,141,111
1972	11	843,544	110,251	733,293
1973	8	704,360	5,990	698,370
1974	9	2,357,744	20,000	2,337,744
1975 (1st 3 mo)	3	24,314,127		24,314,127
Total	167	45,392,851	2,365,128	43,028,703

[1] Additional payments could have been made without knowledge of the USDA.

Source.—Packers and Stockyards Administration, USDA.

Pursuant to the amendments to 7 U.S.C. 204, the Packers and Stockyards Administration proposes to require bonds or bond equivalents of all packers whose livestock purchases exceed $500,000 annually. It is proposed that such bond or bond equivalent requirement be based on an average of two full day's purchases and that the bond or bond equivalent required of a subject packer not be in an amount less than $10,000. This proposal for packers is in accordance with the desires of members of the House of Representatives as expressed during the debate on H.R. 8410 on May 6, 1976, and members of the Senate as expressed in the report on H.R. 8410 as issued by the Committee on Agriculture and Forestry on June 4, 1976. The following are excerpts from the Congressional Record, May 6, 1976.

At page H4005: Many of the States in the Union have responded to this situation by passing State laws. I believe there are 26 States that now require bonding of the packers. They include most of the large livestock-producing States. But, those laws are not uniform, and these bonds cost more than they should because they are not uniform. If we could have a uniform bond all over the United States, we could reduce the cost of this insurance and we could make the operations much simpler for the processors of the meat.

At page H4011: The Iowa law demands a bond equivalent to a 2-day kill. There is no reason why producers should be offered anything less.

At page H 4014: Next, it provides that the packer bonding and prompt payment provisions of the bill would preempt State laws on the same subject. In this regard I am sure the legislative history is clear that the committee intends that the Federal standard promulgated in regulations under the act will be at least as strong as the standards set forth under existing State laws. Thus, the Iowa statute, for example, which requires a 2-day payment would not be superseded by a Federal standard which calls for a shorter duration of time.

The following is an excerpt from the Report on H.R. 8410 as issued on June 4 (legislative day June 3), 1976, by the Committee on Agriculture and Forestry, Senate.

At page 13: An amendment was offered that would have added language to the bill requiring a five-day bond. The amendment was defeated. The Committee believes that the producers will be adequately protected by a two-day bond, together with the provisions of section 6 of the bill dealing with insolvent packers and the statutory trust established under section 8 of the bill. It is the Committee's understanding that the Secretary will not require any less than a two-day bond.

It is proposed that §§ 201.27 through 201.34 (9 CFR 201.27 through 9 CFR 201.34) be revised to read as follows:

GENERAL BONDING PROVISIONS

§ 201.27 Underwriter; equivalent in lieu of bonds; standard forms.

(a) The surety on bonds maintained under the regulations in this part shall be a surety company (1) which is currently approved by the United States Treasury Department for bonds executed to the United States, and (2) which has not failed or refused to satisfy its legal obligations under bonds issued under said regulations.

(b) A bond equivalent may be filed in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based on funds actually deposited

and readily convertible to currency in the amount required by § 201.30. Such funds shall be invested or deposited, in the name of a trustee as set forth in § 201.32, in: (1) Fully negotiable obligations of the United States, or (2) deposits or accounts fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, but no more of such funds shall be invested or deposited in any one such institution, than is so insured. The provisions of §§ 201.27 through 201.38 shall be applicable to such trust fund agreements.

(c) The following forms of a bond and trust fund agreement are suggested for use in connection with the filing of bonds or bond equivalents as required by these regulations:

Bond No. _____

BOND REQUIRED OF LIVESTOCK MARKET AGENCIES, DEALERS AND PACKERS UNDER THE PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

Know All Men by These Presents, that we _____ of _____ as Principal, and _____ as Surety, are held and firmly bound unto _____

(Trustee need not be named unless required by State, principal, or surety)

(or his successors in official position, if any) as Trustee for all persons who may be damaged through the breach of this bond, as Obligee, in the aggregate sum of _____ Dollars ($ _____), lawful money of the United States of America, for the payment whereof to the Obligee we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally by these presents.

Signed, sealed and dated this ____ day of _____, 19____.

Now, Therefore, the Condition of this Bond is such that:

APPLICABLE IF PRINCIPAL SELLS ON COMMISSION

(1) If the said Principal shall pay when due to the person or persons entitled thereto the gross amount, less lawful charges, for which all livestock is sold for the accounts of others by said Principal.

APPLICABLE IF PRINCIPAL BUYS ON COMMISSION OR AS A DEALER

(2) If the said Principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said Principal for his own account or for the accounts of others, and if the said Principal shall safely keep and properly disburse all funds, if any, which come into his hands for purpose of paying for livestock purchased for the accounts of others.

APPLICABLE IF OTHERS CLEAR THROUGH PRINCIPAL

(3) If the said Principal, acting as a clearing agency responsible for the financial obligations of other registrants engaged in buying livestock, viz.: (insert here the names of such other registrants as they appear in the application for registration).

or if such other registrants, shall (1) pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such other registrants for their own account or for the accounts of others and (2) safely keep and properly disburse all funds coming into the hands of such Principal or such other registrants for the purpose of paying for livestock purchased for the accounts of others.

APPLICABLE IF PRINCIPAL BUYS AS A PACKER

(4) If the said Principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said Principal for his own account.

then this bond shall be null and void, otherwise to remain in full force and virtue, subject to the following terms, conditions, and limitations:

(a) This bond shall apply only to transactions occurring on or at any time after the date hereof, and before the effective date of termination hereof as hereinafter provided.

(b) Payment by the Surety to a claimant or to the Trustee in settlement of one or more claims shall discharge the Surety as to those claims and shall reduce the penal sum of this bond to the extent of such payment or payments.

(c) Any person damaged by failure of the Principal to comply with any condition clause of this bond, may maintain suit in his own name to recover on this bond even though such person is not a party named in this bond. The Trustee may maintain suit in his own name, the recovery to be made for the use of the persons damaged. Principal and Surety hereby waive every defense, if any there be, based on the fact that any person damaged or in whose name a suit shall be brought, is not a party or privy to this bond.

(d) Any claim for recovery on this bond must be filed in writing with either the Surety, or the Trustee if one is named, or the Administrator, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, and whichever of these parties receives such a claim shall notify the other such party or parties at the earliest practicable date. All claims must be filed within 120 days of the date of the transaction on which claim is made. Suit thereon shall not be commenced in less than 180 or more than 547 days (which is approximately 18 months) from the date of the transaction on which the claim is based.

(e) The Administrator, Packers and Stockyards Administration, United States Department of Agriculture, is authorized to designate a Trustee to represent all claimants under this bond if (1) any claim is filed or any action is required to recover damages for breach of any condition of this bond, and if (2) a Trustee is not designated herein or the Trustee designated herein fails or is unable to act or serve.

(f) The Surety shall not be liable to pay any claim for recovery on this bond if it is not filed in writing within 120 days from the date of the transaction on which the claim is based, or if suit thereon is commenced less than 180 or more than 547 days (which is approximately 18 months) from the date of the transaction on which the claim is based.

(g) The proceeds of this bond shall not be used to pay fees, salaries, or expenses for legal representation of the Surety or the Principal.

(h) The term "person" as used in this bond shall be construed to mean and include both singular and plural, corporations, partnerships, associations, individuals, and the heirs, executors, administrators, successors, or assigns thereof.

(i) The acts, omissions or failures of authorized agents or representatives of said Principal or persons whom said Principal shall knowingly permit to represent themselves as acting for said Principal shall be taken and construed to be the acts, omissions, or failures of said Principal and to be within the protection of this bond to the same extent and in the same manner as if they were the personal acts of said Principal.

(j) Termination of the clearance of a registrant under condition clause 3 of this bond may be accomplished by issuance of a rider or endorsement by the Surety herein deducting the name of the clearee. Termination of the clearance shall become effective thirty (30) days after the date of receipt of the rider or endorsement by the Administrator, Packers and Stockyards Administration, Washington, D.C.

(k) This bond may be terminated by either party hereto delivering written notice of termination to the other party and the Administrator of the Packers and Stockyards Administration at Washington, D.C., at least thirty (30) days prior to the effective date of such termination. In the event that the Surety named herein writes a new bond to replace this bond for the same Principal named herein, the 30-day termination provision will be waived, and this bond will become terminated as of the effective date of the replacement bond. Immediately upon filing of a claim for recovery on this bond, unless the Surety believes that such claim is frivolous, the Surety shall cause termination of this bond in accordance with this paragraph.

(l) A fully executed duplicate of this bond and of any endorsement, amendment, rider, or other attachment hereto, shall be filed with the Area Supervisor, Packers and Stockyards Administration, for the area in which the Principal resides or has his or its principal place of business.

(m) Conditions _____ and _____ were deleted prior to execution and are not a part hereof.

In Witness Whereof the parties hereto have executed this bond under their seals on the day and date appearing herein.

_____ (Seal)
(Principal)

By_____

_____ (Seal)
(Surety)

By_____

_____
(Trustee—if named)

TRUST FUND AGREEMENT IN LIEU OF BOND REQUIRED OF LIVESTOCK MARKET AGENCIES, DEALERS AND PACKERS UNDER THE PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

Whereas, the provisions of the Packers and Stockyards Act, 1921, as amended and supplemented, and the regulations of the Secretary of Agriculture issued pursuant thereto, require a good and sufficient surety bond or its equivalent of all market agencies, dealers and packers as defined in the Packers and Stockyards Act to cover their obligations as such; and

Whereas, _____ hereinafter known as the Principal, is engaged in business as a market agency, dealer or packer as defined in the Packers and Stockyards Act.

Now, Therefore, the sum of _____ dollars ($ _____), invested as follows: _____ is hereby deposited by _____
(Name of Principal)

with _____ as Trustee,
(Name and address of Trustee)

for the following purposes and subject to the following conditions:

APPLICABLE IF PRINCIPAL SELLS ON COMMISSION

(1) If the said Principal shall pay when due to the person or persons entitled thereto the gross amount, less lawful charges, for which all livestock is sold for the accounts of others by said Principal.

APPLICABLE IF PRINCIPAL SELLS ON COMMISSION OR AS A DEALER

(2) If the said Principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said Principal for his own account or for the accounts of others, and if the said Principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the accounts of others.

APPLICABLE IF OTHERS CLEAR THROUGH PRINCIPAL

(3) If the said Principal, acting as a clearing agency responsible for the financial obligations of other registrants engaged in buying livestock, viz.: (insert here the names of such other registrants as they appear in the application for registration), or if such other registrants, shall (1) pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such other registrants for their own account or for the accounts of others and (2) safely keep and properly disburse all funds coming into the hands of such Principal or such other registrants for the purpose of paying for livestock purchased for the accounts of others.

APPLICABLE IF PRINCIPAL BUYS AS A PACKER

(4) If the said Principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said Principal for his own account then this fund shall not be liable; but if there shall be any defaults, failures, or neglects under any one or more of said conditions, then this fund shall be liable, subject to the following terms, conditions and limitations:

(a) This trust fund agreement shall apply only to transactions occurring on or at any time after the date hereof, and before the effective date of termination hereof as hereinafter provided.

(b) Payment by the Trustee to a claimant in settlement of one or more claims shall discharge the Trustee as to those claims and shall reduce the amount of this fund to the extent of such payment or payments.

(c) Any person damaged by failure of the Principal to comply with any condition clause of this agreement, may maintain suit in his own name to recover on this agreement even though such person is not a party named in this agreement. Principal and Trustee hereby waive every defense, if any there be, based on the fact that any person damaged or in whose name a suit shall be brought, is not a party or privy to this agreement.

(d) Any claim for recovery on this agreement must be filed in writing with either the Trustee or the Administrator, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, and whichever of these parties receive such a claim shall notify the other such party at the earliest practicable date. All claims must be filed within 120 days of the date of the transaction on which claim is made. Suit thereon shall not be commenced in less than 180 or more than 547 days (which is approximately 18 months) from the date of the transaction on which the claim is based.

(e) The Administrator, Packers and Stockyards Administration, United States Department of Agriculture, is authorized to designate a person to act as Trustee under this agreement if the Trustee designated herein fails or is unable to act or serve. In the event of such designation by the Administrator, all assets of the trust fund to which this agreement refers, shall be paid over to the person so designated by the Administrator.

(f) The Trustee shall not be liable to pay any claim for recovery on this agreement if it is not filed in writing within 120 days from the date of the transaction on which the claim is based, or if suit thereon is commenced less than 180 or more than 547 days (which is approximately 18 months) from the date of the transaction on which the claim is based.

(g) The trust fund shall not be used to pay fees, salaries, or expenses, for legal representation of the Principal.

(h) The term "person" as used in this agreement shall be construed to mean and include both singular and plural, corporations, partnerships, associations, individuals, and the heirs, executors, administrators, successors, or assigns thereof.

(i) The acts, omissions, or failures of authorized agents or representatives of said Principal or persons whom said Principal shall knowingly permit to represent themselves as acting for said Principal shall be taken and construed to be the acts, omissions, or failures of said Principal and to be within the protection of this agreement to the same extent and in the same manner as if they were the personal acts of said Principal.

(j) Termination of the clearance of a registrant under condition clause 3 of this trust fund agreement may be accomplished by issuance of a rider deducting the name of the clearee. Termination of the clearance shall become effective thirty days after the date of receipt of the rider by the Administrator, Packers and Stockyards Administration, Washington, D.C.

(k) This agreement may be terminated by either party hereto delivering written notice of termination to the other party and the Administrator of the Packers and Stockyards Administration at Washington, D.C., at least 30 days prior to the effective date of such termination. In no case shall the funds deposited with the Trustee herein be returned to the Principal until a Trust Fund Agreement Special Report Form P&SA-5, has been submitted by the Principal to the *Administrator of the Packers and Stockyards Administration* certifying that all obligations arising under the conditions of this agreement prior to the effective date of its termination have been discharged and authorization for the release of the funds has been received from the Administrator. Immediately upon filing of a claim for recovery on this agreement, unless the Trustee believes that such claim is frivolous, the Trustee shall cause termination of this agreement in accordance with this paragraph.

(l) The interest or dividends accruing on the above described bonds or other securities are to be delivered by the Trustee to _____

_____

hereby accepts the trust hereunder and agrees that it will hold all the bonds or other securities herein described, under the above agreement.

(m) A fully executed duplicate of this agreement, and of any endorsement, amendment, rider, or other attachment hereto, shall be filed with the Area Supervisor, Packers and Stockyards Administration, for the area in which the Principal resides or has his or its principal place of business.

(n) The securities pledged by the Principal under this agreement may be disbursed to known valid claimers by the Trustee after he has been presented with a sworn proof of claim form and other papers to support such claims. In the event that claims filed against this agreement exceed the penal sum of the securities pledged hereunder, the securities shall be prorated to the known valid claimants by the Trustee. The Trustee named herein shall determine the total amount of claims prior to disbursing any portion of the securities pledged under this trust fund agreement.

(o) Conditions _____ and _____ were deleted prior to execution and are not part hereof.

This Trust Fund Agreement Shall Become Effective On The ____ day of _____, 19__.

I accept the obligations as Trustee:

_____ (Seal)
(Signature of Trustee)

_____ (Seal)
(Signature of Principal)

§ 201.28 Duplicates of bonds or equivalents to be filed with Area Supervisor.

Fully executed duplicates of bonds or trust fund agreements maintained under the regulations in this part, and duplicates of all endorsements, amendments, riders, indemnity agreements, and other attachments thereto, shall be filed with the Area Supervisor for the area in which the registrant, licensee, or packer or person applying for registration or a license resides, or in the case of a corporation, where the corporation has its home office: *Provided*, That if such registrant, licensee, or packer or person does not engage in business in such area, the foregoing documents shall be filed with the Area Supervisor for the area in which the registrant's, licensee's, or packer's or person's principal place of business is located.

MARKET AGENCY, DEALER AND PACKER BONDS

§ 201.29 Market agencies, packers and dealers required to file and maintain bonds.

(a) Every market agency and dealer, except packer buyers registered as dealers to purchase livestock for slaughter only, shall execute and maintain, or cause to be executed and maintained, a reasonable bond to secure the performance of obligations incurred as such market agency or dealer, and no market agency or dealer shall conduct his operations unless there is on file and in effect a bond complying with the regulations in this part.

(b) Every market agency buying on a commission basis, and every dealer buying for his own account or for the accounts of others shall file and maintain a bond to secure the performance of his buying obligations, such bond to contain condition clause No. 2 as set forth in § 201.31(b) of the regulations. If a registrant operates as both a market agency buying on a commission basis and as a dealer, only one bond to cover both buying operations need be filed. Any person operating as a market agency selling on a commission basis and as a market agency buying on a commission basis or as a dealer, shall file and maintain separate bonds to cover his selling and buying operations. The bond maintained for his selling operations shall contain condition clause No. 1 set forth in § 201.31(a) of these regulations and the bond for his buying operations shall contain condition clause No. 2 of § 201.31(b) of the regulations in this part.

(c) Each market agency and dealer whose buying operations are cleared by

another market agency shall be named as clearee in the bond filed and maintained by the market agency registered to provide clearing services. Each market agency selling livestock on an agency basis shall file and maintain its own bond: *Provided,* That any market agency selling livestock which was named prior to September 1, 1957, as clearee in the bond filed and maintained by a market agency registered to provide clearing services may continue to be named as a clearee in the bond filed by such market agency.

(d) Every packer purchasing livestock, directly or through an affiliate or employee or a wholly-owned subsidiary, except those packers whose average annual purchases do not exceed $500,000, shall execute, file, and maintain a reasonable bond to secure the performance of its obligations incurred in the purchase of livestock, such bond to contain condition clause No. 4 as set forth in § 201.31(d) of the regulations in this part. No such packer shall purchase livestock unless there is on file and in effect a bond complying with the regulations in this part. In the event a packer maintains a wholly-owned subsidiary or affiliate to conduct its livestock buying, the wholly-owned subsidiary or affiliate shall be registered as a packer buyer for its parent packer firm and the required bond shall be maintained by the parent packer firm.

§ 201.30 Amount of market agency, dealer and packer bonds.

(a) Except as hereinafter otherwise provided, the amount of each bond of a market agency or dealer shall be not less than the next multiple of $2,000 above the average amount of sales of livestock by a market agency, or purchases of livestock by a person buying livestock as a market agency or dealer, or both, during a period equivalent to 2 business days based on the total number of business days, and the total amount of such transactions in the preceding 12 months, or in such substantial part thereof in which such market agency or dealer did business, if any: *Provided,* That bonds above $26,000 shall be not less than the next multiple of $5,000 above the average amount of sales of livestock by a market agency or purchases of livestock by a person buying livestock as a market agency or dealer, or both, computed as set out in this section. For the purpose of this computation, 260 shall be deemed the number of business days in any year. When the principal part of the livestock handled by a market agency selling livestock on a commission basis is sold at public auction, the amount of the bond shall be not less than the next multiple of $2,000 for those bonds of $26,000 or less and the next multiple of $5,000 for those bonds in excess of $26,000, above an amount determined by dividing the total value of the livestock sold by the market agency during the preceding 12 months, or such substantial part thereof as the market agency was engaged in business, by the actual number of auction sales at which livestock was sold by the market agency, but in no instance shall the divisor be greater than 130. When the amount of a bond for any market agency or dealer, calculated as hereinbefore specified, exceeds $50,000, the amount of the bond need not exceed $50,000 plus 10 percent of the excess, unless the Administrator has reason to believe a bond in such amount to be inadequate pursuant to paragraph (f) of this section.

(b) In no case shall a bond covering the buying operations of a market agency or dealer be less than $5,000, or such higher amount as may be required to comply with the laws of any State.

(c) In no case shall a bond covering the selling operations of a market agency be less than $10,000, or such higher amount as may be required to comply with the laws of any State.

(d) In no case shall the amount of bond filed by a market agency acting in the capacity of a clearing agency be less than $10,000, or the sum of the bonds computed in accordance with this section, whichever is greater: *Provided,* That in computing the amount of such bonds the provisions of paragraph (a) of this section relating to the maximum amount of bonds shall apply to the aggregate bond so determined rather than to the individual bonds of the clearees.

(e) The amount of each bond covering the livestock buying operations of a packer shall be not less than $10,000. Every such bond shall be not less than the next highest multiple of $5,000 above the average amount of purchases of livestock during a period equivalent to 2 full business days based on the total amount of such purchases in the preceding 12 months, or in such substantial part thereof in which the packer did business. For purposes of this computation, 260 shall be deemed the number of business days in any year.

(f) If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock in such capacity prior to the date of the application, the value of the livestock so handled, if representative of his future operations, shall be used in computing the amount of bond. If the applicant for registration is a successor in business to a registrant formerly subject to these regulations, the bond of such applicant shall be in an amount not less than that required of the prior registrant, unless otherwise determined by the Administrator. If a person commences purchasing livestock as a packer and that person is a successor in business to a packer formerly subject to these regulations, the bond of such successor packer shall be in an amount not less than that required of the prior packer, unless otherwise determined by the Administrator.

(g) Whenever the Administrator has reason to believe that any bond filed or maintained under the regulations in this part is inadequate to secure the performance of the obligations of the market agency, dealer or packer covered by such bond, he shall notify the market agency, dealer or packer to adjust such bond to meet the requirements of this section or, if such bond is inadequate because of the volume of business conducted on a seasonal or otherwise irregular basis, to meet such requirements as may be determined by the Administrator to be reasonable based upon such seasonal or irregular operation.

§ 201.31 Conditions in market agency, dealer and packer bonds.

Each market agency, dealer and packer bond shall contain conditions applicable to the activity or activities in which the person or persons named as principal or clearees in the bond propose to engage, which conditions shall be as follows or in terms to provide equivalent protection:

(a) *Condition Clause No. 1: When the principal sells livestock for the accounts of others.* If the said principal shall pay when due to the person or persons entitled thereto the gross amount, less lawful charges, for which all livestock is sold for the accounts of others by said principal.

(b) *Condition Clause No. 2: When the principal buys livestock for his own account or for the accounts of others.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account or for the acounts of others, and if the said principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the accounts of others.

(c) *Condition Clause No. 3: When the principal clears other registrants buying livestock and thus is responsible for the obligations of such other registrants.* If the said principal, acting as a clearing agency responsible for the financial obligations of other registrants engaged in buying livestock, viz: (Insert here the names of such other registrants as they appear in the application for registration), or if such other registrants, shall (1) pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such other registrants for their own account or for the accounts of others; and (2) safely keep and properly disburse all funds coming into the hands of such principal or such other registrants for the purpose of paying for livestock purchased for the accounts of others.

(d) *Condition Clause No. 4: When the principal buys livestock for his own account as a packer.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account.

(e) *When the principal clears other registrants selling livestock and thus is responsible for the obligations of such other registrants.* The condition clauses now in effect in bonds written prior to September 1, 1957, naming market agencies selling livestock on commission as clearees shall remain the same until such bonds are terminated or modified to delete such selling agency clearees.

§ 201.32 Trustee in market agency, dealer and packer bonds.

Bonds may be in favor of a trustee who shall be a financially responsible, disinterested person satisfactory to the Administrator. State officials, secretaries or other officers of livestock exchanges or of similar trade associations, attorneys at law, banks and trust companies, or their officers, are deemed suitable trustees. If a trustee is not designated in the bond and action is taken to recover damages for breach of any condition thereof, the Administrator shall designate a person to act as trustee. In those States in which a State official is required by statute to act or has agreed to act as trustee, such official shall be designated by the Administrator as trustee when a designation by the Administrator becomes necessary.

§ 201.33 Persons damaged may maintain suit; filing and notification of claims; time limitations; legal expenses.

Each bond and each trust fund agreement filed pursuant to the regulations in this part shall contain provisions that:

(a) Any person damaged by failure of the principal to comply with any condition clause of the bond or trust fund agreement may maintain suit to recover on the bond or trust fund agreement even though such person is not a party named in the bond or trust fund agreement;

(b) Any claim for recovery on the bond or trust fund agreement must be filed in writing with either the surety, if any, or the trustee, if any, or the Administrator, and whichever of these parties receives such a claim shall notify the other such party or parties at the earliest practicable date;

(c) The Administrator is authorized to designate a trustee pursuant to § 201.32;

(d) The surety on the bond, or the trust fund, as the case may be, shall not be liable to pay any claim if it is not filed in writing within 120 days from the date of the transaction on which the claim is based, or if suit thereon is commenced less than 180 or more than 547 days (which is approximately 18 months) from the date of the transaction on which the claim is based;

(e) The proceeds of the bond, or the trust fund, as the case may be, shall not be used to pay fees, salaries, or expenses, for legal representation of the surety or the principal.

§ 201.34 Termination of market agency, dealer and packer bonds.

(a)—Each bond shall contain a provision requiring that, prior to terminating such bond, at least 30 days' notice in writing shall be given to the Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by the party terminating the bond. Such provision may state that in the event the surety named therein writes a replacement bond for the same principal, the 30-day notice requirement may be waived and the bond will be terminated as of the effective date of the replacement bond.

(b) Each bond filed by a market agency who clears other registrants who are named in the bond shall contain a provision requiring that, prior to terminating the bond coverage of any clearee named therein, at least 30 days' notice in writing shall be given to the Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by the surety. Such written notice shall be in the form of a rider or endorsement to be attached to the bond of the clearing agency.

Any person who wishes to submit written data, views or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, Department of Agriculture, Washington, D.C., on or before November 16, 1976.

All written submissions made pursuant to this notice will be made available for public inspection at such time and places and in a manner convenient to public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 14th day of September 1976.

(Sec. 407, 42 Stat. 159, (7 U.S.C. 223(a)); sec. 1, 57 Stat. 422, as amended September 13, 1976, 7 U.S.C. 204; 7 CFR 2.17, 2.54.)

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc. 76-27259 Filed 9-16-76; 8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

TAKING AND IMPORTING OF MARINE MAMMALS

Cape Fur Seal Management; Waiver of the Moratorium

On February 19, 1976, the Director, National Marine Fisheries Service (hereinafter the "Director"), published: (1) A decision to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361, et seq., to allow the importation of up to 19,180 skins of Cape fur seals harvested from each annual harvest commencing with the 1975 harvest within the Republic of South Africa; and (2) regulations to govern the waiver (41 FR 7510–7512 and 7537–7540, February 19, 1976).

The limitation of 19,180 sealskins was predicated on a total harvest of 70,000 seals throughout the range of the stock, namely, within the Republic of South Africa and within Namibia (formerly South West Africa). The Director has waived the moratorium on importation, only as it pertains to the skins of Cape furs seals harvested in South Africa for those years when the total harvest does not exceed 70,000. It was estimated that 27.4 percent of the total historical harvest occurred in South Africa. Applying this percentage to the limit of 70,000 seals allowable for the total harvest, it was decided that no more than 19,180 skins could be imported from South Africa.

On September 9, 1976, the Director received from the Fouke Company, Greenville, South Carolina, a Petition for Amendment of Rule. In support of this, the Fouke Company alleges that the National Marine Fisheries Service (NMFS) erroneously failed to consider four islands as part of South Africa, namely: Long Island, Albatross Rock, Sinclair Island, and Hollam's Bird Island, and thereby understated that portion of the total yearly harvests which occurred in South Africa. The effect of including these four islands as part of South Africa would, according to petitioner, result in adjusting the percentage of the total harvest which could be imported, from 27.4 percent to 33.1 percent. When applied to the maximum harvest level of 70,000 seals as permitted in the waiver, this new percentage would result in an increase in the importation level to 23,170 sealskins.

Accordingly, it is proposed that the islands of Long Island, Albatross Rock, Sinclair Island, and Hollam's Bird Island, be included as part of South Africa for purposes of computing historical harvest levels. Thus we propose to amend §§ 216.32(a), (a)(1), (b) and (f)(5) to adjust the number of sealskins which may be imported from 19,180 to 23,170.

While the issue is a foreign affairs matter exempted from the rulemaking requirements of section 553 of the Administrative Proecdure Act, the Director nevertheless solicits comments from the public on the proposal and on the Fouke Company petition. The Department of State has already been requested to offer its views and has indicated a response will be submitted to the NMFS by October 1, 1976.

Comments from the public should be submitted to the Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. Comments received on or before October 18, 1976 will be assured of consideration.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

SEPTEMBER 14, 1976.

[FR Doc.76-27328 Filed 9-16-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

CONTRACT MARKET RULES, SUBMISSION OF RULES TO THE COMMISSION, EXEMPTION OF TEMPORARY EMERGENCY RULES AND CERTAIN OPERATIONAL AND ADMINISTRATIVE RULES, EMERGENCIES

Prior Approval Requirement

The Commodity Futures Trading Commission ("Commission") today adopted significant amendments to § 1.41 of the regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1–22 (41 FR 40091). Paragraph (d) of § 1.41 as amended, requires contract markets to furnish the Com-

mission with copies of any operational or administrative "reviewable rule"[1] which the contract market proposes to place into effect without prior submission to the Commission pursuant to paragraph (b) of § 1.41 at least ten (10) days prior to the proposed effective date of the rule or within such shorter period of time as the Commission may permit. The Commission requires the ten-day prior-submission of such reviewable rules in order to enable the Commission, or the Executive Director or the Director of the Division of Trading and Markets pursuant to authority delegated by the Commission in § 1.41a(a), to determine whether the purposes of the Act appear to necessitate Commission review of the proposed rule pursuant to § 5a(12) of the Act prior to its being placed into effect by the contract market. If the Commission or the Executive Director or the Director of the Division of Trading and Markets makes such determination and so notifies the contract market, the proposed rule must be submitted to and approved by the Commission pursuant to section 5a(12) of the Act prior to its being placed into effect by the contract market.

During the course of the past fifteen months, contract markets have placed many rules into effect without prior Commission approval after determining that such rules are not within the scope of section 5a(12) of the Act. Copies of such rules are generally furnished to the Commission pursuant to section 5a(1) of the Act only after the effective date of such rules. On several occasions, the Commission, after examining the rules so submitted, has determined that such rules are reviewable rules within the scope of section 5a(12) of the Act. The placing of a reviewable rule into effect by a contract market without prior Commission approval is a serious violation of section 5a(12) of the Act.

In order to prevent such serious violations of the Act, the Commission proposes to amend § 1.41(d) to require that copies of *all* rules which the contract market proposes to place into effect without prior submission to the Commission pursuant to § 1.41(b) be furnished to the Commission at least ten (10) days prior to their proposed effective date or within such shorter period of time as the Commission or the Executive Director or the Director of the Division of Trading and Markets may permit. This ten (10) day period would afford the Commission and its staff an opportunity to examine a rule which the contract market believes is outside the scope of section 5a(12) of the Act and to advise the contract market of any apparent conflict between the opinion of the contract market and the Commission or its staff before such rule is placed into effect by the contract market. Such amendment would be accomplished by deleting the word "reviewable" from the first sentence of § 1.41(d).

The Commission points out that § 1.41 (f) applies only to reviewable temporary emergency rules. (Such rules are exempt from the provisions of § 1.41(d).) Emergency circumstances may arise which necessitate the immediate implementation of contract market rules which do not fall within the scope of section 5a(12) of the Act and which are not, therefore, covered by §1.41(f). As proposed herein, § 1.41(d), however, would require that these rules be submitted to the Commission at least ten days prior to their proposed effective dates. As previously mentioned, the Commission may relax this ten-day prior-submission requirement on a case-by-case basis and has delegated this authority to the Executive Director and the Director of the Division of Trading and Markets. Either Director could of course exercise this authority in an emergency necessitating the immediate implementation of a contract market rule outside the scope of section 5a(12).

(Secs. 5a and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 5a and 12a (Supp. IV, 1974).)

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 by amending paragraph (d) of § 1.41 to read as follows:

§ 1.41 Contract market rules, submission of rules to Commission, exemption of temporary emergency rules and certain operational and administrative rules, emergencies.

* * * * *

(d) *Rules placed into effect without prior Commission review.* Except as provided in paragraph (f) of this section (Temporary emergency rules), two copies of any rule which a contract market proposes to place into effect without prior submission to the Commission pursuant to paragraph (b) of this section shall be furnished to the Commission at its Washington, D.C., headquarters at least ten (10) days prior to its proposed effective date or within such shorter period of time as the Commission may permit. Two copies shall also be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market. (In the case of any change in, addition to, or deletion from any existing rule of the contract market, the existing rule shall be set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added.) Where a proposed contract market reviewable rule is submitted to the Commission pursuant to paragraph (d) rather than paragraph (b) of this section because the contract market has determined such rule is within the exemption provided by paragraph (c) of this section, the submission of such rule shall clearly designate the rule as an "operational or administrative reviewable rule exempted from the prior-approval requirement of section 5a(12) of the Act by § 1.41(c) of the regulations."

* * * * *

Interested persons are invited to submit comments on the proposed amendment to §1.41 to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, attention: Secretariat. Comments received on or before October 18, 1976, will be considered by the Commission before taking action on the proposed amendment. Copies of all comments received will be available for inspection at the Commission's office in Washington, D.C.

Issued in Washington, D.C., on September 14, 1976, by Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-27277 Filed 9-16-76;8:45 am]

[1] The term "reviewable rule" is defined in § 1.41(a) as: "any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof * * * which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 436 and 446]

[Docket No. 76N-0167]

TETRACYCLINE ANTIBIOTIC DRUGS

Updating and Technical Revisions

The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by updating and making technical changes to provisions for tetracycline drug products intended for human use. Interested persons may submit comments on the proposed amendments by November 16, 1976.

The changes are grouped into four general classes for discussion in this preamble: (1) Revocation of inactive sections or partial sections; (2) changes of nomenclature; (3) changes affecting indexing and placement of sections within Part 446; and (4) technical changes.

1. *Revocations.* a. Fourteen sections are proposed to be revoked because they provide for the certification of tetracycline drug products that are no longer marketed. They are as follows: §§ 446.167, 446.181c, 446.210, 446.281a, 446.310a, 446.367a, 446.367d, 446.567d, 446.581a, 446.581b, 446.610, 446.710, and 446.910 (21 CFR 446.167, 446.181c, 446.210, 446.281a, 446.310a, 446.367a, 446.367b, 446.367d, 446.567d, 446.581a, 446.581b, 446.610, 446.710, and 446.910).

b. Proposed amendments to other sections will delete provisions for certification of certain other drug products that are not marketed. The provisions to be deleted are as follows: Chlortetracycline hydrochloride tablets and tetracycline tablets in § 446.110a (21 CFR 446.110a); tetracycline capsules in § 446.110b (21 CFR 446.110b); chlortetracycline calcium sirup (chlortetracycline calcium oral drops) and tetracycline magnesium

sirup (tetracycline magnesium oral drops) in § 446.111 (21 CFR 446.111); oxytetracycline capsules in § 446.165b (21 CFR 446.165b); chlortetracycline calcium ointment, chlortetracycline calcium cream, and tetracycline ointment (tetracycline cream) in § 446.310b (21 CFR 446.310b); chlortetracycline calcium ointment, chlortetracycline calcium cream, and tetracycline ointment (tetracycline cream) in § 446.510a (21 CFR 446.510a); and chlortetracycline powder (chlortetracycline hydrochloride powder) and tetracycline hydrochloride powder in § 446.510b (21 CFR 446.510b).

The provisions not being revoked in §§ 446.110a, 446.110b, 446.111, 446.165b, 446.310b, 446.510a, and 446.510b are proposed to redesignated as described in item 3 of this preamble, and the seven section numbers will be deleted.

2. *Nomenclature.* Several changes in nomenclature are proposed in this document for consistency with the current policy of the official compendia and that of FDA. They are as follows:

a. The word "sirup" is changed to "oral suspension" for tetracycline sirup, methacycline hydrochloride sirup, and calcium oxytetracycline sirup.

b. "Calcium oxytetracycline" is rearranged to read "oxytetracycline calcium."

c. "Oxytetracycline intramuscular solution" is changed to read "oxytetracycline injection"; "tetracycline hydrochloride for intramuscular use" is changed to read "tetracycline hydrochloride for injection"; and "tetracycline phosphate complex for intramuscular use" is changed to read "tetracycline phosphate complex for injection."

d. "Tetracycline powder" is changed to read "tetracycline for oral suspension," as discussed in item 3.g of this preamble.

e. "Doxycycline monohydrate" is changed to read "Doxycycline".

3. *Indexing and placement of sections.* A number of changes are proposed to make Part 446 consistent in structure with other updated parts of Subchapter D that provide for antibiotic drugs. The basis of the indexing plan is that the last two numerals of the section number assigned to a dosage form are the same as those of the bulk drug from which it is derived. Also, each section is to provide for only one product; in the past, some sections have provided for two or more. For those reasons, the following redesignations are proposed:

a. Section 446.110a provides for three drug products. Only one, tetracycline hydrochloride tablets, is being marketed. It is redesignated § 446.181d (21 CFR 446.181d), to correspond to the section number of the bulk drug.

b. Section 446.110b provides for four drug products, three of which are being marketed. Provisions for the three products are redesignated as follows: Chlortetracycline hydrochloride capsules is redesignated § 446.110 (21 CFR 446.110). Tetracycline hydrochloride capsules is redesignated § 446.181e (21 CFR 446.181e), and tetracycline phosphate complex capsules is redesignated § 446.182 (21 CFR 446.182) to correspond to the section numbers of their respective bulk drugs.

c. Section 446.111 provides for three drug products. Only one, tetracycline oral suspension (currently called "tetracycline sirup (tetracycline oral drops)"), is being marketed. It is redesignated § 446.180c (21 CFR 446.180c) to correspond to the section number of the bulk drug.

d. Section 446.165b provides for two drug products. Only one, oxytetracycline hydrochloride capsules, is being marketed. It is redesignated § 446.167 (21 CFR 446.167) to correspond to the section number of the bulk drug.

e. Section 446.310b provides for five drug products, only two of which are being marketed. Provisions for the two products are redesignated as follows: Chlortetracycline hydrochloride ophthalmic ointment is redesignated § 446.310 (21 CFR 446.310). Provisions for the tetracycline hydrochloride product are placed in two new sections so that provisions for the ophthalmic ointment are separate from those for the ophthalmic suspension. The new sections designated are §§ 446.381a and 446.381b (21 CFR 446.381a and 446.381b), respectively, to correspond to the section number of the bulk drug.

f. Section 446.510a provides for five drug products, only two of which are marketed. Provisions for the two products are redesigned as follows: Chlortetracycline hydrochloride ointment is redesignated § 446.510 (21 CFR 446.510). Tetracycline hydrochloride ointment is redesigned § 446.581 (21 CFR 446.581) to correspond to the section number of the bulk drug.

g. Section 446.510b provides for three drug products. Only one, tetracycline powder, is being marketed. This is actually an oral dosage form—a powder for reconstitution—and was erroneously codified in Subpart F—Dermatologic Dosage Forms. It is therefore redesignated § 446.180d (21 CFR 446.180d) and is renamed "tetracycline for oral suspension."

h. Current § 446.467 is deleted, and § 446.467d is revised and redesignated § 446.467 (21 CFR 446.467).

i. Section 446.281b (21 CFR 446.281b) provides for two products, both of which are marketed. The product containing tetracycline phosphate complex is redesignated § 446.282 (21 CFR 446.282) to correspond to the section number of the bulk drug. The product containing tetracycline hydrochloride is redesignated § 446.281 (21 CFR 446.281).

4. *Technical changes.* In keeping with current policy, certain technical changes, based on certification experience, are proposed as part of updating the regulations:

a. Four new sections for nonsterile bulk drugs and added to establish references for nonsterile dosage forms. The new sections are: § 446.10 *Chlortetracycline hydrochloride* (21 CFR 446.10); § 446.65 *Oxytetracycline* (21 CFR 446.65); § 446.67 *Oxytetracycline hydrochloride* (21 CFR 446.67); and § 446.81 *Tetracycline hydrochloride* (21 CFR 446.81).

b. Maximum potency limits are added to the dosage form monographs if they were not already specified, and lower potency limits are raised from 85 percent to 90 percent where applicable.

c. The limits for 4-epianhydrotetracycline in tetracycline drug products have been deleted from the general method in § 436.309(b)(7) (21 CFR 436.309(b)(7)). In a regulation published in the FEDERAL REGISTER of January 31, 1974 (39 FR 3935), the maximum limit was established for 4-epianhydrotetracycline in tetracycline, tetracycline hydrochloride, and tetracycline phosphate complex bulks, and in all oral and injectable dosage forms containing these tetracyclines. The limits for these products were included in the general methods rather than by amending each individual section at that time. As part of the present updating, the limit for each bulk and dosage form is now included in the applicable sections of Part 4466.

Section 436.309 is further amended in paragraph (a)(3) to correct an error appearing in the portion of the screening procedure that provides for the calculation of percent anhydrotetracyclines. A numerical correction that revives "180" to read "195" is made in the first and last lines of the table appearing in that paragraph. The Commissioner of Food and Drugs recognizes that the correct factor is well known to persons conducting these calculations, and this correction merely clarifies the existing regulations.

d. For all tetracyclines except methacycline and rolitetracycline, the use of sterile distilled water is proposed in place of buffer for dilution of the working standard stock solution in preparation of the standard response line concentrations and for the preparation of the final sample solution from the sample stock solution. In the case of methacycline and rolitetracycline, water is proposed for all dilutions in place of acid and buffer.

e. The microbiological agar diffusion assay has been deleted in all cases, and the turbidimetric assay is considered conclusive.

f. The reference point and the points of the standard response line for rolitetracycline and rolitetracycline nitrate are revised to be consistent with other tetracyclines.

g. Provisions for the optional Karl Fischer moisture test are deleted and an identity test is added for the sterile chlortetracycline hydrochloride bulk drug.

h. The test for moisture is changed from the Karl Fischer test method to loss on drying for tetracycline hydrochloride for injection and tetracycline phosphate complex for injection.

i. The potency limit for oxytetracycline is lowered from "not less than 900 micrograms per milligram" to "not less than 832 micrograms per milligram," and it is calculated on the "as is" basis to reflect the actual method used by the National Center for Antibiotic Analysis, Food and Drug Administration. Also a lower moisture limit of 6 percent is added.

j. The moisture limit is lowered from 1 percent to 0.5 percent for chlortetracycline hydrochloride ophthalmic ointment, tetracycline hydrochloride ophthalmic ointment, and chlortetracycline hydrochloride ointment.

k. A separate entry for oxytetracycline injection is added to the table in the general method for the safety test, § 436.33 (21 CFR 436.33), because the method for preparing the test dose concentration and the route of administration are different.

l. The full chemical name is added to each bulk drug monograph.

m. The requirements in Part 446 for tests and methods of assay are revised to refer to the general methods in Part 436 rather than to individual monographs for bulk drugs or dosage forms.

The Commissioner has reviewed the potential environmental impact of the proposed amendments and has concluded that the proposed action will not significantly affect the quality of the human environment, and that an environmental impact statement is not required. The Commissioner has also considered the inflation impact of the proposed amendments and no major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A-107, and Guidelines issued by the Department of Health, Education, and Welfare. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration, at the address given below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24162)), the Commissioner proposes that Parts 436 and 446 of Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

A. Part 436 is amended as follows:

1. In Subpart C, § 436.33(b) is amended by alphabetically inserting a new item in the table, as follows:

§ 436.33 Safety test.

* * * * * *

(b) * * *

Antibiotic drug	Diluent (diluent) number as listed in sec. 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Test dose: Route of administration as described in paragraph (c) of this section
* * * *				
Oxytetracycline injection	3	2 mg	0.5	Intraperitoneal.
* * * *				

2. In Subpart D, § 436.106(a) is amended in the table by revising the entries for the items "Chlortetracycline," "Demeclocycline," "Doxycycline," "Methcycline," "Minocycline," "Oxtetracycline," "Rolitetracycline," and "Tetracycline" to read as follows:

§ 436.106 Microbiological turbidimetric assay.

* * * * * *

(a) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in sec. 436.200)	Initial solvent	Diluent (solution number as listed in sec. 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in sec. 436.101(a)	Final concentrations, units or micrograms of antibiotic activity per milliliter
* * * * * * *							
Chlortetracycline	(1)		0.01*N* HCl	1 mg	4 d	(2)	0.033, 0.048, 0.069, 0.075, 0.094 µg.
Demeclocycline		1	0.1*N* HCl	1 mg	4 d	(2)	0.064, 0.080, 0.100, 0.125, 0.150 µg.
Doxycycline	(1)		0.1*N* HCl	1 mg	5 d	(2)	0.064, 0.080, 0.100, 0.125, 0.150 µg.
Methacycline		1	(2)	1 mg	7 d	(2)	0.033, 0.048, 0.069, 0.075, 0.094 µg.
Minocycline	(1)		0.1*N* HCl	1 mg	2 d	(2)	0.070, 0.084, 0.100, 0.120 0.143 µg.
Oxytetracycline	(1)		0.1*N* HCl	1 mg	4 d	(2)	0.154, 0.192, 0.240, 0.300, 0.375 µg.
Rolitetracycline		1	(2)	1 mg	1 d	(2)	0.154, 0.192, 0.240, 0.300, 0.375 µg.
* * * * * * *							
Tetracycline	(1)		0.1*N* HCl	1 mg	1 d	(2)	0.154, 0.192, 0.240, 0.300, 0.375 µg.
* * * * * * *							

[1] Not dried.
[2] Distilled water.

3. In Subpart F, § 436.309 is amended by revising the first and last lines of the calculations in paragraph (a)(3) and by deleting paragraph (b)(7), as follows:

§ 436.309 Anhydrotetracyclines and 4-epianhydrotetracyclines.

(a) * * *
(3) * * *

$$\text{Percent anhydrotetracyclines} = \frac{[\alpha 430 - (\alpha 350 \times 0.0919)] \times 100}{195}$$

195=Absorptivity (1 pct, 1 cm) of anhydrotetracycline at 430 millimicrons.

4. In Subpart F by adding new § 436.320 to read as follows:

§ 436.320 Ferric chloride colorimetric assay.

(a) *Reagents.* (1) 1*N* hydrochloric acid.

(2) 0.01*N* hydrochloric acid.

(3) Ferric chloride stock solution. Quickly weigh (very hygroscopic) 5.0 grams of $FeCl_3 \cdot 6H_2O$ into a 100-milliliter beaker. Add approximately 10 milliliters of 1*N* hydrochloric acid and stir to dissolve. Quantitatively transfer to a 50-milliliter glass-stoppered amber volumetric flask and make up to volume with water.

(4) Ferric chloride working reagent. Pipette 10.0 milliliters of ferric chloride stock solution into a 2-liter volumetric flask, add 20.0 milliliters 1*N* hydrochloric acid, and bring to volume with water. Check the pH; it should be between 2.0 and 2.1.

(b) *Standard solution.* Accurately weigh approximately 50 milligrams of the working standard of the antibiotic to be tested and dissolve with 25 milliliters of 0.1*N* hydrochloric acid. Quantitatively transfer to a 250-milliliter volumetric flask and dilute to volume with distilled water. Keep in a glass-stoppered flask and store under refrigeration. Discard solution after 7 days.

(c) *Sample solution.* Accurately weigh approximately 50 milligrams of the sample and dissolve with 25 milliliters of 0.1*N* hydrochloric acid. Quantitatively transfer to a 250-milliliter volumetric flask and dilute to volume with distilled water.

(d) *Procedure.* Pipette exactly 10.0 milliliters of the standard solution and of the sample solution into separate test tubes. To each tube add exactly 10.0 milliliters of ferric chloride working reagent, mix, and allow to stand 15 minutes. Determine the absorbance of each solution at 490 nanometers in a suitable spectrophotometer against a blank prepared from 10 milliliters of 0.01*N* hydrochloric acid and 10 milliliters of ferric chloride working reagent.

(e) *Estimation of potency.* Calculate the potency as follows:

$$\frac{\text{Micrograms of antibiotic}}{\text{per milligram}} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram.}}{}$$

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

B. Part 446 is amended as follows:

1. In Subpart A by adding new § 446.10 to read as follows:

§ 446.10 Chlortetracycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride is [4S-(4α,4aα,5aα,6β,12aα)]-7-chloro-4-(dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,6,10,12,12a-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide monohydrochloride. Chlortetracycline is produced by the growth of *Streptomyces aureofaciens.* It is a yellow powder. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 2.0 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.3 and not more than 3.3.

(v) It is crystalline.

(vi) It meets the identity test for chlortetracycline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.01*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of chlortetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(6) *Identity.* To 1.0 milligram of sample, add 2.0 milliliters of concentrated sulfuric acid. In the presence of chlortetracycline, a deep blue color is produced that becomes dark green.

2. By revising § 446.10a to read as follows:

§ 446.10a Sterile chlortetracycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride is [4S-(4α,4aα,5aα,6β,12aα)]-7-chloro-4-(dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,6,10,12,12a-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide monohydrochloride. Chlortetracycline is produced by the growth of *Streptomyces aureofaciens.* It is a yellow powder. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine or histamine-like substances.

(vi) Its loss on drying is not more than 2.0 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.3 and not more than 3.3.

(viii) It is crystalline.

(ix) It meets the identity test for chlortetracycline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, crystallinity, and identity.

(ii) Samples required:

(a) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(b) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.01*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of chlortetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5 milligrams of chlortetracycline hydrochloride per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrans per milliliter.

(8) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(9) *Identity.* To 1.0 milligram of sample, add 2.0 milliliters of concentrated sulfuric acid. In the presence of chlortetracycline, a deep blue color is produced that becomes dark green.

3. In § 446.15 by revising paragraphs (a)(1), (a)(1)(v), and (b)(1) to read as follows:

§ 446.15 Demeclocycline.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Demeclocycline is [4S-(4α,4aα,5aα,6β,12aα)] - 7 - chloro-4-(dimethylamino - 1,4,4a,5,5a,6,11,12a-octahydro - 3,6,10,12,12a-pentahydroxy-1,11-dioxo-2-naphthacenecarboxamide. It is so purified and dried that:

* * * * *

(v) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the demeclocyline hydrochloride working standards is 107.4± 3.88.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of demeclocycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

4. In § 446.16 by revising paragraphs (a)(1), (a)(1)(v), and (b)(1) to read as follows:

§ 446.16 Demeclocycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.*—Demeclocycline hydrochloride is [4S - (4α,4aα,5aα,6β,12aα]-7-chloro-4 - (dimethylamino) - 1,4,4a,5,5a,6,11,12a - octahydro - 3,6,10,12,12a-pentahydroxy-1,11-dioxo - 2 - naphthacenecarboxamide monohydrochloride. It is so purified and dried that:

* * * * *

(v) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the demecycline hydrochloride working standard is 100±4.2 percent.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of demeclocycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

5. In § 446.20 by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 446.20 Doxycycline hyclate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Doxycycline hyclate is [4S-(4α,4aα,5a,5aα,6α,12aα)]-4-(dimethylamino) - 1,4,4a,5,5a,6,11,12a - octahydro - 3,5,10,12,12a - pentahydroxy - 6-methyl-1,11-dioxo-2 - naphthacenecarboxamide hydrochloride hemiethanolate hemihydrate. It is so purified and dried that:

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of doxycycline per milliliter (estimated). Further dilute with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

6. In § 446.20a by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 446.20a Sterile doxycycline hyclate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile doxycycline hyclate is [4S-(4α, 4aα, 5α, 5aα, 6α,12aα)]-4 - (dimethylamino) - 1,4,4a,5,5a,6,11, 12a - octahydro - 3,5,10,12,12a - pentahydroxy - 6 - methyl - 1,11 - dioxo - 2-naphthacenecarboxamide hydrochloride hemiethanolate hemihydrate. It is so purified and dried that:

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrocloric acid to obtain a concentration of 1,000 micrograms of doxycycline per milliliter (estimated). Further dilute with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

7. In § 446.21 by revising paragraphs (a)(1), (a)(1)(vi), and (b)(1) to read as follows:

§ 446.21 Doxycycline.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Doxycycline is [4S-(4α,4aα,5a,5aα,6α,12aα)] - 4 - (dimethylamino) - 1,4,4a,5,5a,6,11,12a - octahydro-3,5,10,12,12a - pentahydroxy - 6 - methyl-1,11 - dioxo - 2 - naphthacenecarboxamide monohydrate. It is so purified and dried that:

* * * * *

(1) * * *

(vi) It gives a positive identity test for doxycycline.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of doxycycline per milliliter (estimated). Further dilute with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

8. In § 446.50 by revising paragraphs (a)(1), (a)(1)(v), and (b)(1) to read as follows:

§ 446.50 Methacycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Methacycline hydrochloride is [4S - (4α,4aα,5α,5aα,12aα] - 4 - (dimethylamino) -1,4,4a,5,5a,6,11,12a - octahydro-3,5,10,12,12a - pentahydroxy - 6-methylene-1,11-dioxo-2 - naphthacenecarboxamide monohydrochloride. It is so purified and dried that:

* * * * *

(v) Its absorptivity at the absorption maximum at 345 nanometers relative to that of the methacycline working standard similarly treated is 92.4±4 percent.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.06 microgram of methacycline per milliliter (estimated).

* * * * *

9. In § 446.60 by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 446.60 Minocycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Minocycline hydrochloride is [4S-(4α,4aα,5aα,12aα)]-4,7-bis

(dimethylamino) - 1,4,4a,5,5a,6,11,12a-octahydro-3,10,12,12a - tetrahydroxy - 1,11-dioxo - 2 - naphthacenecarboxamide monohydrochloride. It is so purified and dried that:

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of minocycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.085 microgram of minocycline per milliliter (estimated).

* * * * *

10. In Subpart A by adding new § 446.65 to read as follows:

§ 446.65 Oxytetracycline.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline is [4S - (4α,4aα,5α,5aα,6β,12aα)] - 4 - (dimethylamino)-1,4,4a,5,5a,6,11,12a - octahydro - 3,5,6,10,12,12a-hexahydroxy - 6-methyl-11-dioxo-2-naphthacenecarboxamide dihydrate. Oxytetracycline is produced by the growth of *Streptomyces rimosus.* It is so purified and dried that:

(i) Its potency is not less than 832 micrograms of oxytetracycline per milligram on an "as is" basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 6 percent and not more than 9 percent.

(iv) Its pH in an aqueous suspension containing 10 milligrams per milliliter is not less than 4.5 and not more than 7.0.

(v) When calculated on an anhydrous basis its absorptivity at 353 nanometers relative to that of the oxytetracycline working standard similarly treated is 100±4 percent.

(vi) It gives a positive result to an identity test for oxytetracycline.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Chemical assay.* Proceed as directed in § 436.320 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter, preparing the sample as follows: Dissolve at the ratio of 40 milligrams to 2.0 milliliters of 1.0*N* hydrochloric acid and dilute with the required amount of sterile distilled water (diluent 3).

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous suspension containing 10 milligrams per milliliter.

(5) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve approximately 50 milligrams each of the sample and standard in 250 milliliters of 0.1*N* hydrochloric acid. Transfer a 10-milliliter aliquot to a 100-milliliter volumetric flask and dilute to volume with 0.1*N* hydrochloric acid. Using a suitable spectrophotometer and 0.1*N* hydrochloric acid as the blank, determine the absorbance of each solution at 353 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{} \times \frac{10}{(100-w)}$$

where: w = Percent moisture in the sample.

(6) *Identity.* To about 1 milligram of sample, add 2 milliliters of sulfuric acid; a light-red color is produced when oxytetracycline is present.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

11. By revising § 446.65a to read as follows:

§ 446.65a Sterile oxytetracycline.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile oxytetracycline is [4S - (4α,4aα,5α,5aα,6β,12aα)] - 4 - (dimethylamino) - 1,4,4a,5,5a,6,11,12a-octahydro - 3,5,6,10,12,12a-hexahydroxy-6-methyl-1,11 - dioxo-2-naphthacenecarboxamide dihydrate. Oxyteracycline is produced by the growth of *Streptomyces rimosus.* It is so purified and dried that:

(i) Its potency is not less than 832 micrograms of oxytetracycline per milligram on an "as is" basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine or histamine-like substances.

(vi) Its moisture content is not less than 6 percent and not more than 9 percent.

(vii) Its pH in an aqueous suspension containing 10 milligrams per milliliter is not less than 4.5 and not more than 7.0.

(viii) When calculated on an anhydrous basis, its absorptivity at 353 nanometers relative to that of the oxytetracycline working standard similarly treated, is 100±4 percent.

(ix) It gives a positive result to an identity test for oxytetracycline.

(x) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, moisture, pH, absorptivity, identity, and crystallinity.

(ii) Samples required:

(a) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(b) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Chemical assay.* Proceed as directed in § 436.320 of this chapter.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of oxytetracycline per milliliter prepared by dissolving 40 milligrams in 2.0 milliliters of 1.0*N* hydrochloric acid and diluting with the required amount of sterile, pyrogen-free distilled water.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter, preparing the sample as follows: Dissolve at the ratio of 40 milligrams to 2.0 milliliters of 1.0*N* hydrochloric acid and dilute with the required amount of sterile distilled water (diluent 3).

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter, preparing the sample by dissolving 40 milligrams in 2.0 milliliters of 1.0*N* hydrochloric acid and

diluting with the required amount of sterile distilled water.

(6) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous suspension containing 10 milligrams per milliliter.

(8) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve approximately 50 milligrams each of the sample and standard in 250 milliliters of 0.1*N* hydrochloric acid. Transfer a 10-milliliter aliquot to a 100-milliliter volumetric flask, and dilute to volume with 0.1*N* hydrochloric acid. Using a suitable spectrophotometer and 0.1*N* hydrochloric acid as the blank, determine the absorbance of each solution at 353 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{} \times \frac{10}{(100-m)}$$

where: m = Percent moisture in the sample.

(9) *Identity.* To about 1 milligram of sample, add 2 milliliters of sulfuric acid; a light-red color is produced when oxytetracycline is present.

(10) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

12. By revising § 446.66 to read as follows:

§ 446.66 Oxytetracycline calcium.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline calcium is [4S - (4α,4aα,5α,5aα,6β,12aβ] - 4-(dimethylamino) - 1,4,4a,5,5a,6,11,12a - octahydro-3,5,6,10,12,12a - hexahydroxy-6 - methyl-1,11 - dioxo-2-naphthacenecarboxamide calcium salt. Oxytetracycline is produced by the growth of *Streptomyces rimosus.* It is so purified and dried that:

(i) Its potency is equivalent to not less than 865 micrograms of oxytetracycline per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 8 percent and not more than 14 percent.

(iv) Its pH in an aqueous suspension containing 25 milligrams per milliliter is not less than 6.0 and not more than 8.0.

(v) Its calcium content as the sulfated ash is not less than 3.85 percent and not more than 4.35 percent on an anhydrous basis.

(vi) It gives a positive identity test.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, calcium content, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Chemical assay.* Proceed as directed in § 436.320 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated aqueous suspension containing 25 milligrams per milliliter.

(5) *Calcium content.* Proceed as directed in § 436.207(b) of this chapter, except from the weight of residue obtained calculate the calcium content as follows:

$$\text{Percent calcium} = \frac{\text{Weight of residue} \times 0.29435 \times 100 \times 100}{\text{Weight of sample (anhydrous basis)} \times (100-m)}$$

where: m = Percent moisture in the sample.

(6) *Identity.* To about 1 milligram of sample, add 2 milliliters of sulfuric acid; a light-red color is produced when oxytetracycline is present.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

13. By adding new § 446.67 to read as follows:

§ 446.67 Oxytetracycline hydrochloride.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride is [4S-(4α,4aα,5α,5aα,6β,12aα)] - 4 - (dimethylamino) -1,4,4a,5,5a,6,11,12a - octahydro-3,5,6,10,12,12a-hexahydroxy - 6 - methyl - 1,11 - dioxo - 2-naphthacenecarboxamide monohydrochloride. Oxytetracycline is produced by the growth of *Streptomyces rimosus.* It is so purified and dried that:

(i) Its potency is not less than 835 micrograms of oxytetracycline per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 2.0 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0.

(v) When calculated on an anhydrous basis, its absorptivity at 353 nanometers relative to that of the oxytetracycline standard similarly treated is 92.5±4.3 percent.

(vi) It gives a positive result to an identity test for oxytetracycline.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, absorptivity, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Chemical assay.* Proceed as directed in § 436.320 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve approximately 50 milligrams each of the sample and standard in 250 milliliters of 0.1*N* hydrochloric acid. Transfer a 10-milliliter aliquot to a 100-milliliter volumetric flask and dilute to volume with 0.1*N* hydrochloric acid. Using a suitable spectrophotometer and 0.1*N* hydrochloric acid as the blank, determine the absorbance of each solution at 353 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard, using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{} \times \frac{10}{(100-m)}$$

where: m = Percent moisture in the sample?

(6) *Identity.* To about 1 milligram of sample, add 2 milliliters of sulfuric acid; a light-red color is produced when oxytetracycline is present.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

14. By revising § 446.67a to read as follows:

§ 446.67a Sterile oxytetracycline hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Sterile oxytetracycline hydrochloride is [4S-(4α,4aα,5α,-5aα,6β,12α] - 4 - (dimethylamino)-1,4,-4a,5,5a,6,11,12a - octahydro - 3,5,6,10,12,-12a - hexahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide monohydrochloride. It is produced by the growth of *Streptomyces rimosus.* It is so purified and dried that:

(i) Its potency is not less than 835 micrograms of oxytetracycline per milligram on an anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic,

(iv) It passes the safety test.

(v) It contains no histamine or histamine-like substances.

(vi) Its loss on drying is not more than 2.0 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0.

(viii) When calculated on an anhydrous basis, its absorptivity at 353 nanometers relative to that of the oxytetracycline working standard similarly treated is 92.5±4.3 percent.

(ix) It gives a positive result to an identity test for oxytetracycline.

(x) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 423.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, absorptivity, identity, and crystallinity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.*—Assay for potency by either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Chemical assay.* Proceed as directed in § 436.320 of this chapter.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5 milligrams of oxytetracycline per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.-202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(8) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve approximatley 50 milligrams each of the sample and standard in 250 milliliters of 0.1*N* hydrochloric acid. Transfer a 10-milliliter aliquot to a 100-milliliter volumetric flask and dilute to volume with 0.1*N* hydrochloric acid. Using a suitable spectrophotometer and 0.1*N* hydrochloric acid as the blank, determine the absorbance of each solution at 353 nanometers. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{} \times \frac{10}{(100-m)}$$

where: m = Percent moisture in the sample.

(9) *Identity.* To about 1 milligram of sample, add 2 milliliters of sulfuric acid; a light-red color is produced when oxytetracycline is present.

(10) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

15. In § 446.75a by revising paragraphs (a) (1), (a) (1) (ix), and (b) (1) to read as follows:

§ 446.75a Sterile rolitetracycline.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Sterile rolitetracycline is [4S-(4α,4aα,5aα,6β,12aα]-4-(dimethlyamino) - 1,4,4a,5,5a,6,11,12a-octahydro - 3,6,10,12,12a - pentahydroxy - 6 - methyl-1,11 - dioxo - *N* - (1-pyrrolidinylmethyl) - 2 - naphthacenecarboxamide. It is so purified and dried that:

* * * * *

(ix) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the rolitetracycline working standard similarly treated is 100±4.4 percent.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

16. In § 446.76a by revising paragraphs (a) (1), (a) (1) (ix), and (b) (1) to read as follows:

§ 446.76a Sterile rolitetracycline nitrate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Sterile rolitetracycline nitrate is [4S-(4α,4aα,5aα,6β,12aα] - 4 - (dimethylamino) - 1,4,4a,5a,6,11,12a - octahydro - 3,6,10,12,12a-pentahydroxy - 6 methyl - 1,11 - dioxo-*N*- (1 - pyrrolidinylmethyl) - 2 - naphthacenecarboxamide mononitrate sesquihydrate. It is so purified and dried that:

* * * * *

(ix) When calculated on an anhydrous basis, its absorptivity at 380 nanometers relative to that of the rolitetracycline standard similarly treated is 89.2±4.0 percent.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

17. By revising § 446.80 to read as follows:

§ 446.80 Tetracycline.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Tetracycline is [4S - (4α,4aα,5aα,6β,12aα)] - 4 - (dimethylamino) - 1,4,4a,5,5a,6,11,12a-octahydro - 3,6,10,12,12a - pentahydroxy - 6 methyl - 1,11 -dioxo- 2- naphthacenecarboxamide. It is so purified and dried that:

(i) Its potency is not less than 975 micrograms per milligram on the anhydrous basis.

(ii) It passes the safety test.
(iii) Its moisture content is not more than 13 percent.
(iv) Its pH in an aqueous suspension containing 10 milligrams per milliliter is not less than 3.0 and not more than 7.0.
(v) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the tetracycline hydrochloride working standard similarly treated is 108.2±3.75 percent.
(vi) Its 4-epianhydrotetracycline content is not more than 2.0 percent.
(vii) It is crystalline.
(viii) It passes the identity test for tetracycline.

(2) *Labeling.* In addition to the requirements of § 432.5 of this chapter, each package shall bear on its label or labeling the statement "For use only in the manufacture of nonparenteral drugs."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 60 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter, preparing the test dose solution as follows: Dissolve 40 milligrams (as the anhydrous compound) in 2.0 milliliters of 0.1*N* hydrochloric acid and dilute with sterile distilled water (diluent 3) to the appropriate test dose concentration.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous suspension containing 10 milligrams per milliliter.

(5) *Absorptivity.* Dissolve approximately 40 milligrams of the sample (as the anhydrous compound), accurately weighed, in 2.0 milliliters of 0.1*N* hydrochloric acid and dilute with distilled water to 250 milliliters. Transfer a 10.0-milliliter aliquot of this solution to a 100-milliliter volumetric flask, add approximately 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH, dilute to volume with water and mix thoroughly. Treat a sample of the tetracycline hydrochloride working standard in the same manner. Exactly 6 minutes after the addition of the NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the precent absorptivity of the stample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{(100-m)} \times 10$$

where: m = Percent moisture in the sample.

(6) *4-epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(8) *Identity.* Proceed as directed in § 436.308 of this chapter.

18. By adding new § 446.81 to read as follows:

§ 446.81 Tetracycline hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride is [4S - (4α,4aα,5aα,6β,12aα)]-4-(dimethylamino) - 1,4,4a,5,5a,6,11,12a-actahydro - 3,6,10,1212a - pentahydroxy-6 - methyl - 1,11 - dioxo-2-naphthacene-carboxamide monohydrochloride. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.
(ii) It passes the safety test.
(iii) Its loss on drying is not more than 2 percent.
(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 1.8 and not more than 2.8.
(v) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the tetracycline hydrochloride working standard similarly treated is 100±4 percent.
(vi) Its 4-epianhydrotetracycline content is not more than 2.0 percent.
(vii) It is crystalline.
(viii) It passes the identity test for tetracycline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sampel in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Absorptivity.* Dissolve approximately 40 milligrams of the sample, accurately weighed, in approximately 150 milliliters of distilled water by mixing thoroughly. Dilute to 250 milliliters with distilled water and mix thoroughly. Transfer a 10.0-milliliter aliquot of this solution to a 100-milliliter volumetric flask, add about 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH, dilute to volume with water, and mix thoroughly. Treat a sample of the tetracycline hydrochloride working standard in the same manner. Exactly 6 minutes after the addition of the NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample}} \times \frac{\text{Potency of standard in micrograms per milligram}}{(100-m)} \times 10$$

where: m = Percent moisture in the sample.

(6) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

Crystallinity. Proceed as directed in § 436.203(a) of this chapter.

(8) *Identity.* Proceed as directed in § 436.308 of this chapter.

19. By revising § 446.81a to read as follows:

§ 446.81a Sterile tetracycline hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride is [4S - (4α,4aα,5aα,6β,12aα)]-4-dimethylamino) - 1,4,4a,5,5a,6,11,12₁-octahydro - 3,6,10,12,12a - pentahydroxy - 6-methyl - 1,11 - dioxo - 2 - naphthacene-carboxamide monohydrochloride. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms of tetracycline hydrochloride per milligram.
(ii) It is sterile.
(iii) It is nonpyrogenic.
(iv) It passes the safety test.

(v) It contains no histamine or histamine-like substances.

(vi) Its loss on drying is not more than 2 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 1.8 and not more than 2.8.

(viii) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the tetracycline hydrochloride working standard similarly treated is 100±4 percent.

(ix) Its 4-epianhydrotetracycline content is not more than 2.0 percent.

(x) It is crystalline.

(xi) It passes the identity test for tetracycline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of tetracycline hydrochloride per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(8) *Absorptivity.* Dissolve approximately 40 milligrams of the sample, accurately weighed, in approximately 150 milliliters of distilled water by mixing thoroughly. Dilute to 250 milliliters with distilled water and mix thoroughly. Transfer a 10.0-milliliter aliquot of this solution to a 100-milliliter volumetric flask, add approximately 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH, dilute to volume with water, and mix thoroughly. Treat a sample of the tetracycline hydrochloride working standard in the same manner. Exactly 6 minutes after the addition of the NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculation:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample} \times (100-m)} \times \text{Potency of standard in micrograms per milligram} \times 10$$

where: m = Percent moisture in the sample.

(9) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

(10) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(11) *Identity.* Proceed as directed in § 436.308 of this chapter.

20. By revising § 446.82 to read as follows:

§ 446.82 Tetracycline phosphate complex.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline phosphate complex is [4S-(4α,4aα,5aα,6β,12aα)]-4-(dimethylamino) - 1,4,4a,5,5a,6,11,12a - octahydro - 3,6,10,12,12a-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide phosphate complex. It is so purified and dried that:

(i) Its potency is not less than 750 micrograms per milligram on the anhydrous basis.

(ii) It passes the safety test.

(iii) Its moisture content is not more than 9 percent.

(iv) Its pH in an aqueous suspension containing 10 milligrams per milliliter is not less than 2.0 and not more than 4.0.

(v) When calculated on the anhydrous basis, its absorptivity at 380 nanometers relative to that of the tetracycline hydrochloride working standard similarly treated is 82.0±4.9 percent.

(vi) Its 4-epianhydrotetracycline content is not more than 2.0 percent.

(vii) It passes the identity test, showing a presence of phosphate, a content of not more than 0.2 percent chloride, and a content of not more than 1 percent tetracycline base.

(viii) It is crystalline.

(2) *Labeling.* In addition to the requirements of § 432.5 of this chapter, each such package shall bear on its label or labeling the statement "For use only in the manufacture of nonparenteral drugs".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, 4-epianhydrotetracycline content, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 60 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter, preparing the sample solution as follows: Dissolve 40 milligrams (as the anhydrous compound) in 2.0 milliliters of 0.1*N* hydrochloric acid and dilute with sterile distilled water (diluent 3) to the appropriate test dose concentration.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a suspension containing 10 milligrams of the sample per milliliter.

(5) *Absorptivity.* Dissolve approximately 40 milligrams of the sample, accurately weighed, in 2.0 milliliters of 0.1*N* HCl and dilute to 250 milliliters with distilled water. Transfer a 10.0-milliliter aliquot of this solution to a 100-milliliter volumetric flask, add about 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH, dilute to volume with water, and mix thoroughly. Treat a sample of the tetracycline hydrochloride working standard in the same manner. Exactly 6 minutes after the addition of NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Milligrams of standard}}{\text{Milligrams of sample} \times (100-m)} \times \text{Potency of standard in micrograms per milligram} \times 10$$

where: m = Percent moisture in the sample.

(6) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

(7) *Identity*—(i) *Presence of phosphate.*—Prepare a filtrate as follows: Suspend 100 milligrams of the sample in 10 milliliters of distilled water and filter a small portion by gravity. Transfer 1.0 milliliter of the filtrate to a 100-milliliter glass-stoppered cylinder, add 10.0 milliliters of distilled water, 2.0 milliliters of ammonium molybdate test solution, 1.0 milliliter of stannous chloride test solution, and 10.0 milliliters of isobutyl alcohol-benzene mixture (1:1 ratio), all in the order named. Shake vigorously for 1 minute, allow the layers to separate, and examine the top organic layer. In the presence of phosphate, the top layer turns blue.

(ii) *Chloride content.* To 1.0 milliliter of the filtrate prepared as directed in the first sentence of paragraph (b) (7) (i) of this section, add 1 drop of silver nitrate test solution and 1 drop of nitric acid. Any turbidity produced is not greater than that obtained by similarly treating 1.0 milliliter of 0.057*N* hydrochloric acid.

(iii) *Determination of percent tetracycline base.* This test is used to determine the quantity of tetracycline present as base in mixtures with phosphate salts.

(*a*) *Reagents*—(*1*) 1,4-Dioxane.

(2) Purified dioxane: Pass the dioxane through a column of Amberlite IRA 400 (OH^-) resin or equivalent.

(3) Perchloric acid, 0.01*N*: Dilute 0.84 milliliter of 70 percent perchloric acid to 1,000 milliliters with purified dioxane; standardize at least once every 2 days, as follows: Weigh accurately about 70 milligrams of diphenylguanidine, and dissolve in 50 milliliters of ethyl alcohol in a 250-milliliter flask. Add two drops of methyl red, and titrate with the perchloric acid solution until the yellow color changes to orange. Deduct the volume of the perchloric acid consumed by 50 milliliters of the ethyl alcohol, and calculate the normality. Each 2.113 milligrams of diphenylguanidine is equivalent to 1 milliliter of 0.01*N* perchloric acid.

(4) Methyl red indicator: Dissolve 100 milligrams of methyl red in 100 milliliters of methyl alcohol.

(*b*) *Procedure.* Place an accurately weighed 1-gram sample into a 50-milliliter Erlenmeyer flask, add 10.0 milliliters of purified dioxane and shake the mixture manually for about 2 minutes. Allow to settle, decant all the supernatant liquid into a 50-milliliter polyethylene centrifuge tube, cover with Parafilm (or equivalent), and centrifuge until clear (about 3 minutes). Pipette 5.0 milliliters of the clear, supernatant solution into a 50-milliliter beaker, stir magnetically, and titrate with 0.01*N* perchloric acid, using methyl red as the indicator. The endpoint is the last color change to orange when a drop of titrant is added. Calculate the percent tetracycline base as follows:

$$\text{Percent tetracycline base} = \frac{\text{Milliliters of acid used} \times \text{Normality} \times 0.4445 \times 200}{\text{Weight of sample}}$$

(8) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

21. By revising § 446.110 to read as follows:

§ 446.110 Chlortetracycline hydrochloride capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Chlortetracycline hydrochloride capsules are composed of chlortetracycline hydrochloride and one or more suitable and harmless diluents, lubricants, and fillers. Each capsule contains 50, 100, or 250 milligrams of chlortetracycline hydrochloride. The potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of chlortetracycline hydrochloride that it is represented to contain. The loss on drying is not more than 1 percent. The chlortetracycline hydrochloride used conforms to the standards prescribed by § 446.10(a) (1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chlortetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The chloretetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 capsules.

(b) *Test and methods of assay*—(1) *Potency.*—Proceed as directed in § 536.106 of this chapter, preparing the sample for asay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.01*N* hydrochloric acid to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

§ 446.110a [Revoked]

22. By revoking § 446.110a *Chlortetracycline hydrochloride tablets; tetracycline hydrochloride tablets; tetracycline tablets.*

§ 446.110b [Revoked]

23. By revoking § 446.110b *Chlortetracycline hyrochloride capsules; tetracycline hydrochloride capsules; tetracycline capsules; tetracycline phosphate complex capsules.*

§ 446.111 [Revoked]

24. By revoking § 446.111 *Chlortetracycline calcium sirup (chlortetracycline calcium oral drops); tetracycline sirup (tetracycline oral drops); tetracycline magnesium sirup (tetracycline magnesium oral drops).*

25. In § 446.115a by revising paragraph (b) (1) to read as follows:

§ 446.115a Demeclocycline oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of demeclocycline hydrochloride per milliliter (estimated). Mix well. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

26. In § 446.115b by revising paragraph (b) (1) to read as follows:

§ 446.115b Demeclocycline for oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of demeclocycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

27. In § 446.116a by revising paragraph (b) (1) to read as follows:

§ 446.116a Demeclocycline hydrochloride tablets.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of demeclocycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

28. In § 446.116c by revising paragraph (b) (1) to read as follows:

§ 446.116c Demeclocycline hydrochloride capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of demeclocycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.100 microgram of demeclocycline hydrochloride per milliliter (estimated).

* * * * *

29. In § 446.120a by revising paragraph (b) (1) to read as follows:

§ 446.120a Doxycycline hyclate capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of doxycycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

30. In § 446.121 by deleting the word "monohydrate" from the phrase "doxycycline monohydrate" in the section heading and in paragraphs (a) (1), (a) (3) (i) (*a*) and (a) (3) (ii) (*a*); and by revising paragraph (b(1) to read as follows:

§ 446.121 Doxycycline for oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of doxycycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

31. In § 446.150a by revising paragraph (b) (1) to read as follows:

§ 446.150a Methacycline hydrochloride capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.06 microgram of methacycline per milliliter (estimated).

* * * * *

32. In § 446.150b by changing the word "sirup" to read "oral suspension" in the section heading and in paragraph (a) (1) and by revising paragraph (b) (1) to read as follows:

§ 446.150b Methacycline hydrochloride oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask, and dilute to volume with sterile distilled water. Mix well. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.06 microgram of methacycline per milliliter (estimated).

* * * * *

33. In § 446.160a by revising paragraph (b) (1) to read as follows:

§ 446.160a Minocycline hydrochloride tablets.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.085 microgram of minocycline per milliliter (estimated).

34. In § 446.160b by revising paragraph (b) (1) to read as follows:

§ 446.160b Minocycline hydrochloride capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.085 microgram of minocycline per milliliter (estimated).

* * * * *

35. In § 446.160c by revising paragraph (b) (1) to read as follows:

§ 446.160c Minocycline hydrochloride oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Mix well. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.085 microgram of minocycline per milliliter (estimated).

* * * * *

36. By revising § 446.165a to read as follows:

§ 446.165a Oxytetracycline tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline tablets are tablets composed of oxytetracycline and one or more suitable and harmless diluents, binders, lubricants, colorings, and coating substances. The potency of each tablet is 250 milligrams of oxytetracycline. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is rep-

resented to contain. The moisture content is not more than 7.5 percent. They shall disintegrate within 1 hour. The oxytetracycline used conforms to the standards prescribed by § 446.65(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency moisture, and disintegration time.

(ii) Samples required:

(*a*) The oxytetracycline used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the method described in paragraph (e)(1) of that section.

§ 446.165b [Revoked]

37. By revoking § 446.165b *Oxytetracycline capsules; oxytetracycline hydrochloride capsules.*

38. By revising § 446.165d to read as follows:

§ 446.165d Oxytetracycline for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline for oral suspension is oxytetracycline with one or more suitable and harmless buffer substances, preservatives, diluents, colorings, and flavorings. When prepared as directed in the labeling, each milliliter contains 50 milligrams of oxytetracycline. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its loss on drying is not more than 2 percent. When reconstituted as directed in the labeling, its pH is not less than 5.5 and not more than 7.5. The oxytetracycline used conforms to the standards prescribed by § 446.65(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, loss on drying, and pH.

(ii) Samples required:

(*a*) The oxytetracycline used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Mix well. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Reconstitute as directed in the labeling and proceed as directed in § 436.202 of this chapter.

39. By revising § 446.166 to read as follows:

§ 446.166 Oxytetracycline calcium oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline calcium oral suspension contains oxytetracycline calcium with one or more suitable and harmless buffer substances, suspending and stabilizing agents, flavorings, colorings, solvents, and preservatives suspended in a suitable and harmless vehicle. It contains *N*-acetyl glucosamine. Each milliliter contains a quantity of oxytetracycline calcium equivalent to either 25 milligrams or 100 milligrams of oxytetracycline. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its pH is not less than 5.0 and not more than 8.0. The oxytetracycline calcium used conforms to the standards prescribed by § 446.66(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline calcium used in making the batch for potency, safety, moisture, pH, calcium content, identity, and crystallinity.

(*b*) The batch for potency and pH.

(ii) Samples required:

(*a*) The oxytetracycline calcium used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative portion of the sample to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Mix well. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

40. By revising § 446.167 to read as follows:

§ 446.167 Oxytetracycline hydrochloride capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride capsules are gelatin capsules containing oxytetracycline hydrochloride with or without one or more suitable and harmless buffers, preservatives, diluents, binders, and lubricants. They may contain glucosamine hydrochloride. Each capsule contains 50 milligrams, 100 milligrams, 125 milligrams, or 250 milligrams of oxytetracycline. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. The loss on drying is not more than 5.0 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency and loss

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

41. By adding new § 446.180c to read as follows:

§ 446.180c Tetracycline oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline oral suspension is composed of tetracycline with or without one or more suitable and harmless buffer substances, suspending and stabilizing agents, and preservatives, suspended in a suitable and harmless vehicle. Each milliliter contains 25 milligrams of tetracycline. Its potency is satisfactory if it contains the equivalent of not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its pH is not less than 3.5 and not more than 6.0. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline used conforms to the standards prescribed by § 446.80(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline used in making the batch for potency, safety, moisture, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*b*) The batch for potency, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minmium of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Mix well. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

(3) *4 - Epianhydrotetracycline.* Proceed as directed in § 436.309(b) of this chapter.

42. By adding new § 446.180d to read as follows:

§ 446.180d Tetracycline for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline for oral suspension is composed of tetracycline with one or more suitable and harmless suspending agents, colorings, and flavorings. When reconstituted as directed in the labeling, each milliliter contains tetracycline equivalent to 5.0 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains the equivalent of not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its loss on drying is not more than 5.0 percent. When reconstituted as directed in the labeling, its pH is not less than 4.0 and not more than 6.5. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline used conforms to the standards prescribed by § 446.80(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline used in making the batch for potency, safety, moisture, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*b*) The batch for potency, loss on drying, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Transfer an accurately measured representative portion of the well-shaken suspension to an appropriate-sized volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Mix well. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the reconstituted suspension.

(4) *4 - Epianhydrotetracycline.* Proceed as directed in § 436.309(b) of this chapter.

§ 446.181c [Revoked]

43. By revoking and reserving § 446.181c *Tetracycline hydrochloride oral suspension (tetracycline hydrochloride homogenized mixture); tetracycline phosphate complex oral suspension (tetracycline phosphate complex oral drops); tetracycline hydrochloride oral solution; tetracycline calcium oral suspension; tetracycline oral suspension.*

44. By adding new § 446.181d to Subpart B to read as follows:

§ 446.181d Tetracycline hydrochloride tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride tablets contain tetracycline hydrochloride with or without one or more buffer substances, preservatives, diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 250 milligrams or 500 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its loss on drying is not more than 3.0 percent. The tablets shall disintegrate within 1 hour. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline hydrochloride used conforms to the standard prescribed by § 446.81(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*b*) The batch for potency, loss on drying, disintegration time, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution

and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter.

(4) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

45. By adding new § 446.181e to read as follows:

§ 446.181e Tetracycline hydrochloride capsules.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride capsules are composed of tetracycline hydrochloride with or without one or more suitable and harmless buffer substances, preservatives, diluents, binders, lubricants, colorings, and flavorings enclosed in a gelatin capsule. Each capsule contains 50, 100, 125, 250, or 500 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its loss on drying is not more than 4 percent. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*b*) The batch for potency, loss on drying, and 4-epianhydrotetracycline content.

(ii). Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

46. By adding new § 446.182 to Subpart B to read as follows:

§ 446.182 Tetracycline phosphate complex capsules.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.*—Tetracycline phosphate complex capsules contain tetracycline phosphate complex with or without one or more buffer substances, preservatives, diluents, binders, lubricants, colorings, and flavorings enclosed in a gelatin capsule. Each capsule contains tetracycline phosphate complex equivalent to 50, 100, 125, 250, or 500 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains the equivalent of not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its loss on drying is not more than 9.0 percent. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline phosphate complex used conforms to the standards prescribed by § 446.82(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification, samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline phosphate complex used in making the batch for potency, safety, moisture, pH, absorptivity, 4-epianhydrotetracycline content, identity, and crystalinity.

(*b*) The batch for potency, loss on drying, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline phosphate complex used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient O.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

§ 446.210 [Revoked]

47. By revoking § 446.210 *Sterile chlortetracycline hydrochloride.*

48. In § 446.220(b)(1) by revising the last sentence therein to read as follows:

§ 446.220 Doxycycline hyclate for injection.

* * * * *

(b) * * *

(1) * * * Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

* * * * *

49. In § 446.260(b)(1) by revising the last sentence therein to read as follows:

§ 446.260 Sterile minocycline hydrochloride.

* * * * *

(b) * * *

(1) * * * Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.085 microgram of minocycline per milliliter (estimated).

* * * * *

50. By revising § 446.265 to read as follows:

§ 446.265 Oxytetracycline injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline injection is a solution of oxytetracycline with or without one or more suitable and harmless buffer substances, anesthetics, preservatives, antioxidants, complexing agents, and solvents. Each milliliter contains 50 milligrams or 125 milligrams of oxytetracycline. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine or histamine-like substances. Its pH is not less than 8.0 and not more than 9.0. The oxytetracycline used conforms to the standards prescribed by § 446.65a(a)(1), except sterility, pyrogens, safety, and histamine.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytracycline used in making the batch for potency, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, and pH.

(ii) Samples required:

(*a*) The oxytetracycline used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured representative quantity of the sample to an appropriate-sized volumetric flask. Dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of oxytetracycline per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter, except inject the test dose intraperitoneally.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

51. By revising § 446.267 to read as follows:

§ 446.267 Oxytetracycline hydrochloride for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline hydrochloride for injection is a dry mixture of oxytetracycline hydrochloride and a suitable buffer substance. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of oxytetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine or histamine-like substances. Its loss on drying is not more than 3.0 percent. Its pH in an aqueous solution containing 25 milligrams per milliliter is not less than 1.8 and not more than 2.8. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67a(a) (1), except sterility, pyrogens, safety, and histamine.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, loss on drying, and pH.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Then, using a suitable hypodermic needle and syringe, promptly remove all the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from the container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter, using the diluent recommended by the manufacturer in the labeling for the drug.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 25 milligrams per milliliter.

52. In § 446.275a by revising paragraph (b) (1) to read as follows:

§ 446.275a Rolitetracycline for intravenous use.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

53. In § 446.275b by revising paragraph (b) (1) to read as follows:

§ 446.275b Rolitetracycline for intramuscular use.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

54. In § 446.276a by revising paragraph (b) (1) to read as follows:

§ 446.276a Rolitetracycline nitrate for intravenous use.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from the container. Dilute the sample thus obtained with sufficient sterile distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

55. In § 446.276b by revising paragraph (b) (1) to read as follows:

§ 446.276b Rolitetracycline nitrate for intramuscular use.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all the with-

drawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of rolitetracycline per milliliter (estimated).

* * * * *

56. By revising § 446.281 to read as follows:

§ 446.281 Tetracycline hydrochloride for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride for injection is a dry mixture of tetracycline hydrochloride, magnesium chloride, or magnesium ascorbate and one or more suitable buffer substances, with or without one or more suitable preservatives and anesthetic agents, and with or without one or more suitable solubilizers and stabilizers. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 5 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0. Its 4-epianhydrotetracycline content is not more than 3 percent. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, safety, histamine, loss on drying, pH, absorptivity, 4-epianhydrotetracycline content, crystallinity, and identity.

(*b*) The batch for potency, sterility, pyrogens, loss on drying, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of tetracycline hydrochloride per milliliter.

(4) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(6) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

§ 446.281b [Revoked]

57. By revoking § 446.281b *Tetracycline hydrochloride for intramuscular use; tetracycline phosphate complex for intramuscular use.*

58. By adding new § 446.282 to Subpart C to read as follows:

§ 446.282 Tetracycline phosphate complex for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline phosphate complex for injection is a dry mixture of tetracycline phosphate complex, magnesium chloride or magnesium ascorbate and one or more suitable buffer substances, with or without one or more suitable preservatives and anesthetic agents, and with or without one or more suitable solubilizers and stabilizers. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 5 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0. Its 4-epianhydrotetracycline content is not more than 3.0 percent. The tetracycline phosphate complex conforms to the standards prescribed by § 446.82(a)(1), and it contains no histamine or histamine-like substance.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline phosphate complex used in making the batch for potency, safety, moisture, pH, histamine, absorptivity, 4-epianhydrotetracycline content, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, loss on drying, pH, and 4-epianhydrotetracycline content.

(ii) Samples required:

(*a*) The tetracycline phosphate complex used in making the batch: 10 packages, each containing approximately 300 milligrams, and one package containing approximately 1 gram.

(*b*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the sample thus obtained with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use 50 milligrams in lieu of 300 milligrams of sample.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 5.0 milligrams of tetracycline hydrochloride per milliliter.

(4) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(6) *Histamine in the tetracycline phosphate complex used in making the batch.* Proceed as directed in § 436.35 of this chapter. Prepare the test solution by dissolving 40 milligrams of sample in 2.0 milliliters of 0.1*N* hydrochloric acid and diluting with sterile distilled water (diluent 3) to the prescribed concentration.

(7) *4-Epianhydrotetracycline.* Proceed as directed in § 436.309 of this chapter.

59. By revising § 446.310 to read as follows:

§ 446.310 Chlortetracycline hydrochloride ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Chlortetracycline hydrochloride ophthalmic ointment contains chlortetracycline hydrochloride in a suitable and harmless ointment base. Each gram contains 10 milligrams of chlortetracycline hydrochloride. Its potency is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of chlortetracycline hydrochloride that

it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The chlortetracycline hydrochloride used conforms to the standards prescribed by § 446.10a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chlortetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, crystallinity, and identity.

(*b*) The batch for potency, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The chlortetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. Further dilute an aliquot with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

§ 446.310a [Revoked]

60. By revoking § 446.310a *Chlortetracycline ophthalmic (chlortetracycline hydrochloride ophthalmic); tetracycline hydrochloride ophthalmic.*

§ 446.310b [Revoked]

61. By revoking § 446.310b *Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).*

§ 446.367a [Revoked]

62. By revoking § 446.367a *Ophthalmic oxytetracycline hydrochloride.*

§ 446.367b [Revoked]

63. By revoking § 446.367b *Oxytetracycline hydrochloride ophthalmic oil suspension.*

64. By revising § 446.367c to read as follows:

§ 446.367c Oxytetracycline hydrochloride-hydrocortisone acetate ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline hydrochloride-hydrocortisone acetate ophthalmic suspension is oxytetracycline hydrochloride and hydrocortisone acetate in a suitable and harmless oil base containing aluminum tristearate. Each milliliter contains oxytetracycline hydrochloride equivalent to 5 milligrams of oxytetracycline and 15 milligrams of hydrocortisone acetate. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of oxytetracycline that it is represented to contain. It is sterile. Its moisture content is not more than 1 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, crystallinity, and identity.

(*b*) The batch for potency, sterility, and moisture.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately measured, representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter of polysorbate 80 and sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Blend for 3 to 5 minutes. Further dilute an aliquot with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section, except use 0.25 milliliter of the sample in lieu of 1.0 milliliter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 446.367d [Revoked]

65. By revoking § 446.367d *Oxytetracycline hydrochloride ophthalmic ointment.*

66. By revising § 446.367e to read as follows:

§ 446.367e Oxytetracycline hydrochloride-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride-polymyxin B sulfate ophthalmic ointment is oxytetracycline hydrochloride and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains oxytetracycline hydrochloride equivalent to 5 milligrams of oxytetracycline and polymyxin B sulfate equivalent to 10,000 units of polymyxin B. Its oxytetracycline content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 1 percent. It passes the test for metal particles. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67a(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, crystallinity, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, pH, loss on drying, residue on ignition, and identity.

(c) The batch for oxytetracycline content, polymxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(c) The batch:

(1) For all tests except sterility: A minimum of 16 immediate containers.

(2) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Oxytetracycline content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the ointment and ether until homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Weigh accurately 0.5 to 1 gram of the ointment and place into a 15-milliliter centrifuge tube. Add 10 milliliters of peroxide-free ether. Stir until contents are homogeneous and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant ether. Repeat washing and centrifugation steps once more. Add 10 milliliters of acetone, stir until contents are homogeneous, and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant acetone. Repeat acetone wash and centrifugation once more. Continue acetone washings until the yellow color in the residue disappears. Add 3 to 4 drops of polysorbate 80 to the residue and mix well. Gently wash the residue into a 100-milliliter volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

67. By adding new § 446.381 to Subpart D to read as follows:

§ 446.381 Tetracycline hydrochloride ophthalmic dosage forms.

68. By adding new § 446.381a to read as follows:

§ 446.381a Tetracycline hydrochloride ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride ophthalmic ointment contains tetracycline hydrochloride in a suitable and harmless ointment base. Each gram contains 10 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81a(a) (1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.-5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, crystallinity, and identity.

(*b*) The batch for potency, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of 3 more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the extractives in a suitable volumetric flask and fill to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

69. By adding new § 446.381b to read as follows:

§ 446.381b Tetracycline hydrochloride ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride ophthalmic suspension contains tetracycline hydrochloride in a suitable and harmless oily base. Each gram contains 10 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81a(a) (1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.-5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, crystallinity, and identity.

(*b*) The batch for potency, sterility, and moisture.

(ii) Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a high-speed glass blender jar with sufficient 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less jar with sufficient 0.1*N* hydrochloric hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

70. By revising § 446.467 to read as follows:

§ 446.467 Oxytetracycline hydrochloride-polymyxin B sulfate otic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride-polymyzin B sulfate otic ointment is oxytetracycline hydrochloride and polymyxin B sulfate in a suitable and harmless ointment base. Each gram of ointment contains oxytetracycline hydrochloride equivalent to 5 milligrams of oxytetracycline and polymyxin B sulfate equivalent to 10,000 units of polymyxin B. Its oxtetracycline hydrochlo-

ride content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 1 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67 (a) (1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a) (1) of this chapter, except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The polymyxin B sulfate used in making the batch for potency, pH, loss on drying, residue on ignition, and identity.

(*c*) The batch for oxytetracycline content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Oxytetracycline content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and fill to volume wth 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Weigh accurately 0.5 to 1.0 gram of the ointment and place into a 15-milliliter centrifuge tube. Add 10 milliliters of peroxide-free ether. Stir until contents are homogeneous and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant ether. Repeat washing and centrifugation steps once more. Add 10 milliliters of acetone, stir until contents are homogeneous, and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant acetone. Repeat acetone wash and centrifugation once more. Continue acetone washings until the yellow color in the residue disappears. Add 3 to 4 drops of polysorbate 80 to the residue and mix well. Gently wash the residue into a 100-milliliter volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 446.467d [Revoked]

70a. By revoking § 446.467d *Oxytetracycline hydrochloride-polymyxin B sulfat otic ointment.*

71. By revising § 446.510 to read as follows:

§ 446.510 Chlortetracycline hydrochloride ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality and purity.*—Chlortetracycline hydrochloride ointment contains chlortetracycline hydrochloride and one or more suitable and harmless preservatives in a suitable and harmless ointment base. Each gram contains 30 milligrams of chlortetracycline hydrochloride. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of chlortetracycline hydrochloride that it is represented to contain. Its moisture content is not more than 0.5 percent. The chlortetracycline hydrochloride used conforms to the standards prescribed by § 446.10(a) (1), except safety.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 (a) (3) of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chlortetracycline hydrochloride used in making the batch for potency, loss on drying, pH, crystallinity, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The chlortetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 60 milligrams.

(*b*) The batch: A minimum of five immediate containers:

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 50 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. Further dilute an aliquot with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride per milliliter (estimated).

(2) *Moisure.* Proceed as directed in § 436.201 of this chapter.

§ 446.510a [Revoked]

72. By revoking § 446.510a *Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcuim cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).*

§ 446.510b [Revoked]

73. By revoking § 446.510b *Chlortetracycline powder (chlortetracycline hydrochloride powder); tetracycline hydrochloride powder; tetracycline powder.*

74. By revising § 446.567a to read as follows:

§ 446.567a Oxytetracycline hydrochloride-hydrocortisone topical ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline hydrochloride-hydrocortisone topical ointment is oxytetracycline hydrochloride and hydrocortisone in a suitable and harmless ointment base. Each gram contains oxytetracycline hydrochloride equivalent to 30 milligrams of oxytetracycline and 10 milligrams of hydrocortisone. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its moisture content is not more than 1 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a) (1), except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25-milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and fill to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

75. By revising § 446.567b to read as follows:

§ 446.567b Oxytetracycline hydrochloride-polymyxin B sulfate topical ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline hydrochloride-polymyxin B sulfate topical ointment is oxytetracycline hydrochloride and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains oxytetracycline hydrochloride equivalent to 30 milligrams of oxytetracycline and polymyxin B sulfate equivalent to 10,000 units of polymyxin B. Its oxytetracycline content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 1 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a) (1), except safety. The polymyxin B sulfate conforms to the standards prescribed by § 448.30 (a) (1), except safety.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 (a) (3) of this chapter, each package shall bear on its label or labeling as hereinafter indicated, the following:

(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(ii) On the label of the immediate container or other labeling attached to or within the package: Adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, residue on ignition, and identity.

(*c*) The batch for oxytetracycline content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Oxytetracycline content.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the ointment and ether until homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Weigh accurately 0.5 to 1 gram of the ointment and place into a 15-milliliter centrifuge tube. Add 10 milliliters of peroxide-free ether. Stir until contents are homogeneous and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant ether. Repeat washing and centrifugation steps once more. Add 10 milliliters of acetone, stir until contents are homogeneous, and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant acetone. Repeat acetone wash and centrifugation once more. Continue acetone washings until the yellow color in the residue disappears. Add 3 to 4 drops of polysorbate 80 to the residue and mix well. Gently wash the residue into a 100-milliliter volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 67), and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

76. By revising § 446.567c to read as follows:

§ 446.567c Oxytetracycline hydrochloride-polymyxin B sulfate topical powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.*—Oxytetracycline hydrochloride-polymyxin B sulfate topical powder is oxytetracycline hydrochloride and polymyxin B sulfate with a suitable filler. Each gram contains 30 milligrams of oxytetracycline and 10,000 units of polymyxin B. Its oxytetracycline content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. The loss on drying is not more than 2.0 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67, except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30 (a) (1) of this chapter, except safety.

(2) *Labeling.* Each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that is 12 months after the month during which the batch was certified, unless the use of a longer expiration period has been approved in accordance with the provisions of § 432.5(a) (3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions for lay use of the drug.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, residue on ignition, and identity.

(c) The batch for oxytetracycline content, polymyxin content, and loss on drying.

(ii) Samples required:

(a) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(c) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Oxytetracycline content.*—Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a high-speed glass blender jar with sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline hydrochloride per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Accurately weigh 1 gram of the powder and place into a 50-milliliter centrifuge tube. Add 15 milliliters of acetone and 1 drop of concentrated hydrochloric acid and stir well. Add 20 milliliters of acetone and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant liquid and repeat the acetone-acid extraction once more. Dissolve and dilute the residue with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

§ 446.567d [Revoked]

77. By revoking § 446.567d *Oxytetracycline hydrochloride-hydrocortisone aerosol topical.*

78. By revising § 446.567e to read as follows:

§ 446.567e Oxytetracycline hydrochloride-polymyxin B sulfate-hydrocortisone aerosol topical.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride-polymyxin B sulfate-hydrocortisone aerosol topical is oxytetracycline hydrochloride, polymyxin B sulfate, and hydrocortisone in a suitable ointment base packaged with one or more suitable inert gases. Each spray pack contains the equivalent of 300 milligrams of oxytetracycline, 100,000 units of polymyxin B, and 100 milligrams of hydrocortisone. Its oxytetracycline hydrochloride content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it is not less than 90 percent and not more than 135 percent of the number of units of polymyxin B that it is represented to contain. The moisture content is not more than 1.0 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a)(1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter, except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(b) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, residue on ignition, and identity.

(c) The batch for oxytetracycline content, polymyxin content, and moisture.

(ii) Samples required:

(a) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(c) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Oxytetracycline content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Remove the cap and plastic spray tip from the aerosol can. Attach a 10-inch length of suitable plastic tubing over the nozzle of the aerosol can. Shake the can gently two or three times. Place the free end of the tubing into a 400-milliliter beaker, hold the can in an upright position, and depress the nozzle. Empty the entire contents into the beaker. Rinse the tubing with a minimum amount of 0.1*N* hydrochloric acid and add it to the contents of the beaker. Allow to stand at room temperature for ½ to 1 hour to evaporate residual propellant. Transfer the contents of the beaker with three 10-milliliter portions of 0.1*N* hydrochloric acid to a 1-liter volumetric flask. Dilute to volume with 0.1*N* hydrochloric acid and mix well. Remove an appropriate aliquot and dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Remove the cap and plastic spray tip from the aerosol can. Attach a 10-inch length of suitable plastic tubing over the nozzle and shake the can gently. Place the free end of the tubing into a filter funnel having a solvent-resistant membrane of 1.0 micrometer porosity, hold the can upright, and depress the nozzle until the contents are completely emptied into the funnel. Evaporate any residual propellant by allowing it to stand at room temperature for ½ to 1 hour. Rinse the plastic tubing with small portions of acetone and pour the washings into the funnel. Wash the sample with five 20-milliliter portions of acetone or until the yellow color has disappeared. Remove the filter and soak it in an adequate volume of 10 percent potassium phosphate buffer, pH 6.0 (solution 6). Quantitatively transfer to a 100-milliliter volumetric flask and adjust to volume with solution 6. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

79. By revising § 446.581 to read as follows:

§ 446.581 Tetracycline hydrochloride ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride ointment contains tetracycline hydrochloride in a suitable and harmless ointment base. Each gram contains 30 milligrams of tetracycline hydrochloride. Its potency is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of milligrams of tetracycline hydrochloride that it is represented to contain. Its moisture content is not more than 1 percent. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81(a)(1), except safety, and 4-epianhydrotetracycline content.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The tetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, crystallinity, and identity.

(b) The batch for potency and moisture.

(ii) Samples required:

(a) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the

extraction procedure with each of three more 20- to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and fill to volume with 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of tetracycline hydrochloride per milliliter (estimated). Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 446.581a [Revoked]

80. By revoking § 446.581a *Tetracycline hydrochloride-neomycin spray ointment topical.*

§ 446.581b [Revoked]

81. By revoking § 446.581b *Tetracycline hydrochloride-neomycin in oil suspension.*

§ 446.610 [Revoked]

82. By revoking § 446.610 *Chlortetracycline suppositories (chlortetracycline hydrochloride suppositories); tetracycline hydrochloride suppositories.*

83. By revising § 446.667 to read as follows:

§ 446.667 Oxytetracycline hydrochloride-polymyxin B sulfate vaginal tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride-polymyxin B sulfate vaginal tablets are tablets composed of oxytetracycline hydrochloride and polymyxin B sulfate with one or more suitable diluents, binders, lubricants, and preservatives. Each tablet contains oxytetracycline hydrochloride equivalent to 100 milligrams of oxytetracycline and polymyxin B sulfate equivalent to 100,000 units of polymyxin B. Its oxytetracycline content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxytetracycline that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. The loss on drying is not more than 3.0 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a)(1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter, except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431:1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, identity, and crystallinity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, residue on ignition, and identity.

(*c*) The batch for oxytetracycline content, polymyxin B content, and loss on drying.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of 30 tablets.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Oxytetracycline content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 0.1*N* hydrochloric acid to obtain a stock solution of convenient concentration containing not less than 150 micrograms of oxytetracycline per milliliter (estimated). Blend for 3 to 5 minutes. Remove an aliquot of the stock solution and further dilute with sterile distilled water to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Grind a representative number of tablets into a fine powder and place this powder, accurately weighed, into a filter funnel with a solvent-resistant membrane filter of 1.0 micrometer porosity. Wash the powder with five 20-milliliter portions of acetone or until the yellow color has disappeared. Remove the filter and soak in 400 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and blend. Quantitatively transfer to a 500-milliliter volumetric flask and adjust to volume with solution 6. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

§ 446.710 [Revoked]

84. By revoking § 446.710 *Chlortetracycline suppositories (chlortetracycline hydrochloride suppositories); tetracycline hydrochloride suppositories.*

§ 446.910 [Revoked]

85. By revoking § 446.910 *Chlortetracycline hydrochloride impregnated surgical silk.*

Interested persons may, on or before November 16, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-27062 Filed 9-16-76;8:45 am]

[Docket No. 76N-0324]

[21 CFR Part 812]

MEDICAL DEVICES

Proposed Investigational Device Exemptions

Correction

In FR Doc. 76-24454 appearing at page 35282 in the FEDERAL REGISTER of Friday, August 20, 1976 the following corrections should be made:

1. On page 35283, first column, second complete paragraph, between the 6th and 7th lines insert "premarket approval requirement but";

2. On page 35285, first column, first complete paragraph, next to the last line change "III" to "II";

3. On page 35295, third column, last paragraph, eleventh line, fifth word now reading "several" should read "severe".

[21 CFR Part 2]

[Docket No. 76P-0126]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Advance Notice of Proposed Rulemaking

Correction

In FR Doc. 76-24845 appearing at page 35855 in the FEDERAL REGISTER of Wednesday, August 25, 1976 the following changes should be made:

1. On page 35857, first column, fifth paragraph, sixth line, the reference reading "§§ 2.2" should read "§§ 2.3";

2. On page 35857, second column, first full paragraph, tenth line, last word now reading "regulation" should read "preparation".

FEDERAL POWER COMMISSION

[18 CFR Part 1]

[Docket No. RM76-24]

RULES OF PRACTICE AND PROCEDURE

Further Notice Inviting Staff Comment on Petition for Amendment of Rules

SEPTEMBER 10, 1976.

Petition of certain utilities and others for amendment of 18 CFR § 1.4(d) to facilitate settlement of disposition of particular issues in proceedings before the Commission.

On July 19, 1976, the Commission issued a Notice of Filing Of Petition For Amendment Of The Commission's Rules Of Practice And Procedure, in the above styled matter. The Notice requested data, views, comments or suggestions concerning the proposed amendment to be filed by August 9, 1976. By Notice issued August 6, 1976, the date for comments was extended to September 8, 1976, and further extended to September 15, 1976, by Notice issued September 8, 1976.

The petition proposes an amendment to the Commission's ex parte rules (18 CFR 1.4(d)) for the stated purpose of facilitating the disposition of matters before the Commission by allowing informal discussions between Commission Staff Counsel, or certain other Commission employees, and counsel for parties to proceedings before the Commission concerning proposed settlements or proposed agreements for disposition of particular issues.

If approved, these proposed rules would directly affect the Commission's Staff in many of its Bureaus and Offices. The Commission believes it would be desirable to have public comment from those Bureaus and Offices before taking further action upon the petition. We will, therefore, invite the Office of Administrative Law Judges, Bureau of Natural Gas, Bureau of Power, Office of the General Counsel, Office of Accounting and Finance, Office of Economics, Office of Special Assistants, and Office of Energy Systems to file with the Commission comments upon the proposed rules not later than September 24, 1976.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27233 Filed 9-16-76;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.

DEPARTMENT OF STATE

[Public Notice 495]

TUTANKHAMUN COLLECTION, EGYPT

Culturally Significant Objects of Art; Determination

Correction

In FR Doc. 76-26294 appearing on page 37609 in the issue for Tuesday, September 7, 1976, the bracketed information in the heading should have read as set forth above.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 158]

ASSISTANT REGIONAL COMMISSIONER (APPELLATE) ET AL.

Delegation of Authority Regarding Deciding Appeals of Determinations of Tax Liability and/or Excise Taxes Involving Employee Plans and Exempt Organizations

1. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150-37, the authority to decide appeals of determinations of tax liability and/or related excess taxes involving employee plans and exempt organizations is hereby delegated to the following officials:

(a) Assistant Regional Commissioner (Appellate);

(b) Chiefs and Assistant Chiefs, Appellate Branch Offices;

(c) Conferee-Special Assistants, Appellate Branch Offices; and

(d) Chief and Section Chief, District Conference Function.

2. This authority may not be redelegated.

Date of issue and effective date: September 17, 1976.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76-27376 Filed 9-16-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 9, 1976.

The USAF Scientific Advisory Board Ad Hoc Technical Assessment Committee on the B-1 will hold meetings on October 4, 5, and 6, 1976. On October 4 and 5 they will be held at Rockwell International, Los Angeles and on October 6 at the Air Force Space and Missile Systems Organization, Los Angeles from 8:30 a.m. to 5:00 p.m. each day.

The Committee will receive classified briefings and conduct classified discussions on technical aspects and progress of the B-1 development program.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76-27247 Filed 9-16-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

[INT FES 76-48]

FY 1977 PROPOSED PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a Supplementary Appendix to its Final Fiscal Year 1977 Proposed Program. Contained in the Supplementary Appendix are the final facility location supplements covering the following proposed new facilities: Haymill Service, approximately seven miles of 138-kV transmission line between a tap point on an Idaho Power Company line and BPA's Haymill Substation near Rupert, Idaho; and West Burley Service, approximately seven miles of 138-kV transmission line between the newly planned (by the customer) West Burley Substation and BPA's Unity Substation near Burley, Idaho.

Copies of the Supplementary Appendix are available for inspection in the library of the headquarters office of Bonneville Power Administration, 1002 NE Holladay Street, Portland, Oregon 97232; the Washington, D.C., Office in the Interior Building, Room 5600; Walla Walla Area Office, West 101 Poplar, P.O. Box 1518, Walla Walla, Washington 99362; and the Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho 83401.

Copies are also available at Government Depository Libraries (see attached list) and at the Burley Public Library, 1300 Miller Ave., Burley, Idaho; BPA, Operation and Maintenance Office, 1247 Main St., Burley, Idaho; and Rupert Public Library, Rupert, Idaho.

A limited number of single copies are available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

SEPTEMBER 13, 1976.

GOVERNMENT DEPOSITORY LIBRARIES

IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.

MONTANA

Documents Librarian, Montana State University Library, Bozeman, Montana 59715.
University of Montana Library, Documents Division, Missoula, Montana 59801.

OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oregon 97520.
Documents Division, Library, Oregon State University, Corvallis, Oregon 97331.
University of Oregon Library, Documents Section, Eugene, Oregon 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oregon 97116.
Eastern Oregon State College Library, Eighth at K, LaGrande, Oregon 97850.
Northrup Library, Linfield College, McMinnville, Oregon 97128.
Oregon College of Education Library, Monmouth, Oregon 97361.
Aubrey R. Watzek Library, Lewis and Clark College, Attention: Reference Department, 0615 S.W. Palatine Hill Road, Portland, Oregon 97219.
Library Association of Portland, 801 S.W. Tenth Avenue, Portland, Oregon 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oregon 97207.
Eric V. Hauser Memorial Library, Reed College, 3202 S.E. Woodstock, Portland, Oregon 97202.
Oregon State Library, State Library Building, Salem, Oregon 97301.
Willamette University Library, 900 State Street, Salem, Oregon 97301.

WASHINGTON

Documents Division, Mabel Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Washington 98225.
Documents Department, Library, Central Washington State College, Ellensburg, Washington 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, Washington 98201.
Documents Center, Washington State Library, Olympia, Washington 98504.
Port Angeles Public Library, 207 S. Lincoln Street, Port Angeles, Washington 98362.

Washington State University Library, Serial-Record Section, Pullman, Washington 99163.
Henry Suzzallo Memorial Library, University of Washington, Seattle, Washington 98195.
Fort Vancouver Regional Library, Attention: Reference Librarian, 1007 E. Mill Plain Blvd., Vancouver, Washington 98663.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Washington 99362.

[FR Doc.76-27341 Filed 9-16-76;8:45 am]

Bureau of Land Management

[F-14836-A]

ALASKA

Alaska Native Claims Selection

Correction

In FR Doc. 76-25316 appearing at page 36525 in the FEDERAL REGISTER of Monday, August 30, 1976 the following correction should be made:

On page 36527, third column, paragraph numbered "2," the date in the last line should read "September 29, 1976."

ALASKA

Permit, Avigation and Hazard Easement and Right-of-Way

Notice is hereby given that on January 26, 1976, the Federal Aviation Administration, Alaskan Region, pursuant to section 23 of the Airport and Airway development Act of 1970 (84 Stat. 219; 49 U.S.C. 1701, et seq.), requested that land be conveyed to the State of Alaska, Division of Aviation, Department of Public Works, for the purpose of operating a public airport, a permit, avigation and hazard easement and right-of-way in, over, and upon the following described land:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 21 N., R. 48 W., Metes and bounds description, lying within section 32.
Kuskolwin Recording District, Fourth Judicial District, State of Alaska.

This notice is for the purpose of allowing all persons having bona fide objections to the proposed conveyance or claiming an interest in the land an opportunity to file a protest with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, together with evidence that a copy of the protest has been served on the State of Alaska, Division of Aviation, within 30 days from the date of first publication.

CURTIS V. MCVEE,
State Director.

[FR Doc.76-27338 Filed 9-16-76;8:45 am]

BURLEY DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Burley District Multiple Use Advisory Board will be held November 3, 1976, at 8:00 p.m. at the Ramada Inn. This will be a public input meeting to provide public response to Desert Land Entry and Carey Act programs in the Burley District.

Any members of the public wishing to present comments for or against the disposal of National Resource Land under the existing agricultural land laws may attend the meeting and present their comments orally. Written comments will also be accepted.

On November 4, 1976, at 9:30 a.m., a meeting of the Multiple Use Advisory Board will be held at the Ramada Inn. The agenda will include report of ad hoc committee on Carey Act proposals in the Burley District; report of ad hoc committee on Desert Land Entry proposals in the Burley District; discussion and recommendations for Agricultural Allowance programs in the Burley District; use of Advisory Board funds; final recommendation for protective withdrawal of Proposed Salmon Falls Natural Area; and any other business proper to come before the Board.

Persons wishing to attend and make oral presentation at either meeting should contact the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, (Telephone 678-5514) at least five (5) days prior to the meetings to insure that time is provided on the agenda.

Dated: September 10, 1976.

NICK JAMES COZAKOS,
District Manager.

[FR Doc.76-27339 Filed 9-16-76;8:45 am]

[F-19148-10, etc.]

ALASKA

Native Claims (Regional) Selection

Pursuant to section 12(c)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), the Arctic Slope Regional Corporation filed certain selection applications covering the surface and subsurface estates of the lands described herein. The applications were timely filed and are serialized as F-19148-10, F-19148-13, F-19148-23, F-19148-24, F-19148-25, F-19148-31, F-19148-32, and F-19148-33.

These selections were made in accordance with paragraphs 10, 11, 12, and 13 of the agreement between the Department of the Interior and the Arctic Slope Regional Corporation dated February 26, 1974.

It has, therefore, been determined that the applications have been properly filed and meet all the requirements of the act and the regulations issued pursuant to the act, as well as the provisions of the special agreement. The selected lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estate of the following described lands are considered proper for acquisition by the Arctic Slope Regional Corporation, subject to valid existing rights, and are hereby approved for interim conveyance pursuant to section 14(e) of the act:

Chandler Lake Unit, F-19148-10

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 14 S., R. 2 W.,
Secs. 29 to 32, inclusive.
T. 15 S., R. 2 W.,
Secs. 1 to 5, inclusive;
Secs. 8 to 12, inclusive.
T. 16 S., R. 2 W.,
Secs. 19 and 20;
Sec. 21, excluding Native allotment F-16443;
Secs. 22 and 23;
Sec. 24, excluding Native allotment F-17886 Parcel A;
Secs. 25, 26, and 27;
Sec. 28, excluding Native allotment F-16434 Parcel A and Native allotment F-16447;
Secs. 29 to 32, inclusive;
Sec. 33, excluding Native allotment F-16434 Parcel A and Native allotment F-16447;
Secs. 34, 35 and 36.
T. 12 S., R. 3 W.,
Secs. 31 to 35, inclusive.
T. 13 S., R. 3 W.,
Secs. 2 to 9, inclusive;
Sec. 16, excluding Native allotment F-16436;
Secs. 17 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 14 S., R. 3 W.,
Secs. 4 and 5;
Sec. 6, excluding Native Allotment 17892;
Sec. 7;
Sec. 18;
Sec. 19;
Secs. 25 to 36, inclusive.
T. 16 S., R. 3 W.,
Sec 19;
Secs. 20 and 21, excluding Native allotment F-17889;
Secs. 22 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 13 S., R. 4 W.,
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 14 S., R. 4 W.,
Sec. 1, excluding Native allotment F-16424 Parcel A and Native allotment F-16425;
Sec. 2;
Secs. 11 to 14, inclusive;
Sec. 21;
Secs. 22 and 23, excluding Native allotment F-16309;
Sec. 24, excluding Native allotment F-16434 Parcel B;
Sec. 25;
Secs. 26 and 27, excluding Native allotment F-16309;
Sec. 28;
Secs. 33 to 36, inclusive.
T. 15 S., R. 4 W.,
Sec. 2, excluding Native allotment F-17885 Parcel B;
Secs. 3 and 4;
Secs. 9 to 11, inclusive;
Secs. 14 to 16, inclusive;
Secs. 19 to 23, inclusive;
Secs. 26 to 32, inclusive.
T. 16 S., R. 4 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 24, inclusive.

Colville River Unit F–19148–13

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 1 N., R. 2 E.,
Secs. 25 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 1 N., R. 3 E.,
Secs. 4 and 5;
Secs. 8 to 17, inclusive;
Secs. 19 to 33, inclusive.
T. 1 S., R. 1 E.,
Secs. 1 and 2;
Secs. 7 to 36, inclusive.
T. 2 S., R. 1 E.,
Secs. 19 to 36, inclusive.
T. 3 S., R. 1 E.
T. 4 S., R. 1 E.
T. 1 S., R. 2 E.
T. 3 S., R. 2 E.
T. 4 S., R. 2 E.
T. 1 S., R. 3 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 3 S., R. 3 E.
T. 4 S., R. 3 E.
T. 3 S., R. 4 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 4 S., R. 4 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 1 S., R. 1 W.,
Secs. 12, 13 and 14;
Secs. 22 to 36, inclusive.
T. 2 S., R. 1 W.,
Secs. 19 to 36, inclusive.
T. 3 S., R. 1 W.
T. 4 S., R. 1 W.
T. 1 S., R. 2 W.,
Sec. 36.
T. 2 S., R. 2 W.,
Secs. 1 and 2;
Secs. 7 to 36, inclusive.
T. 3 S., R. 2 W.
T. 4 S., R. 2 W.
T. 2 S., R. 3 W.,
Secs. 22 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 3 S., R. 3 W.
T. 4 S., R. 3 W.
T. 2 S., R. 4 W.,
Sec. 36.
T. 3 S., R. 4 W.,
Secs. 1 to 5, inclusive;
Secs. 7 to 36, inclusive.
T. 4 S., R. 4 W.
T. 3 S., R. 5 W.,
Sec. 13;
Secs. 22 to 29, inclusive;
Secs. 31 to 36, inclusive.
T. 4 S., R. 5 W.
T. 5 S., R. 5 W.,
Secs. 1 to 18, inclusive.
T. 5 S., R. 9 W.,
Secs. 19 and 20;
Secs. 29 to 33, inclusive.
T. 4 S., R. 10 W.,
Secs. 30 to 33, inclusive.
T. 5 S., R. 10 W.,
Secs. 3 to 6, inclusive;
Sec. 10;
Secs. 14 and 15;
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 4 S., R. 11 W.,
Sec. 29;
Secs. 31 to 36, inclusive.
T. 5 S., R. 11 W.,
Secs. 1 to 6, inclusive.
T. 4 S., R. 12 W.,
Secs. 31 to 36, inclusive.
T. 5 S., R. 12 W.,
Secs. 1 to 6, inclusive.
T. 4 S., R. 13 W.,
Secs. 34, 35 and 36.
T. 5 S., R. 13 W.,
Secs. 1 to 6, inclusive.
T. 5 S., R. 14 W.,
Secs. 1 and 2;
Sec. 6.
T. 5 S., R. 15 W.,
Secs. 1 and 2;
Sec. 8;
Secs. 11 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 31 to 36, inclusive.

Itkillik Valley Unit F–19148–23

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 11 S., R. 9 E.,
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 10 S., R. 10 E.,
Secs. 7 to 9, inclusive;
Secs. 16 to 21, inclusive.

Shainin Lake Unit F–19148–24

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 12 S., R. 4 E.,
Sec. 36, excluding Native allotments F–16417 and F–16638.
T. 12 S., R. 5 E.,
Sec. 31, excluding Native allotment F–16638;
Sec. 32.
T. 13 S., R. 5 E.,
Secs. 5 and 6;
Secs. 7 and 8, excluding Native allotment F–16310;
Secs. 17 and 18, excluding Native allotment F–16310.

Elusive Lake Unit F–19148–25

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 9 S., R. 15 E.,
Secs. 10 to 15, inclusive;
Secs. 22, 23 and 24.

Kurupa Unit F–19148–31

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 10 S., R. 11 W.,
Secs. 19 to 36, inclusive.
T. 8 S., R. 12 W.,
Secs. 7, 8 and 9;
Secs. 16 to 21, inclusive.
T. 10 S., R. 12 W.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 13 W.,
Secs. 19 to 36, inclusive.
T. 7 S., R. 13 W.
T. 8 S., R. 13 W.,
Secs. 1 to 24, inclusive.
T. 9 S., R. 13 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 10 S., R. 13 W.
T. 6 S., R. 14 W.,
Secs. 19 to 36, inclusive.
T. 7 S., R. 14 W.
T. 8 S., R. 14 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 9 S., R. 14 W.
T. 11 S., R. 14 W.
T. 12 S., R. 14 W. (fractional)
T. 6 S., R. 15 W.
T. 7 S., R. 15 W.,
Secs. 1 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 10 S., R. 15 W.,
Secs. 22 to 27, inclusive;
Secs. 34, 35 and 36.
T. 11 S., R. 15 W.
T. 12 S., R. 15 W. (fractional)
T. 6 S., R. 16 W.,
Secs. 1 and 2;
Sec. 3, excluding Naval Petroleum Reserve No. 4;
Sec. 10, excluding Naval Petroleum Reserve No. 4;
Secs. 11 to 14, inclusive;
Sec. 15, excluding Naval Petroleum Reserve No. 4;
Sec. 22, excluding Naval Petroleum Reserve No. 4;
Secs. 23 to 26, inclusive;
Sec. 27, excluding Naval Petroleum Reserve No. 4;
Sec. 34, excluding Naval Petroleum Reserve No. 4;
Secs. 35 and 36.
T. 7 S., R. 16 W.,
Secs. 1 and 2;
Sec. 3, excluding Naval Petroleum Reserve No. 4;
Sec. 10, excluding Naval Petroleum Reserve No. 4;
Secs. 11 to 14, inclusive;
Sec. 15, excluding Naval Petroleum Reserve No. 4;
Sec. 22, excluding Naval Petroleum Reserve No. 4;
Secs. 23 and 24.
T. 11 S., R. 16 W., excluding Naval Petroleum Reserve No. 4.
T. 12 S., R. 16 W. (fractional), excluding Naval Petroleum Reserve No. 4.

Tulugak Unit F–19148–32

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 5 S., R. 1 E.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 1 E.,
Secs. 1 to 30, inclusive.
T. 5 S., R. 2 E.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 2 E.,
Secs. 1 to 30, inclusive.
T. 5 S., R. 3 E.,
Secs. 19 to 36, inclusive.
T. 6 S., R. 3 E.,
Secs. 1 to 30, inclusive.
T. 5 S., R. 4 E.,
Secs. 10 to 36, inclusive.
T. 6 S., R. 4 E.
T. 5 S., R. 5 E.,
Secs. 7, 8 and 9;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 6 S., R. 5 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.

Tigligpuk Unit F–19148–33

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 11 S., R. 1 E.,
Secs. 31 to 36, inclusive.
T. 12 S., R. 1 E.,
Secs. 1 to 14, inclusive;
Secs. 15 and 16, excluding Native Allotment F–17888 Parcel A;
Secs. 17 to 36, inclusive.
T. 11 S., R. 2 E.,
Secs. 31 to 36, inclusive.
T. 12 S., R. 2 E.,
Secs. 1 to 31, inclusive;
Sec. 32, excluding Native allotment F–15575 Parcel A and Native allotment F–16430 Parcel B;
Secs. 33 to 36, inclusive.
T. 11 S., R. 3 E.,
Secs. 31 to 36, inclusive.
T. 12 S., R. 3 E.
T. 11 S., R. 1 W.,
Secs. 31 to 36, inclusive.
T. 12 S., R. 1 W.
T. 11 S., R. 2 W.,
Secs. 19 to 36, inclusive.
T. 12 S., R. 2 W.,
Secs. 1 to 18, inclusive.
T. 11 S., R. 3 W.,
Secs. 19 to 36, inclusive.
T. 12 S., R. 3 W.,
Secs. 1 to 30, inclusive.

T. 11 S., R. 4 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 36, inclusive.
T. 12 S., R. 4 W.,
Secs. 1 to 18, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 13 S., R. 4 W.,
Secs. 1 and 2.
Aggregating approximately 1,402,610 acres.

The interim conveyance for the surface and subsurface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. A right-of-way for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975(d).

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the following public easements referenced by easement identification number (EIN) on the easement map in case file F-21780 are reserved to the United States and subject to further regulation thereby:

a. (EIN 3-C1) A river easement twenty-five (25) feet in width along both banks of the Anaktuvuk River for public recreational use as it traverses lands selected by the Arctic Slope Regional Corporation. This easement also includes the river bed.

b. (EIN 4-D5) An easement for a landing site for public access or safety on the site of the existing airstrip at Gubik located in the W½ of protracted T. 1 N., R. 3 E., Umiat Meridian. The site easement is to be one thousand (1,000) feet in width by seven thousand (7,000) feet in length.

c. (EIN 5-D1, L (5a and 5b)) Two (2) fiifty (50) foot trails for use by the public to gain access to and from public lands. Trail 5a begins at the Colville River near Umiat and leads south through Regional selected lands to public lands protracted in T. 2 S., R. 1 W., Umiat Meridian. Trail 5b begins at the Colville River near the Gubik landing site (EIN 4-D5) and leads south through Regional selected lands generally along the Chandler River, and then south at the confluence of the Chandler River and Trouble Creek through the Niakogon Buttes area to public lands. The use of these trails is to be controlled by applicable State or Federal law or regulation.

d. (EIN 6-C4, L (6a, 6b, 6c, 6d, 6e, and 6f)) A series of six (6) trails in the Chandler and Anaktuvuk River areas for use by the public to gain access to and from isolated parcels of public land. The use of these trails is to be controlled by applicable State or Federal law or regulation:

6a. A twenty-five (25) foot trail following the Hickel Highway route, which closely parallels the Anaktuvuk River as it traverses Regional selected land.

6b. A fifty (50) foot ATV trail roughly paralleling the left bank of Kollutarak Creek as it traverses Regional selected land. This trail begins at Trail 6a at the confluence of the John River and Kollutarak Creek, and leads in a northwesterly direction to Chandler Lake, where it joins with Trail 6e. There is a short spur off of this trail in protracted T. 15 S., R. 2 W., Umiat Meridian, leading south to public lands.

6c. A fifty (50) foot ATV trail traversing the left bank of Ekokpuk Creek as it crosses Regional selected lands. The trail begins at trail 6a, at the confluence of the John River and Ekokpuk Creek, and leads in a westerly direction to join Trail 6f at Amiloyak Lake.

6d. Two (2) fifty (50) foot ATV trails branching off from Trail 6c. One spur leads north in protracted T. 16 S., R. 3 W., and one spur leads south in protracted T. 16 S., R. 4 W., Umiat Meridian, to public lands.

6e. A fifty (50 foot ATV trail along the east side of Chandler Lake going north along the right bank of the Chandler River to a point in protracted T. 12 S., R. 3 W., Umiat Meridian, where it joins Trail 6f.

6f. A fifty (50) foot ATV trail leading north from Agiak Lake along the west side of Chandler Lake and generally along the left bank of the Chandler River to public lands in protracted T. 11 S., R. 2 W., Umiat Meridian. A spur branches off in protracted T. 12 S., R. 3 W., Umiat Meridian, and leads in an easterly direction to public lands.

e. (EIN 8-L (8a, 8b, and 8c)) Three (3) fifty (50) foot ATV trails for use by public to gain access to and from public lands. The use of these trails is to be controlled by applicable State or Federal law or regulation:

8a. A trail beginning at the confluence of the Colville and Kurupa Rivers leading in a southerly direction along the left bank of the Kurupa River to public lands in protracted T. 5 S., R. 13 W., Umiat Meridian.

8b. A trail leading across Regional selected lands in protracted T. 10 S., R. 13 W., Umiat Meridian, to public lands.

8c. A trail beginning at the confluence of the Colville River and Aupuk Creek near Kakvuiyat Bend, leading in a southerly direction generally along the left bank of Aupuk Creek to public lands.

f. (EIN 9-D9) A river easement twenty-five (25) feet in width along both banks of the Chandler River for public recreational use as it traverses Regional selected land. This easement also includes the river bed.

g. (EIN 10-D9) A one (1) acre site easement for a boat and float plane pullout area and camping site, shoreline easement and trail.

The site easement, located on the north end of Chandler Lake in protracted section 6 of T. 15 S., R. 3 W., Umiat Meridian, extends twenty-five (25) feet into the water; the portion of the easement on the bed of the lake is in addition to the one (1) acre on the ground.

The shoreline easement, one thousand (1,000) feet in length and fifty (50) feet in width (25 feet on the shore and 25 feet into the water), extends southerly from the site easement on the east shore of Chandler Lake.

The twenty-five foot trail connects the site easement with Trail 6f. The use of the trail is to be controlled by applicable State or Federal law or regulation.

h. (EIN 15-C5 (15a, 15b, and 15c) Three (3) one (1) acre sites, for boat and float plane pullout areas and camping sites, and three (3) twenty-five (25) foot trails to provide access from the sites to and from public lands. The site easements extend twenty-five (25) feet into the water; the portion of the easements on the beds of the lakes are in addition to the one (1) acre on the ground. The use of these trails is to be controlled by applicable State or Federal law or regulation:

15a. Located on the east side of Shainin Lake with a 25-foot trail leading east to public lands.

15b. Located on the left bank of the Anaktuvuk River in protracted T. 12 S., R. 3 E., Umiat Meridian, with a 25-foot trail connecting to Trail 6a.

15c. Located on the right bank of the Chandler River in protracted T. 12 S., R. 3 W., Umiat Meridian, with a 25-foot trail connecting to Trails 6e and 6f.

i. (EIN 17-C5 (17a and 17b)) Recreation shoreline easements on highly significant lakes, with a one (1) acre campsite on Chandler Lake, as follows:

17a. *Shainin Lake:* A shoreline easement one thousand (1,000) feet in length and fifty (50) feet in width (25 feet on shore and 25 feet into the water) on each side of site easement EIN 15-C5 (15a).

17b. *Chandler Lake:* A one (1) acre site for a boat and float plane pullout area and camping site, and a shoreline easement.

The site is located on the east side of Chandler Lake at the outlet of Kollutarak Creek and extends twenty-five (25) feet into the water; the portion of the easement on the bed of the lake is in addition to the one (1) acre on the ground.

The shoreline easement is one thousand (1,000) feet in length and fifty (50) feet in width (25 feet on the shore and 25 feet into the water) and extends from each side of the site easement.

j. (EIN 18-C5 (18a and 18b)) Two (2) twenty-five (25) foot trails leading across Regional selected lands for use by the public to gain access to and from public lands. The use of these trails is to be controlled by applicable State or Federal law or regulation:

18a. A trail leading east and west across Regional selected lands in protracted T. 8 S., R. 14 W., Umiat Meridian, to public lands.

18b. A trail from the confluence of the Colville River and the Oolamnagavik River in protracted T. 5 S., R. 9 W., Umiat Meridian, along the right bank of the Oolamnagavik River to public lands to the south.

1. (EIN 23-C) The general right to enter upon the lands herein granted for cadastral, geodetic or other survey pur-

poses is reserved together with the right to do all things necessary in connection therewith.

m. (EIN 24–C) An easement for the transportation of energy, fuel and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1996 shall continue to be in force.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him.

All of the lands contained in the following oil and gas leases are herein approved for interim conveyance; therefore, in accordance with the provisions of section 14(g) of the Alaska Native Claims Settlement Act, the United States will waive administration of the leases and transfer them to the Arctic Slope Regional Corporation when conveyance of the lands is issued.

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

Serial No.	*Legal description*
F–021640	T. 1 S., R. 1 E., Sec. 13, SE¼SE¼. Sec. 24, E½NE¼ and NE¼ SE¼.
F–034979	T. 6 S., R. 13 W., Sec. 27, S½; Sec. 28, S½. Sec. 33 and 34.
F–21839	T. 6 S., R. 13 W., Sec. 27, N½; Sec. 28, N½.
F–034980	T. 6 S., R. 13 W., Secs. 29 to 32, inclusive.
F–034987	T. 6 S., R. 14 W., Secs. 25 and 26; Secs. 35 and 36.
F–034992	T. 6 S., R. 15 W., Secs. 15 and 16; Sec. 21, NE¼; Sec. 22.
F–21843	T. 6 S., R. 15 W., Sec. 21, NW¼ and S½.
F–61	T. 1 N., R. 2 E., Sec. 36.
F–035029	T. 7 S., R. 13 W., Sec. 1, N½ and SW¼; Sec. 2; Sec. 11, N½ and SW¼.
F–21844	T. 7 S., R. 13 W., Sec. 1, SE¼; Sec. 11, SW¼; Sec. 12.
F–035031	T. 7 S., R. 13 W., Secs 5, 6, 7, and 8.
F–034990	T. 6 S., R. 15 W., Sec. 1, NW¼ and S½; Sec. 2; Secs. 11 and 12.
F–034993	T. 6 S., R. 15 W., Secs. 13, 14, 23, and 24.
F–21842	T. 6 S., R. 15 W., Sec. 1, NE¼.
F–021675	T. 1 S., R. 2 E., Sec. 18, S½S½; Sec. 19, N½ and N½S½.
F–034988	T. 6 S., R. 14 W., Secs. 27 and 28; Secs. 33 and 34.
F–034989	T. 6 S., R. 14 W., Secs. 29 to 32, inclusive.
F–035030	T. 7 S., R. 13 W., Secs. 3 and 4; Secs. 9 and 10.
F–034991	T. 6 S., R. 15 W., Secs. 3 and 4; Secs. 9 and 10.

All of the lands contained in the following oil and gas leases are not herein approved for interim conveyance; therefore, in accordance with the provisions of section 14(g) of the Alaska Native Claims Settlement Act, administration of these leases will continue to be by the United States.

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

Serial No.	*Legal description*
F–034985	T. 6 S., R. 14 W., Sec. 15, S½; Sec. 16; Secs. 21 and 22.
F–034984	*T. 6 S., R. 14 W.* Secs. 17 to 20, inclusive.

Interim conveyance to the remaining entitlement for the Arctic Slope Regional Corporation will be made at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the TUNDRA TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have 30 days from the date of publication in the FEDERAL REGISTER, which is October 17, 1976, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and the requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-27406 Filed 9-16-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Milwaukee Public Museum, Vertebrate Division, Milwaukee, Wisconsin 53233, Merlin D. Tuttle.

OMB NO. 43-R109

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Live capture, temporary detainment, limited banding and release.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Merlin D. Tuttle
Vertebrate Division
Milwaukee Public Museum
Milwaukee, Wisconsin 53233

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'10"	WEIGHT 150 lbs.
DATE OF BIRTH 26 August 1941	COLOR HAIR brown	COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED (414) 278-2775	SOCIAL SECURITY NUMBER 411-72-2024	

OCCUPATION
Curator in charge of Birds and Mammals

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Milwaukee Public Museum

5. IF "APPLICANT" IS A PARTNER, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Milwaukee Public Museum
A non-profit institution devoted to education, research and public welfare.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (414) 278-2746
Dr. Kenneth Starr, Director

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Wisconsin

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Alabama
Arkansas
Florida
Kentucky
Missouri
Oklahoma
Tennessee
Virginia
North Carolina
More than 90% of proposed work will be in Alabama and Tennessee.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☐ YES ☒ NO
(*If yes, list license or permit number*)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of document*)
Applications have been made to all states in which I hope to work.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
Not applicable

10. DESIRED EFFECTIVE DATE Please Rush
15 November 1975

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 13.12 a & b and 50 CFR, Part 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Merlin D. Tuttle — DATE 7 October 1975

3-200
8/74

17.22 Permits for scientific purposes.

(1) Common name, Gray bat. Scientific name, *Myotis grisescens*. Number, sex and age of species, approximately 2,000 per year, mostly adults of about equal sex ratio.

(2) All individuals in question are in the wild.

(3) The applicant banded 40,182 gray bats at 50 localities in the period from 1960 to 1971. More than 21,000 recoveries of these bats have been made at 125 locations by the applicant through 1975. Nearly 20 percent of the individuals from some localities have been recaptured 5 or more times, and some are still being recaptured more than 15 years after original banding. The applicant is well acquainted with the species and takes elaborate precautions against unduely long or poorly timed disturbances. In fact, his primary study colonies are unusually successful due to the great lengths that the applicant has gone to educate local land owners and the cave exploring public regarding avoidance of disturbing these bats during critical periods in their annual cycle. The applicant's work does not require more than temporary containment, after which all are released in their natural habitat.

(4) Not applicable.

(5) Not to be maintained or displayed in captivity.

(6) Live wildlife to be covered.

(i) Not applicable. (ii) See 17.22(3). (iii) Not applicable.

(iv) Most bats are temporarily restrained in 36 in. by 18 in. nylon "bait bags" with ½ in. mesh during handling. Torpid bats are occasionally restrained in small cages constructed of ¼ in. mesh hardware cloth.

(v) Mortalities are rare. Caves occupied by this species are extremely difficult to traverse, and when mortality occurs it is usually due to the researcher slipping on difficult footing and crushing a loose bat that is on the floor. Most potential problems are avoided by the fact that the applicant uses assistants who are thoroughly experienced and usually uses only one on any given trip.

The possibility of indirect mortality resulting from disturbance is a more important problem, and this is avoided to the greatest extent possible by careful timing of research activities. The applicant's success in this regard is best demonstrated by the fact that study colonies which are disturbed only by the applicant have remained stable over a period of 15 years.

(7) None.

(8) Reasons why applicant is justified in obtaining a permit.

(i) Activities sought to be authorized. Capture, temporary confinement and release of banded bats being monitored in studies of roost site selection, seasonal weight change (related to disturbance, cave temperature and other variables) and long term survival. All will be released in their natural habitat, and most will be restrained for less than an hour per winter.

(ii) Details of activities. See (8) (i).

(iii) Relationship of such activities to scientific objectives. The activites for which the applicant requests permission are crucial to long-term studies of survival which were initiated more than 15 years ago. This is the only large-scale study of its kind relating to this species, and without it almost nothing would be known regarding the basic habitat requirements, threats to continued survival or present status of the gray bat throughout most of its range.

(iv) Planned disposition of wildlife on termination of activities. Will remain in the wild.

Additional information—July 19, 1976

I would like to include a request for permission to salvage specimens which have

died of natural causes and also to collect up to 10 specimens per year. My own research has not necessitated major collecting since 1970, and I have no anticipated need to begin such collecting now.

Justification for these additional requests comes from the fact that I am occasionally asked to provide specimens for other projects which, in my opinion, justify salvage and limited collecting. I am currently assisting Dr. Donald R. Clark, Jr., Research Biologist of the Patuxent Wildlife Research Center in Laurel, Maryland. My assistance with his project involves collection of recent guano samples from gray bat colonies over geographic areas of differing land use.

These samples will be analyzed for lead and for organochlorines. Dr. Clark also has requested salvage of dead and sick bats for similar analysis and presumably eventually will need to examine a small sample of normally behaving bats for comparative purposes. I have discussed Dr. Clark's plans with him and believe his project to be essential to future recovery efforts.

I currently am supplying Dr. Clark with geographically representative guano samples, but thus far have not provided him with sick or dead individuals, since I do not have permission to collect or salvage. Such permission would have permitted me to supply him with at least 50 dead or sick specimens just in the past three months. For this reason and in anticipation of other similarly worthy requests, I would like to have salvage and limited collecting activities included as an addendum to my application.

MERLIN TUTTLE.

Additional information—July 29, 1976

The permit should be extended to include Arkansas, Georgia, Missouri, and Oklahoma in addition to Florida. This is necessitated by the fact that I frequently am asked to provide consultation in areas outside of my main study area. For example, I recently have been asked to check gray bat colonies in Missouri in October for the Fish and Wildlife Service and the Army Corps of Engineers. I apologize for not anticipating this need.

I am currently involved in an extensive study of foraging habitat requirements which necessitates the banding of at least 5 percent of any study colony used. Bands are covered with coded reflector tape for documentation of nightly foraging range and activities. Since my present study colony contains 10,000 individuals it is impractical to band fewer than 500. Ideally, we should band at least 10 percent, but since that would interfere with my recovery success on previously banded adults now being used in long-term survival studies, I band a smaller proportion. I would, however, appreciate having permission to band at least 1,000 gray bats, a number which would allow some flexibility in case of unforeseen changes or addition of more colonies to the study.

For the study outlined above, it is usually necessary to capture many times the number actually banded in order to obtain balanced sex and age ratios. The individuals not wanted for banding are immediately released. In total, during band recovery, fecal sampling, and foraging habitat documentation we sometimes must capture as many as 1,000 or more gray bats in a single week. These bats are not harmed in any way.

Of further importance, I could not possibly continue my long-term monitoring of gray bat survival on a geographical basis if restricted to capturing only 100 gray bats a year. I banded 40,000 of these bats from 1950–1970, and for many years have averaged more than 1,000 band recoveries per year without noticeable detrimental effect on the bats. Many additional individuals also are captured unintentionally and are immediately released unharmed. Since I must capture large numbers of gray bats in order to continue any of my studies, and since the exact number is impossible to predict, I request a complete lifting of capture quotas. My work of course, will continue to be planned to minimize disturbance and avoid harm.

I cannot restrict myself to Tuttle traps and mist nets even though most bats are caught using these methods. I also use fishline strung over water, hand nets, and hand capture (during hibernation). None of these methods is harmful if correctly used.

In defense of my requests, let me point out that without my 16 years of data on gray bats, their status would still be largely unknown and that virtually nothing would be known about essential habitat requirements for the species. I am almost daily contacted by private, state, and Federal agencies requesting detailed advice on the ecological requirements of gray bats, and it is only through studies of the kind now being sponsored by TVA that I can even come close to meeting the demand for information that is essential to gray bat recovery.

Thank you for your time. Your prompt action on these matters will be greatly appreciated.

Sincerely,

MERLIN D. TUTTLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 8–366– ; please refer to this number when submitting comments. All relevant comments received on or before October 18, 1976, will be considered.

Dated: September 13, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76–27282 Filed 9–16–76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Seneca Park Zoo, 2222 St. Paul Street, Rochester, New York 14621, Daniel R. Michalowski, Zoo Curator.

OMB NO. 42-R1130

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase and transport one captive born male Snow Leopard for the purpose of captive breeding and exhibition.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
SENECA PARK ZOO
2222 St. Paul Street
Rochester, New York 14621

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
A municipal zoo devoted to the exhibition, care and propagation of animals in captivity. Operated by the County of Monroe, Rochester, New York.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Daniel R. Michalowski 716-266-6846
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
NEW YORK

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment
From: Colorado Springs, Colorado
To: Rochester, New York

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 2-145

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
New York State Dept. of Enviromental permit for import and transport.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
as soon as possible

11. DURATION NEEDED
120 days from date of issuance

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.11(d)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attachment in reference to Sections 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Daniel R. Michalowski
DATE July 23, 1976

3-200 (5/76)

SENECA PARK ZOO,
Rochester, N.Y., July 23, 1976.

FEDERAL WILDLIFE PERMIT OFFICE,
U.S. Fish and Wildlife Service,
Law Enforcement,
U.S. Department of the Interior
Washington, D.C.

Attention: Mr. RICK PARSONS, *Chief.*

DEAR SIR: Enclosed is a permit application in accordance with paragraph 17.22 Title 50 CFR for the purchase and interstate transport of one male Snow Leopard (Panthera uncia) from the Cheyenne Mountain Zoological Park, Colorado Springs, Colorado 80910 to the Seneca Park Zoo, 2222 St. Paul Street, Rochester, New York 14621. The following is the information requested by paragraph 17.22:

(1) One Snow Leopard (Panthera uncia), MALE, born May 23, 1975 at the Cheyenne Mountain Zoological Park to be purchased and transported from the Cheyenne Mountain Zoological Park.

(2) This male Snow Leopard is zoo born and has been in captivity at the Cheyenne Mountain Zoological Park for approximately one year. See attachment. The purpose of acquisition of this animal is to start a breeding colony to ensure survival of the specie. A copy of the purchase order dated May 13, 1976 is enclosed as an attachment.

(3) As the number of Captive Snow Leopards is increasing there will be surplus animals at various institutions that are of breeding potential but cannot because of specific circumstances. By acquiring this surplus male at this date and in the near future acquiring a mate (non-related female) another breeding site will be developed at the Seneca Park Zoo, through the establishment of this proopsed captive propagation program an educational display will result with many possibilities for behavioral research.

(4) This animal was born at the Cheyenne Mountain Zoological Park.

(5) The animal will be maintained, displayed and used for a propagation program at the Seneca Park Zoo, 2222 St. Paul Street, Rochester, New York 14621. The Seneca Park Zoo is a municipal institution operated by the County of Monroe as non-profit dedicated to the education and recreation of the people in the community.

(6) Since this animal is captive born the acquisition will not cause the death or removal of additional animals from the wild.

(6) i See attached sketch: "A" & "B".

(6) ii. The Zoo Curator (Director of Seneca Park Zoo) has 13 years of professional experience in working with zoo animals. The Zoologist has 10 years of professional experience. A licensed veterinarian is on call 24 hours for emergency care and has set up a program of preventive medicine for all zoo animals. Supporting the Zoo Curator, Zoologist and the veterinarian is a staff of 12 Zoo Attendants and two supervisors. Experience with other members of the genus Panthera includes: Spotted Leopard, Black Leopard (phase), African Lion, Bengal Tiger, and Siberian Tiger.

(6) iii. This applicant is most willing to participate in any program of propagation and to conform and submit to all studbook requirements.

(6) iv. This animal will be shipped via air freight thru one of the commercial airlines in a crate that will assure maximum comfort, security and care. Ample food and water will be supplied by the sending institution (Cheyenne Mountain Zoological Park). Since shipment will be confined to within the U.S. the actual travel time will be minimal. Instructions on feed and water will appear on the crate for commercial carriers information should a long delay result.

(6) v. This institution has never maintained Snow Leopards. In the last 5 years mortalities in the genus panthera involved: Panthera pardus on September 5, 1974 from Feline Peritonitits; Panthera leo, May 17, 1976 from infectious enteritis. This was a cub three days old. Panthera tigris altaica: 1/1 cubs on Otcober 5, 1975 due to maternal neglect. 1/0 cub on 2/28/76 (still born). 1/0 cub on 2/27/76 maternal neglect resulting in bacterial infection. A remodled nursery area is under preparation to provide additional care for young that are neglected by mother.

(7) Copies of letters leading to the preparation of this application between the two named institutions are included as attachments.

(8) i. The activity sought to be authorized by this permit is the purchase and interstate transportation of one zoo born, male, Snow Leopard for the purpose of propagation of the specie.

(8) ii. The Snow Leopard will be shipped by commercial airline from the Cheyenne Mountain Zoological Park to the Seneca Park Zoo.

(8) iii. This permit application is submitted in order to purchase and transport interstate one male Snow Leopard (captive born) for the express purpose of captive propagation. We have every expectation of propagating the specie since by the acquisition of this male our institution will be given preference in the acquisition of a suitable female in the near future.

(8) iv. The Snow Leopard will be maintained at the Seneca Park Zoo in a breeding program for the duration of it's life. All offspring will be used in the future breeding programs either at the Seneca Park Zoo or at another zoo that is also involved with a captive breeding program. In the event of the death of the animal covered by this permit, the carcass would be preserved and made

available as a scientific specimen in accordance with existing federal regulations.

Respectfully submitted,

DANIEL R. MICHALOWSKI,
Zoo Curator—Seneca Park Zoo.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-313-07; please refer to this number when submitting comments. All relevant comments received on or before October 18, 1976, will be considered.

Dated: September 13, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-27284 Filed 9-16-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110, Charles H. Hoessle, General Curator and Deputy Director, Richard D. Schultz, Director.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase and ship 2 female captive born Cheetahs Acinonyx jubatus from Frank H. Gilbert, Cheetahs Unlimited, 5105 E. Exeter, Phoenix, Arizona 85018 to St. Louis Zoological Park for display, propagating and zoological purposes.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
City and county owned public zoo, USDA licensed, engaged in conservation and propagation of wildlife, education, exhibits, research and recreation.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Richard D. Schultz, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
St. Louis Zoological Park
Forest Park
St. Louis, Missouri 63110
1-314-781-0900

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(*If yes, list license or permit numbers*)
ES-14, ES-311, ES-156, ES-331, 6-SP-77, PRI-7-172-P-2 (K.C.) 6-SP-78

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
N.A.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N/A

10. DESIRED EFFECTIVE DATE

11. DURATION NEEDED
Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR, Section 17.22 - Permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) | DATE
July 6 1976

3-200
6/74

ST. LOUIS ZOOLOGICAL PARK,
Saint Louis, Mo., July 6, 1976.

MR. LYNN A. GREENWALT, *Director,*
U.S. Fish & Wildlife Service,
Law Enforcement Division,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. GREENWALT: The St. Louis Zoological Park hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973.

We submit the following information pursuant to sections 17.22 of Volume 40, No. 188 of the Federal Register.

1. The request is for permit to purchase and ship two (2) female cheetahs (*Acinonyx jubatus*), captive-born on November 4, 1975.

2. The two (2) female cheetahs sought to be covered by this permit were captive-born on November 4, 1975 as documented in the correspondence from:

Frank H. Gilbert, Cheetahs Unlimited, 5105 E. Exeter, Phoenix, Arizona 85018. (See enclosure.)

3. Not applicable.

4. Captive born at Cheetahs Unlimited, 5105 E. Exeter, Phoenix, Arizona 85018.

5. The cheetahs will be maintained at the St. Louis Zoological Park, St. Louis, Missouri 63110. A current zoo album, an annual report and other appropriate materials are on file with U.S. Fish and Wildlife Service, Law Enforcement Division. (Please consult Endangered Species application and materials submitted June 18, 1975.)

6. (i.) Photos and diagrams enclosed.

(ii.) The curatorial and veterinary staff are recognized by their peers as knowledgeable in the captive maintenance and breeding of wild animals in captivity. The St. Louis Zoological Park has a long and successful history of maintaining and breeding members of the cat family. A partial list of births includes lions, tigers, pumas, leopards, snow leopards, Geoffroy's Cat and servals.

(iii.) The St. Louis Zoo is currently involved in cooperative breeding programs, studbook maintenance, as well as the International Species Inventory System, in an effort to enhance captive propagation of all zoo species, especially those of rare and endangered status.

(iv.) The cheetahs will be shipped in crates exceeding the minimum standards of the I.A.T.A. Live Animal Regulations. (See enclosure)

(v.) Enclosed find necropsy reports for four cheetahs which died at the St. Louis Zoological Park from 1974-1976. These animals had been kept in captivity their entire lives and all surpassed the average longevity of captive cheetahs. Three of the four cats died with end-stage renal failure a degenerative old age symptom.

7. See enclosure.

8. (i.) The cheetahs will be maintained for propagation, educational display and behavioral study purposes.

(ii.) The cheetahs will be housed with other animals of the same species in a 1½ acre enclosure designed to enhance the breeding potential of the cheetah in captivity. (See enclosure), Behavioral observations will be conducted and the data used in an effort to encourage breeding.

(iii.) Behavioral observations will be conducted and information gained will be made available to appropriate institutions. Progeny resulting from propagation efforts will be available to cooperating institutions to insure future captive populations, thus relieving pressures on wild populations.

(iv.) Autopsies will be performed on deceased specimens and, if desirable, the remains will be made available to appropriate public educational facilities.

A completed form 3-200 as well as other documents regarding this request are enclosed. We sincerely hope that we can receive your consideration on our request at your earliest convenience.

Sincerely yours,

CHARLES H. HOESSLE,
General Curator, Deputy Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-291-07—; please refer to this number when submitting comments. All relevant comments received on or before October 18, 1976, will be considered.

Dated: September 13, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-27283 Filed 9-16-76;8:45 am]

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, October 8, 1976, at 1:30 pm, at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established by Public Law 92-463 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the devedopment of Cape Cod National Seashore.

The purpose of the meeting is to consider the following Agenda items: (1) Introduction of Cape Cod National Seashore staff, (2) Summary of 1977 budget and staffing, (3) Problems relating to public uses of ponds in Wellfleet and Truro, and (4) Status report of Seashore operations for 1976 summer. The Superintendent will give a progress report covering current problems and items of interest, which will be reviewed and discussed.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 (telephone: 617-349-3785). Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Code National Seashore, South Wellfleet, Massachusetts.

L. J. HOVIC,
Acting Regional Director, North Atlantic Region.

SEPTEMBER 8, 1976.

[FR Doc.76-27217 Filed 9-16-76;8:45 am]

GULF ISLANDS NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gulf Islands National Seashore Advisory Commission will be held at 10 a.m. on October 5, 1976, at the Ramada Inn, Central Beach, Biloxi, Mississippi, to be followed by a tour of Ship Island at 8:30 a.m. on October 6, 1976.

The purpose of the Gulf Islands National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and development of Gulf Islands National Seashore.

The members of the Advisory Commission are as follows:

James Stevens, Chairman (Mississippi)
Gordon D. Allen (Mississippi)
Earle J. Bowden (Florida)
Gerald L. Brown (Florida)
Barney B. Burks (Florida)
Lloyd J. Caillevet (Mississippi)
Roger Clary (Florida)
Robert D. Cramer (Florida)
Paul A. Daniel (Florida)
Elmer C. Harris (Mississippi)
Charles S. Liberis, Jr. (Florida)
Charles E. Moes (Florida)
John Duncan Moran (Mississippi)
Dee Parkton (Florida)
Grady Don Pope (Florida)
Robert F. Scholl (Florida)
Erica Woolley (Florida)

The matters to be discussed at this meeting will include: (1) an Operations Report, (2) Environmental Assessment for the General Management Plan, and (3) Environmental Assessments of Development Concept Plans for Davis Bayou, Santa Rosa, and Naval Live Oaks Reservation.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Members of the public may attend the tour of Ship Island if they provide their own transportation to the island.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Franklin D. Pridemore, Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, FL 32561, Telephone 904-932-5302. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at park headquarters.

Dated: September 9, 1976.

DAVID D. THOMPSON, Jr.,
Region Director, Southeast Region.

[FR Doc.76-27218 Filed 9-16-76;8:45 am]

PACIFIC NORTHWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Pacific Northwest Regional Advisory Committee will be held at 9 a.m. on Friday, October 15, 1976, in the West River Room of the Key Motel, Foot of Columbia Street, Vancouver, Washington.

The Committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Pacific Northwest Region of the National Park Service.

The members of the Committee are as follows:

Mr. Earl J. Davenport (Chairman)
Dr. Robert L. Whitner (Secretary)
Mr. Leo V. Bodine
Mrs. Katherine Fanning
Mr. J. Allen Jensen
Mr. Roger Mellem
Dr. Richard M. Noyes
Mr. Wesley A. Phillips, Jr.
Mrs. Gwynneth G. Wilson

The matters to be discussed at this meeting include:

1. Historical restoration objectives for areas of the Pacific Northwest Region, including Fort Vancouver, Fort Clatsop, Nez Perce, San Juan Island, Sitka, and Whitman Mission.
2. Salt Cairn—proposed addition to Fort Clatsop.
3. The Alaskan report—current status of d-2 proposals.
4. Mount McKinley mountaineering accidents—summer of 1976.

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact James B. Thompson, Associate Regional Director, Management and Operations, Pacific Northwest Regional Office, at 206-442-5989. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Pacific Northwest Regional Office, Fourth and Pike Building, Seattle, Washington 98101.

EDWARD J. KURTZ,
Acting Regional Director, Pacific Northwest Region.

[FR Doc.76-27219 Filed 9-16-76;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—SOUTH ATLANTIC REGION

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92–643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A–63, Revised.

The South Atlantic Regional Board will meet during the period 9:30 a.m. to 2:00 p.m., October 8, 1976, in Room 410, U.S. Department of the Interior, 148 Cain Street, N.E., Atlanta, Georgia.

The meeting will consist of a review of the tentative agenda for the next national OCS Advisory Board meeting to be held on November 8, 1976. Agenda items include the OCS leasing schedule, pipelines, nearshore-onshore studies, and OCS legislation.

This meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by October 5 to the South Atlantic Board Chairman:

Dr. James I. Jones, Special Projects Officer, Division of State Planning, 660 Apalachele Parkway, Tallahassee, Florida 32304, 904/488–1115.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th & C Streets, N.W., Washington, D.C.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

SEPTEMBER 13, 1976.

[FR Doc.76–27340 Filed 9–16–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ADVISORY COMMITTEE ON POULTRY HEALTH

Meeting

The first meeting of the Advisory Committee on Poultry Health will be held at 9:00 a.m. on October 5, 1976, in the EPIC Room, Federal Building, 7th Floor, United States Department of Agriculture, Hyattsville, MD.

The functions of the committee include: advising the Secretary of Agriculture on outbreaks of avian diseases; studying and recommending extension of new and existing research; assisting in planning and disseminating information; recommending plans for eradication and control of avian diseases; and assisting in attaining the necessary cooperation from all segments of the poultry industry.

The purpose of this meeting is organizational, and to define poultry health problems facing the poultry industry and the effect they have on the public as consumers.

The meeting is open to the public. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. F. J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 316E, Washington, DC 20250, Area Code (202) 447–3668.

Dated: September 10, 1976.

HARRY C. MUSSMAN,
Acting Administrator.

[FR Doc.76–27087 Filed 9–16–76;8:45 am]

Farmers Home Administration

[Notice of Designation No. A376]

NEVADA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Pershing County, Nevada, as a result of a heavy hailstorm August 22, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Mike O'Callaghan that such designation be made.

Applications for emergency loans must be received by this Department no later than November 8, 1976, for physical losses and June 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 10th day of September 1976.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.76–27252 Filed 9–16–76;8:45 am]

Federal Crop Insurance Corporation

[Notice No. 116]

WHEAT CROP INSURANCE, KANSAS

Closing Date Extension for Filing of Applications for the 1977 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for wheat crop insurance in selected counties in Kansas as listed below, where such insurance is otherwise authorized to be offered, is hereby extended until the close of business on September 17, 1976. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

KANSAS

Allen	Labette
Bourbon	Montgomery
Chautauqua	Neosho
Cherokee	Wilson
Crawford	Woodson

Dated: September 3, 1976.

WARREN E. DIRKS
Manager, Federal Crop Insurance Corporation.

[FR Doc.76–27379 Filed 9–16–76;8:45 am]

Rural Electrification Administration

ARKANSAS ELECTRIC COOPERATIVE CORP., LITTLE ROCK, ARK.

Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $75,000,000 to Arkansas Electric Cooperative Corporation. These loan funds will provide AECC with the necessary financing required to participate jointly with Southwestern Electric Power Company for the construction of a 550 MW coal-fired Flint Creek Power unit located in Northwestern Arkansas.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Harry L. Oswald, Manager, Arkansas Electric Cooperative Corporation, P.O. Box 9469, Little Rock, Arkansas 72209.

In order to be considered, proposals must be submitted October 18, 1976 to Mr. Oswald. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Arkansas Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 8th day of September, 1976.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.76–26977 Filed 9–16–76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on October 15, 1976 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics was established in 1965 to advise the Director, Bureau of the Census, on current programs, on plans for the 1970 Census of Population and on other matters dealing with the collection and issuance of population statistics.

The Committee is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting is: (1) Developments since the last meeting; (2) current status of 1980 census planning; (3) results of 1980 census pretests; (4) content of 1980 population census; (5) scope and content of follow-on survey; (6) the monograph program; (7) public use samples for 1940 and 1950; and (8) population undercounts, State controls, and estimates of illegal aliens.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-7030.

Dated: September 13, 1976.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

[FR Doc.76-27281 Filed 9-16-76;8:45 am]

Economic Development Administration

ROBIN FOOTWEAR CORP.

Petition for a Determination of Eligibility

A petition by Robin Footwear Corporation, 208 North Division Street, Mount Union, Pennsylvania 17066, submitted on behalf of the producer of footwear for women and its affiliates, was accepted for filing on September 10, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-27286 Filed 9-16-76;8:45 am]

Maritime Administration

U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on October 8, 1976 at 10:00 a.m. in the Board Room at the U.S. Merchant Marine Academy, Kings Point, New York.

The Advisory Board to the United State Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the maritime industry, labor, educational institutions, and other fields relating to the objectives of the Academy.

The Agenda for the meeting is:

1. Call meeting to order;
2. Approval of the minutes of the April 7, 1976 meeting;
3. Reports of Advisory Board members on project assignments;
4. Review of U.S. Merchant Marine Academy budget for FY 1977;
5. Superintendent's report on current U.S. Merchant Marine Academy activities;
6. Advisory Board's comments regarding charter governing the Board's activities;
7. Setting of next Board meeting.

This meeting is open to public observation and comment. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Committee Control Officer, Kathleen A. Shetler, Office of Assistant Secretary for Maritime Affairs, Room 3731, Main Commerce Building, telephone A/C 202/377-2851.

Dated: September 13, 1976.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

JAMES S. DAWSON, Jr.
Secretary.

[FR Doc.76-27380 Filed 9-16-76;8:45 am]

National Oceanic and Atmospheric Administration

BEARDSLEY ZOOLOGICAL GARDENS

Issuance of Permit To Take Marine Mammals

On July 14, 1976, notice was published in the FEDERAL REGISTER (41 FR 29007), that an application had been filed with the National Marine Fisheries Service by Beardsley Zoological Gardens, Noble Avenue, Bridgeport, Connecticut 06610 for a permit to take (1) California sea lion (*Zalophus californianus*) for public display.

Notice is hereby given that on September 13, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Beardsley Zoological Gardens, subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 13, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-27323 Filed 9-16-76;8:45 am]

HENRY DOORLY ZOO

Issuance of Permit To Take Marine Mammals

On July 12, 1976, notice was published in the FEDERAL REGISTER (41 FR 28565) that an application had been filed with the National Marine Fisheries Service by Henry Doorly Zoo, Riverview Park, Omaha, Nebraska, 68108, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on September 13, 1976, and as authorized by the provisions of the Marine Mammal Pro-

tection Act of 1972 (17 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Henry Doorly Zoo, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: September 13, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-27325 Filed 9-16-76;8:45 am]

SEA-ARAMA, INC.

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Sea-Arama, Inc., Seawall Boulevard, 91st Street, P.O. Box 3068, Galveston, Texas 77550, to take two (2) false killer whales (*Pseudorca crassidens*) for purposes of public display.

The animals will be collected by a professional collector off the Hawaiian Islands by means of a break-away hoop net technique.

The animals will be maintained at Sea Life Park, Hawaii for 30 days prior to transport via commercial air freight and truck.

The requested animals will be maintained and displayed in the Applicant's stadium tank system which consists of six inter-connected pools which are described as follows:

1. Performance pool—64 feet long, 30 feet wide and an average 8.7 feet deep;
2. Four (4) circular holding pools—each 15 feet in diameter and 5 feet deep; and
3. Whale holding pool—40 feet long, 26 feet wide and an average 12.4 feet deep.

The facility is a profit organization, open daily to the public with an annual attendance of 330,000 visitors.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and,
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before October 18, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Date: September 14, 1976.

ROBERT J. AYERS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-27327 Filed 9-16-76;8:45 am]

SEA WORLD, INC.

Final Disposition of Permit Application

On August 12, 1975, notice was published in the FEDERAL REGISTER (40 FR 33849) that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., San Diego, California 92109, for a public display permit to take twelve (12) northern fur seals (*Callorhinus ursinus*), in accordance with the Marine Mammal Protection Act of 1972 (U.S.C. 1361–1407).

Although the application was received as sufficient for consideration under the Marine Mammal Protection Act, is has been determined that this request, and all other requests, to take northern fur seals for display purposes must be considered under the provisions of the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), rather than the Marine Mammal Protection Act.

The Fur Seal Act, which implements the Interim Convention for the Conservation of North Pacific Fur Seals, specifically authorizes the issuance of permits for the exhibition of fur seals. Accordingly, under Section 102(a)(2) of the Marine Mammal Protection Act, the provisions of the Marine Mammal Protection Act may not apply to the taking of fur seals for this purpose.

Notice is hereby given that the application of Sea World, Inc., has been returned without being approved or disapproved. The request to take northern fur seals may be reconsidered, if submitted in accordance with appropriate regulations under the Fur Seal Act, which will be promulgated in the near future.

Date: September 14, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-27324 Filed 9-16-76;8:45 am]

SEA WORLD, INC.

Issuance of Permit for Marine Mammals

On May 21, 1976, notice was published in the FEDERAL REGISTER (41 FR 20904) that an application had been filed with the National Marine Fisheries Service by Sea World, Incorporated, San Diego, California 92109, for a permit to take and import 140 bottlenosed dolphins (*Tursiops truncatus*) for the purposes of scientific research and public display.

Notice is hereby given that, on September 13, 1976, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above mentioned taking to Sea World, Incorporated, subject to certain conditions set forth therein.

Where applicable, marine mammals taken as authorized by this Permit will be counted as part of the total number of porpoises which may be taken under quotas prescribed by § 216.24 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), which addresses taking and related acts incidental to commercial fishing operations.

This Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;
Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and,
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Date: September 14, 1976.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.76-27323 Filed 9-16-76;8:45 am]

SIX FLAGS OVER TEXAS

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for

a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Six Flags Over Texas, 2201 Road to Six Flags, P.O. Box 191, Arlington, Texas 76010, to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*) and eight (8) California sea lions (*Zalophus Californianus*) for purposes of public display.

The animals will be collected by a professional collector. The dolphins will be collected off Copano Bay or Matagorda Bay, Texas, by means of an encircling net. The sea lions will be captured on San Nicolas, Santa Cruz, or San Miguel Islands, off Santa Barbara, California by means of a hoop net on land or modified gill nets in water. Both species will be transported to the facilities via commercial air freight and truck.

At the facility the dolphins will be maintained in a rectangular pool 55' x 31' x 9'6" containing two holding areas each 18' x 15' x 9'. Adjacent to the pool is a holding pool 10' x 5' x 3½' with a rest area 5' x 3½'. A feeder pool 40' x 16' x 6' encircled by a 3' high fence, with a resting island in the center 18' x 5½', is used to display sea lions. Eight of the requested ten animals (6 dolphins and 2 sea lions, will be maintained in the display and adjacent holding pols which now houses 4 dolphins and 1 sea lion. The remaining 2 sea lions will be maintained with 4 sea lions in the feeder pool.

In addition to the outside display, holding, and feeder pools there are 3 indoor portable holding pools for dolphins.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above-described application have been inspected by a licensed veterinarian, who has certified that such araringements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before October 18, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Date: September 13, 1976.

ROBERT J. AYERS,
Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-27326 Filed 9-16-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Public Law 92-463 (5 U.S.C. Appendix I), Annual Reports for the following Alcohol, Drug Abuse, and Mental Health Administration Committees have been filed with the Library of Congress:

Alcohol Research Review Committee
Alcohol Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Continuing Education Training Review Committee
Crime and Delinquency Review Committee
Drug Abuse Demonsration Review Committee
Drug Abuse Prevention Review Committee
Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemiologic Studies Review Committee
Experimental and Special Training Review Committee
Experimental Psychology Research Review Committee
Juvenile Problems Research Review Committee
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Minority Group Mental Health Programs Review Committee
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
Neuropsychology Research Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9 a.m. and 4:30 p.m., at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-6791.

Dated: September 9, 1976.

JAMES D. ISBISTER,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-27227 Filed 9-16-76;8:45 am]

ADVISORY COMMITTEES

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following advisory committees:

DESIGNATIONS

Experimental Psychology Research Review Committee.
Neuropsychology Research Review Committee.
Preclinical Psychopharmacology Research Review Committee.

Authority for these committees will expire September 30, 1978, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 10, 1976.

JOSEPH R. LEONE,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-27228 Filed 9-16-76;8:45 am]

Food and Drug Administration

[Docket No. 76P-0158]

LIBBY, MCNEILL & LIBBY; CANNED CHUNKY PEACHES

Temporary Permit for Market Testing

The Food and Drug Administration (FDA) gives notice that Libby, McNeill & Libby has been granted a temporary permit to market test canned chunky peaches. This permit is effective for a 15-month period beginning no later than December 16, 1976.

In accordance with § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Libby, McNeill & Libby, 200 South Michigan Ave., Chicago, IL 60604. The permit covers interstate marketing tests of canned peaches that deviate from the standard of identity for canned peaches under § 27.2 (21 CFR 27.2), in that the optional style of pack "chunky" (units greater than ½ inch and less than 1¾ inches in the largest dimension) is not provided for in the standard. The food will be packed in heavy syrup and will contain an artificial flavor, both of

which are already provided for by the standard. The permit provides for the market testing of 35,000 cases of twenty-four 16-ounce cans of the test product. The test product is to be packed by Libby, McNeill & Libby in Sunnyvale, California and is to be marketed in the States of Illinois, Iowa, Nebraska, New York, and Pennsylvania.

In addition to the name "chunky peaches," the principal display panel of the label will contain the words "artificially flavored" and "in heavy syrup". The permit is effective for 15 months, beginning on the date the test food is introduced or caused to be introduced into interstate commerce, but no later than December 16, 1976.

Dated: September 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-27238 Filed 9-16-76;8:45 am]

PANEL ON REVIEW OF OPHTHALMIC DEVICES

Availability of Panel Report

Correction

In FR Doc. 76-22884 appearing on page 32938 in the FEDERAL REGISTER of Friday, August 6, 1976 the heading should read as shown above.

[Docket No. 76-0310; DESI 8922]

CALCIUM DISODIUM EDETATE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 8922) published in the FEDERAL REGISTER of January 13, 1970 (35 FR 437), the Food and Drug Administration announced its conclusions that the drug described below is (1) effective for the reduction of blood and depot lead in acute and chronic lead poisoning and lead encephalopathy; (2) probably effective in the treatment of other heavy metal poisoning and in the removal of radioactive and nuclear fission products, such as plutonium and yttrium; and (3) possibly effective in prophylaxis against symptomatic exacerbations in chronic lead poisoning. No person has submitted any data in support of the probably effective and possibly effective indications and those indications are now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before October 18, 1976.

That part of NDA 8-922 pertaining to Calcium Disodium Versenate Injection containing calcium disodium edetate; Riker Laboratories, Inc., 19901 Nordhoff St., Northridge, CA 91324.

Other drugs included in the January 13, 1970 notice are not affected by this notice.

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 holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the January 13, 1970 notice.

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.* The drug is in sterile aqueous solution form suitable for parenteral 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 the reduction of blood levels and depot stores of lead in lead poisoning (acute and chronic) and lead encephalopathy.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before November 16, 1976 the holder of the application submits, if he has not previously done so, (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)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those 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 unaware of any 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 drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), 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 application(s) (or, if indicated above, those part of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) 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 product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is 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 application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectivenes.

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 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 applicant(s) and all other persons who manufacture or distribute a drug product which 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(s) providing for the claim(s) 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.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 18, 1976, a written notice of appearance and request for hearing, and (2) on or before November 16, 1976, the data, information, and analyses on which he relies 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 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 such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) 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 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 will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing 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 Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number LESI 8922, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: September 10, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-27239 Filed 9-16-76;8:45 am]

[Docket No. 76N-0270; DESI 6320]

CERTAIN ANTIARRHYTHMIC DRUGS CONTAINING QUINIDINE HYDROCHLORIDE; QUINIDINE GLUCONATE; OR PROCAINAMIDE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is reclassifying the less-than-effective indications for certain antiarrhythmic drugs, offering an opportunity for a hearing on the reclassification, and announcing the conditions under which the drugs may be marketed for the indications for which they continue to be regarded as effective. Persons who wish to request a hearing may do so by October 18, 1976.

In a notice (DESI 6320; Docket No. FDC-D-257 (now Docket No. 76N-0270)) published in the FEDERAL REGISTER of September 8, 1972 (37 FR 18227), the Food and Drug Administration announced its conclusions concerning the drugs described below as follows:

QUINIDINE HYDROCHLORIDE INJECTION

QUINIDINE GLUCONATE INJECTION

1. Effective for the treatment of the following conditions when oral therapy is not feasible or when rapid therapeutic effect is required:

Premature atrial and ventricular contractions; paroxysmal atrial tachycardia; paroxysmal AV junctional rhythm; atrial flutter; paroxysmal atrial fibrillation; established atrial fibrillation when therapy is appropriate; paroxysmal ventricular tachycardia when not associated with complete heartblock; and maintenance therapy after electrical conversion of atrial fibrillation and/or flutter.

2. Possibly effective intramuscularly in certain cases of persistent hiccup.

PROCAINAMIDE HYDROCHLORIDE INJECTION

1. Effective for the treatment of ventricular extrasystoles and tachycardia; atrial fibrillation; paroxysmal atrial tachycardia; and cardiac arrhythmias associated with anesthesia and surgery.

2. Probably effective for prophylactic use before surgery in patients with known heart conditions.

3. Possibly effective for treatment of digitalis-induced ventricular extrasystoles and tachycardia.

PROCAINAMIDE HYDROCHLORIDE (ORAL)

1. Effective for the treatment of premature ventricular contractions and ventricular tachycardia; atrial fibrillation; and paroxysmal atrial tachycardia.

2. Possibly effective for prophylaxis before surgery in patients with known heart conditions; and in digitalis-induced ventricular extrasystoles and tachycardia.

3. Lacking substantial evidence of effectiveness for correction of cardiac arrhythmias that may occur during anesthesia.

The notice also offered an opportunity for a hearing concerning the indication concluded at that time to lack substantial evidence of effectiveness for oral procainamide hydrochloride. No person has submitted any data in support of the probably effective and possibly effective indications and those indications are now reclassified as lacking substantial evidence of effectiveness.

The notice that follows does not pertain to the indication stated in the September 8, 1972 notice to lack substantial evidence of effectiveness for oral procainamide hydrochloride. No person requested a hearing concerning it and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

1. NDA 6-320; Quinidine Hydrochloride Injection, previously marketed by Cooper Laboratories, 300 Fairfield Rd., Wayne, NJ 07470, successor to Brewer and Co., Inc.

2. NDA 7-335; Pronestyl Injection and Capsules, both containing procain-

amide hydrochloride; Squibb Pharmaceutical Co., E. R. Squibb & Sons Inc., P.O. Box 4000, Princeton, NJ 08540.

3. NDA 7-529; Quinidine Gluconate Injection; Eli Lilly & Co., Box 618, Indianapolis, IN 46206.

Other drugs included in the initial notice are not affected by this notice. The following new drug application was not included in the initial notice, but is affected by this notice.

NDA 17-371; Pronestyl Tablets containing procainamide hydrochloride; Squibb Pharmaceutical Co.

In a notice published in the FEDERAL REGISTER of February 2, 1973 (38 FR 3208), the approval of NDA 6-320 for Quinidine Hydrochloride Injection was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusion concerning its possibly effective indication had been reached. That conclusion has now been reached, and the purpose of including Quinidine Hydrochloride Injection (NDA 6-320) in this notice is to inform all interested persons of the conclusion and offer them the opportunity to request a hearing concerning all issues relating to its legal status.

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 holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsbility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the September 8, 1972 notice.

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.* The drugs are in sterile aqueous solution form suitable for parenteral administration; procainamide hydrochloride is also in capsule or tablet form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are 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:

QUINIDINE HYDROCHLORIDE INJECTION

QUINIDINE GLUCONATE INJECTION

For the treatment of the following conditions when oral therapy is not feasible or when rapid therapeutic effect is required:

Premature atrial and ventricular contractions; paroxysmal atrial tachycardia; paroxysmal AV junctional rhythm; atrial flutter; paroxysmal atrial fibrillation; established atrial fibrillation when therapy is appropriate; paroxysmal ventricular tachycardia when not associated with complete heartblock; and maintenance therapy after electrical conversion of atrial fibrillation and/or flutter.

PROCAINAMIDE HYDROCHLORINE INJECTION

For treatment of ventricular extrasystoles and tachycardia; atrial fibrillation; paroxysmal atrial tachycardia; and cardiac arrhythmias associated with anesthesia and surgery.

PROCAINAMIDE HYDROCHLORIDE (ORAL)

For the treatment of premature ventricular contractions and ventricular tachycardia; atrial fibrillation; and paroxysmal atrial tachycardia.

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that the holder of the application submits the following if he has not previously done so:

(a) On or before November 16, 1976, (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)).

(b) For procainamide oral dosage forms, on or before March 16, 1977, data to show that it is biologically available in the formulation marketed.

(4) *Marketing status of all other products.* (a) Approval of an abbreviated new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(f) and for procainamide oral dosage forms, shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing.

(b) Marketing prior to approval of a new drug application will subject such products, and those 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 unaware of any 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 drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), 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 application(s) and all amendments and supplements thereto providing for the indication(s) 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 product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is 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 application(s) supplemented, in accord with this notice, to delete the claim(s) 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 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 applicant(s) and all other persons who manufacture or distribute a drug product which 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(s) providing for the claim(s) 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.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 18, 1976, a written notice of appearance and request for hearing, and (2) on or before November 16, 1976, the data, information, and analyses on which he relies 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 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 such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) 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 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 will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing 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 Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 6320, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: September 10, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-27243 Filed 9-16-76;8:45 am]

[Docket No. 76N-0209; DESI 8582]

ERYTHROMYCIN PREPARATIONS FOR ORAL AND PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

In a notice (DESI 8582) published in the FEDERAL REGISTER of August 29, 1970 (35 FR 13803) and amended by a notice published in the FEDERAL REGISTER of October 14, 1971 (36 FR 19988), the Food and Drug Administration announced its conclusions regarding the effectiveness of the drug products described below containing erythromycin for oral and parenteral use. The October 14, 1971 notice classified the drug products as effective in the treatment of various infections, probably effective in the treatment of *Neisseria gonorrhoeae*, and possibly effective in the treatment of *H. influenzae*. Based upon new information and a reevaluation of available data, these less-than-effective indications have been reclassified to effective. This notice sets forth the indications for which the drugs are regarded as effective.

1. NDA 60-272; Erythromycin Tablets; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

2. NDA 60-558; Ilosone Drops containing erythromycin estolate; Eli Lilly & Co., Box 618, Indianapolis, IN 46206.

3. NDA 60-431; Ilosone Chewable Tablets containing erythromycin estolate; Eli Lilly & Co.

4. NDA 50-365; Ilosone Pulvules containing erthyromycin estolate; Eli Lilly & Co.

5. NDA 60-559; Ilosone For Oral Suspension containing erythromycin estolate; Eli Lilly & Co.

6. NDA 50-369; Ilotycin Tablets containing erythromycin; Eli Lilly & Co.

7. NDA 50-370; Ilotycin Gluceptate I.V. For Injection containing erythromycin gluceptate; Eli Lilly & Co.

8. That part of NDA 50-207 pertaining to Erythromycin Granules for Oral Suspension containing erythromycin ethylsuccinate; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064.

9. That part of NDA 50-207 pertaining to Erythrocin Drops; and Granules for Oral Suspension containing erythromycin ethylsuccinate; Abbott Laboratories.

10. NDA 60-359; Erythrocin Stearate Filmtabs containing erythromycin stearate; Abbott Laboratories.

11. NDA 60-250; Erythrocin-I.M. Injection containing erythromycin ethylsuccinate; Abbott Laboratories.

12. NDA 50-182; Erythrocin Lactobionate-I.V. Sterile Powder for Injection containing erythromycin lactobionate.

The initial notice of August 29, 1970 included drug products containing erythromycin ethylcarbonate. In a notice published in the FEDERAL REGISTER of July 26, 1974 (39 FR 27320) the antibiotic regulations were amended by revoking the monographs providing for certification of erythromycin ethylcarbonate for the reason that no requests for certification of the drugs had been received for several years.

The Indications section of the labeling set forth in the October 14, 1971 notice is revised to read as follows:

Streptococcus pyogenes (Group A beta hemolytic streptococcus): For upper and lower respiratory tract, skin, and soft tissue infections of mild to moderate severity.

Injectable benzathine penicillin G is considered by the American Heart Association to be the drug of choice in the treatment and prevention of streptococcal pharyngitis and in long-term prophylaxis of rheumatic fever.

When oral medication is preferred for treatment of the above condiitons, penicillin G, V, or erythromycin are alternate drugs of choice.

When oral medication is given, the importance of strict adherence by the patient to the prescribed dosage regimen must be stressed. A therapeutic dose should be administered for at least 10 days.

Alpha-hemolytic streptococci (viridans group): For short-term prophylaxis

of bacterial endocarditis prior to dental or other operative procedures in patients with a history of rheumatic fever or congenital heart disease who are hypersensitive to penicillin. (Erythromycin is not suitable prior to genitourinary surgery where the organisms likely to lead to bacteremia are gram-negative bacilli or the enterococcus group of streptococci).

Staphylococcus aureus: For acute infections of skin and soft tissue of mild to moderate severity. Resistant organisms may emerge during treatment.

Streptococcus pneumoniae (Diplococcus pneumoniae): For upper respiratory tract infections (e.g., Otitis media, pharyngitis) and lower respiratory tract infections (e.g., pneumonia) of mild to moderate degree.

Mycoplasma pneumoniae (Eaton agent, PPLO): For respiratory infections due to this organism.

Hemophilus influenzae: For upper respiratory tract infections of mild to moderate severity when used concomitantly wtih adequate doses of sulfonamides. Not all strains of this organism are susceptible at the erythromycin concentrations ordinarily achieved (see appropriate sulfonamide labeling for prescribing information).

Treponema pallidum: Erythromycin (oral forms only) is an alternate choice of treatment for primary syphilis in patients allergic to the penicillins. In treatment of primary syphilis, spinal fluid examinations should be done before treatment and as part of followup after therapy.

Corynebacterium diphtheriae and *C. minutissimum:* As an adjunct to antitoxin, to prevent establishment of carriers, and to eradicate the organism in carriers.

In the treatment of erythrasma.

Entamoeba histolytica: In the treatment of intestinal amebiasis only. Extraenteric amebiasis requires treatment with other agents.

Listeria monocytogenes: Infections due to this organism.

Neisseria gonorrhoeae: Erythromycin lactobionate for injection in conjunction with erythromycin stearate or base orally, as an alternative drug in treatment of acute pelvic inflammatory disease caused by *N. gonorrhoeae* in female patients with a history of sensitivity to penicillin. Before treatment of gonorrhea, patients who are suspected of also having syphillis should have a microscopic examination for *T. pallidum* (by immunofluorescence or darkfield) before receiving erythromycin, and monthly serologic tests for a minimum of 4 months.

Batches of the drugs for which certification is requested should provide for labeled indications in accord with this notice.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051), as amended, 59 Stat. 463, as amended (21 U.S.C. 352, 357) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the Federal Register June 15, 1976 (41 FR 24262)).

Dated: September 7, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-27240 Filed 9-16-76;8:45 am]

[Docket No. 76N-0359; Desi 8303]

HYDRALAZINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is reclassifying the less-than-effective indications for certain antihypertensive drugs offering an opportunity for a hearing on the reclassification and announcing the conditions under which the drugs may be marketed for the idications for which they continue to be regarded as effective. Persons who wish to request a hearing may do so on or before October 18, 1976.

In a notice (DESI 8303) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11758), the Food and Drug Administration announced its conclusions concerning the drug products described below as follows:

HYDRALAZINE HYDROCHLORIDE TABLETS

(1) Effective for the treatment of essential hypertension; (2) probably effective for the treatment of hypertension associated with acute glomerulonephritis; and (3) possibly effective for the treatment of hypertension associated with preeclampsia to prevent acute convulsant toxemia.

HYDRALAZINE HYDROCHLORIDE INJECTION

(1) Effective for the treatment of severe essential hypertension when the drug cannot be given orally or when there is an urgent need to lower blood pressure; and (2) probably effective for the treatment of hypertension associated with preeclamptic and eclamptic toxemia of pregnancy to prevent acute convulsant toxemia, and for the treatment of hypertension associated with acute glomerulonephritis when oral administration is inadvisable.

The manufacturer of the drug deleted from the labeling of the drug products the less-than-effective indications. No person has submitted any data in support of the less-than-effective indications and those indications are now reclassified to lacking substantial evidence of effectiveness.

NDA 8-303; Apresoline Hydrochloride Tablets and Injection containing hydralazine hydrochloride; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, N.J. 07901.

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 holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, Md. 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications listed in the labeling conditions below. The drug products now lack substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the June 18, 1971 notice.

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.* The drug products are in sterile aqueous solution form suitable for parenteral administration; or in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug products are 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:

HYDRALAZINE HYDROCHLORIDE TABLETS

For the treatment of essential hypertension; may be used alone or as an adjunct.

HYDRALAZINE HYDROCHLORIDE INJECTION

For the treatment of severe essential hypertension when the drug cannot be given orally or when there is an urgent need to lower blood pressure.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before November 16, 1976, the holder of the application submits, if he has not previously done so, (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 submit-

ted, 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)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those 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 unaware of any 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 drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), 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 application(s) and all amendments and supplements thereto providing for the indication(s) 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 product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is 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 application(s) supplemented, in accord with this notice, to delete the claim(s) 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 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 ecstion 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which 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(s) providing for the claim(s) 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.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 18, 1976, a written notice of appearance and request for hearing, and (2) on or before November 16, 1976, the data, information, and analyses on which he relies 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 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 such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) 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 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 will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing 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 Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 8303, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: September 10, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76-27241 Filed 9-16-76;8:45 am]

[Docket No. 76N-0306; DESI 6695]

MECHLORETHAMINE HYDROCHLORIDE POWDER FOR INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 6695) published in the FEDERAL REGISTER of September 25, 1970 (35 FR 14955), the Ford and Drug Administration announced its conclusions that the drug product described below is (1) effective when administered for its labeled indications as described in the labeling conditions below and (2) possibly effective by intra-arterial administration. The drug is used in some types of malignancies. No person has submitted any data in support of the effectiveness of the drug by the intra-arterial route of administration, and the indications are now reclassified as lacking substantial evidence of effectiveness by that route. This notice offers an op-

portunity for a hearing concerning the effectiveness of the drug when administered intra-arterially and sets for the conditions for marketing the drug product for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before October 18, 1976.

NDA 6-695; Mustargen Hydrochloride Powder for Injection containing mechlorethamine hydrochloride; Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, PA 19486.

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 holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specilc drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications by the routes of administration described in the labeling conditions below. The drug lacks substantial evidence of effectiveness for those indications when administered by the intra-arterial route.

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.* Mechlorethamine hydrochloride preparations are in powder form suitable for parenteral use after reconstitution.

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:

Mechlorethamine hydrochloride administered intravenously is indicated for the palliative treatment of Hodgkin's disease (stages III and IV), lymphosarcoma, chronic myelocytic or chronic lymphocytic leukemia, polycythemia vera, mucosis fungoides, and bronchogenic carcinoma; and administered intrapleurally, intraperitoneally or intrapericardially for palliative treatment of metastatic carcinoma resulting in effusion.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before November 16, 1976, the holder of the application submits, if he has not previously done so, (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)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those 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 unaware of any 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 drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), 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 application(s) and all amendments and supplements thereto providing for the indication(s) 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 product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is 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 application(s) supplemented, in accord with this notice, to delete the claim(s) 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 210(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 210(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 applicant(s) and all other persons who manufacture or distribute a drug product which 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(s) providing for the claim(s) 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.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 18, 1976, a written notice of appearance and request for hearing, and (2) on or before November 16, 1976, the data, information, and analyses on which he relies 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 pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 2 CFR 214.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) 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 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 requests 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 will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 6695, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD–150), Rm. 17B–34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD–614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

This notice is isued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: September 10, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.76–27242 Filed 9–16–76;8:45 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on October 7, 1976, in Dow Auditorium, Towsley Center, University of Michigan, Ann Arbor, Michigan.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. subject to space available. The purpose of the meeting will be to receive testimony from interested members of the public and professionals.

Persons who wish to appear before the Commission, or to submit testimony for consideration, shall file a written statement or detailed summary of remarks with the Executive Director, address listed below, by September 30, 1976. The time allotted to each witness will be determined by the Commission based upon the number of individuals who request an opportunity to testify.

Dr. Nancy Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, Maryland 20014, (301) 496–9275, will accept written statements or summaries and provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A03, Bethesda, Maryland 20014, (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: September 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–27223 Filed 9–16–76;8:45 am]

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on October 20, 1976, in the Lecture Center, Room 439, Rush University, Academic Facility, 600 S. Paulina Street, Chicago, Illinois.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. subject to space available. The purpose of the meeting will be to receive testimony from interested members of the public and professionals.

Persons who wish to appear before the Commission, or to submit testimony for consideration, shall file a written statement or detailed summary of remarks with the Executive Director, address listed below, by October 13, 1976. The time allotted to each witness will be determined by the Commission based upon the number of individuals who request an opportunity to testify.

Dr. Nancy Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH Building 31, Room 8A11, Bethesda, Maryland 20014, (301) 496–9275, will accept written statements or summaries and provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Rom 8A03, Bethesda, Maryland 20014, (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catolog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–27225 Filed 9–16–76;8:45 am]

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on October 21, 1976, in the Third Floor Conference Room, Georgia Mental Health Institute, 1256 Briarcliff Road, Atlanta, Georgia 30302.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. subject to space available. The purpose of the meeting will be to receive testimony from interested members of the public and professionals.

Persons who wish to appear before the Commission, or to submit testimony for consideration, shall file a written statement or detailed summary of remarks with the Executive Director, address listed below, by October 14, 1976. The time allotted to each witness will be determined by the Commission based upon the number of individuals who request an opportunity to testify.

Dr. Nancy Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, Maryland 20014, (301) 496–9275, will accept written statements or summaries and provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A03, Bethesda, Maryland 20014, (301) 496–5751, will provide summaries of the meeting and rosters of commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: September 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–27226 Filed 9–16–76;8:45 am]

IMMUNOTHERAPY OF CANCER: PRESENT STATUS OF TRIALS IN MAN

Meeting

Notice is hereby given of the International Meeting on Immunotherapy of Cancer: Present Status of Trials in Man sponsored by the Tumor Immunology Program and the International Registry of Tumor Immunotherapy, NCI, to be held from October 27–29, 1976 in the Jack Masur Auditorium, Clinical Center, NIH.

The entire meeting will be open to the public from 8:30 a.m. to 10:15 p.m. on October 27; 8:30 a.m. to 5:35 p.m. on October 28; 8:30 a.m. to 12:30 p.m. on October 29, 1976 to discuss and summarize the present status of Immunotherapy of cancer in man. Critical evaluation will be made of the evidence concerning forms of immunotherapy that may be of value in the treatment of patients with cancer. Attendance by the public will be limited to space available.

Ms. Pat Walters, Kappa Systems (1501 Wilson Boulevard, Arlington, VA 22209) telephone: (703–527–4500) will provide additional information.

Dated: September 13, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.76–27224 Filed 9–16–76;8:45 am]

Office of Education

VOCATIONAL EDUCATION CURRICULUM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 191 of Part I of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1391, applications are being accepted for two vocational education grant awards for the fiscal year 1977.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 15, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202; Attention: 13.496. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be delivered to the Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturday, Sunday, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Division of Research and Demonstration, Bureau of Occupational and Adult Education, Office of Education, Room 5034, 7th & D Streets, S.W., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR 100a) published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 and the Vocational Education Regulations, Parts C, D, and I (45 CFR Part 103) published in the FEDERAL REGISTER on August 15, 1974 at 39 FR 29361, and the criteria for fiscal year 1977 published August 24, 1976 at 41 FR 35722.

(20 U.S.C. 1391)

(Catalog of Federal Domestic Assistance Number 13.496; Vocational Education—Curriculum)

Dated: September 10, 1976.

WILLIAM F. PIERCE,
Acting U.S.
Commissioner of Education.

[FR Doc.76–27278 Filed 9–16–76;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Cancellation of Meeting

The meeting of the National Advisory Council on Extension and Continuing Education, which was to be held on September 22–24, 1976, at The Wellington Hotel in Washington, D.C., has been cancelled. The announcement appeared in the FEDERAL REGISTER on August 31, 1976, on page 36679.

The lack of a quorum requires cancellation until such time as new Council appointees are announced by the White House. The rescheduling of the meeting is expected to take place in October and notice will be duly given.

Dated: September 16, 1976.

JAMES A. TURMAN,
Executive Director.

[FR Doc.76–27548 Filed 9–16–76;10:14 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–76–457]

CHICAGO REGIONAL OFFICE

Authority Delegation With Respect to Fair Housing

Section A. Authority with respect to fair housing. The Assistant Regional Administrator for Equal Opportunity, Region V, Chicago, is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90–284 (42 U.S.C. 3601–3619), except the authority to:

1. Make studies and publish reports under Section 808 (e) of the Act (42 U.S.C. 3608 (d)).

2. Issue rules and regulations.

Section B. Authority to redelegate. The Assistant Regional Administrator for Equal Opportunity is authorized to redelegate to subordinate employees any of the authority redelegated under Section A except the authority to issue a subpena or interrogatory under Section 811 of the Act (42 U.S.C. 3611) shall remain with the Assistant Regional Administrator for Equal Opportunity.

Section C. Supersedure. This redelegation of authority supersedes the redelegation published at 38 FR 20358, July 31, 1973.

(Redelegation of Authority by Assistant Secretary for Fair Housing and Equal Opportunity published at 41 FR 14208, April 2, 1976, effective April 2, 1976.)

Effective date: This redelegation of authority shall be effective as of May 7, 1976.

DON MORROW,
Regional Administrator,
Region V, Chicago.

[FR Doc.76–27261 Filed 9–16–76;8:45 am]

[Docket No. D–76–458]

SEATTLE REGIONAL OFFICE

Authority Delegation With Respect to Fair Housing

Section A. Authority with respect to fair housing. The Assistant Regional Administrator for Equal Opportunity, Region X, Seattle, Washington, is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90–284 (42 U.S.C. 3601–3619), except the authority to:

1. Make studies and publish reports under Section 808(e) of the Act (42 U.S.C. 3608(d)).

2. Issue rules and regulations.

Section B. Authority to redelegate. The Assistant Regional Administrator for Equal Opportunity is authorized to redelegate to subordinate employees any of the authority redelegated under Section A except the authority to issue a subpena or interrogatory under Section 811 of the Act (42 U.S.C. 3611) shall remain with the Assistant Regional Administrator for Equal Opportunity.

(Redelegation of Authority by Assistant Secretary for Fair Housing and Equal Opportunity published at 41 FR 14208, April 2, 1976, effective April 2, 1976.)

Effective date: This redelegation of authority shall be effective as of August 1, 1976.

DAVID W. PEYTON,
Acting Regional Administrator,
Region X, Seattle.

[FR Doc.76–27260 Filed 9–16–76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

HUNTING AND FISHING RIGHTS

Hearing

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission, (Pub. L. 93–580) as amended, that a hearing on Indian hunting and fishing rights will be held Saturday, September 25, from 8:00 a.m. until 12:00 noon in Portland, Oregon, in the auditorium of the Bonneville Power Administrations Building, 1002 Northeast Holladay.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

Persons interested in submitting testimony for the hearings should contact Tony Strong at (202) 224–5824 in Washington, D.C. for further information.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76–27183 Filed 9–16–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 76–9–69; Docket 22859]

BRANIFF AIRWAYS, INC.

Domestic Air Freight Rate Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of September, 1976.

By tariff revisions[1] issued August 17 and marked to become effective September 16, 1976, Barniff Airways, Inc. (Braniff) proposes to increase numerous eastbound and northbound general and specific commodity rates to equal corresponding westbound and southbound rates. The carrier contends, inter alia, that in the Domestic Air Freight Rate Investigation (DAFRI), Docket 22859, the Administrative Law Judge found directional rates to be unlawful; that directional rates no longer serve a useful or necessary purpose in the domestic air freight rate structure; and that the proposed rates are all cost-justified since they equal existing rates in the opposite direction which were previously permitted by the Board.

The proposal comes within the scope of DAFRI, and its lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposed rates, or to permit them to become effective pending decision.

The Board has examined the increases in the light of industry-average costs[2] and finds that they are below this standard with the exception of the proposed increases in specific commodity rates on human remains which exceed such costs by a wide margin. The Board has previously suspended premium rates that exceeded costs or that lacked specific justification.[3]

Upon consideration of the foregoing, and all other relevant factors, the Board concludes that the proposed increases in human remains rates should be suspended, pending final decision in DAFRI. The remainder of the proposal will be permitted to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a), 403, 404, and 1002 thereof,

It is ordered That:

1. Pending hearing and decision by the Board, the rates described in Appendix A hereto are suspended and their use deferred to and including December 14, 1976, unless otherwise ordered by the Board; and that no changes be made therein during the period of suspension, except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon Braniff Airways, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76–27343 Filed 9–16–76;8:45 am]

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 169. See Appendix filed with original document.

[2] Industry-average costs as adopted by the Administrative Law Judge in DAFRI, and revised to reflect cost increases through June 1976.

[3] E.g., Orders 76–8–151, 76–7–124, 75–12–28, and 75–11–8.

COMMISSION ON CIVIL RIGHTS

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Tennessee Advisory Committee (TAC) to this Commission will convene at 9:00 a.m. and end at 5:30 p.m. on October 8, 1976, and will reconvene at 9:00 a.m. and end at 5:30 p.m. on October 9, 1976, at the Federal Office Building, 167 N. Main, Room 936, Memphis, Tennessee 38103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Bldg., Rm. 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this factfinding meeting is to discuss Police Community Relations.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 14, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76–27321 Filed 9–16–76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 FR 54742) of the service listed below were published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29473).

After consideration of all the relevant data presented, the Committee has determined that the service listed below is suitable for procurement by the Government under Public Law 92–28, 85 Stat. 77. Accordingly, it is hereby added to the Procurement List.

SIC 7699

Repair and Maintenance of Manual Typewriters (SH), Federal Court House Building, Syracuse, New York.

By the Committee.

W. C. FLETCHER,
Executive Director.

[FR Doc.76–27319 Filed 9–16–76;8:45 am]

PROCUREMENT LIST 1976

Notice of Porposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92–28; 85 Stat. 77, of the proposed additions of the following commodities to Procurement List 1976, November 25, 1975 (40 FR 54742).

Class 7520

Stands, Calendar Pad, Type III, 7520–00–162–6156, 7520–00–139–4277.

Comments and views regarding the proposed additions may be filed with the Committee not later than October 18, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER (10–17–76).

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76–27320 Filed 9–16–76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Proposed Additions

Correction

In FR Doc. 76–25204 appearing on page 36241 in the issue of Friday, August 27,

1976, the last paragraph of the document now reading "This notice is automatically cancelled on or before February 27, 1976." Should have read "This notice is automatically cancelled six months from the date of this FEDERAL REGISTER."

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP76-10]

PULL-TAB AND PULL-OFF LID CONTAINERS

Denial

The purpose of this notice is to announce that the Consumer Product Safety Commission has denied a petition to develop a consumer product safety standard applicable to pull-tab and pull-off lid containers.

Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER the reason for such denial.

On January 9, 1976, James M. Durlacher, of Indianapolis, Indiana, petitioned the Commission to develop a consumer product safety standard to regulate pull-tab and pull-off lid containers. The petitioner alleged that the products are likely to cause the following injuries: (1) lacerations to the hand and fingers while opening; (2) lacerations due to handling or stepping on a lid which has been disposed of improperly; (3) injuries to small children playing with the inner rim of an opened container; (4) injuries due to excessive internal pressure; (5) injuries due to mistaken identification such as automotive products packaged as six-packs; (6) injuries due to metal fragmenting, and (7) injuries caused when the container does not open by normal means and pliers or other tools must be used.

The petitioner requested that the Commission consider several remedies which would eliminate or reduce the hazards caused by pull-tab and pull-off lid containers. He suggested coating the removable lids with synthetic materials, recessing the inner rim so that it would not be as accessible and prone to cutting, and providing obvious warning notices on containers stating the chance of injury and how it might occur.

In studying the petition, the Commission staff gathered available injury data, statistics, technical analyses, and other information relating to the issues the petitioner raised as to pull-tab and pull-off lid containers. Based upon information available to the Commission at the present time, the Commission is unable to make a determination that there is an unreasonable risk of injury associated with pull-tab and pull-off lid containers, or that a consumer product safety standard is necessary to eliminate or reduce the alleged risk of injury.

Economic data available to the Commission indicate shipment of approximately 87 billion metal cans in 1974. About 40–45 billion of these are estimated to have ring-pull lids and another 2–4 billion cans are estimated to have easy-open lids. These usually contain beer and soft drinks or other food products. Fiber cans with aluminum ring-pull or easy-open lids (for tennis balls, potato chips, and other miscellaneous products) represent an undetermined but very small addition to the total universe.

The injury data collected in the Commission's National Electronic Injury Surveillance System (NEISS) and in-depth investigations related to pull-tab and pull-off lid containers provide information as to only two of the seven types of injuries raised by the petitioner: lacerations to hands and fingers while opening and lacerations due to handling or stepping on a lid or tab improperly disposed of.

The data available to the Commission indicate that an estimated 5,600 individuals sought emergency room treatment in 1975 for injuries associated with self-contained openers, pop-top cans, zip-open cans, etc. The data also show that an estimated 61,000 persons sought emergency room treatment during the same period for injuries associated with conventional metal cans. For both product categories 9 out of 10 victims suffered lacerations, primarily to the hand or fingers.

The reported diagnoses in the two categories were generally not severe: 99 percent of the victims were treated and released from hospital emergency rooms in the "self-contained opener" category and all victims were treated and released in the other "metal can" category.

The available information indicates that containers with self-opening lids do not present a greater hazard than that associated with the problem of sharp edges of conventional metal cans, and in addition, injuries associated with the use of both types of cans appear to be relatively minor. It also appears that there are relatively few injuries associated with pull-tab and pull-off lid containers in comparison with the number of these items in the marketplace. For the foregoing reasons, the Commission has denied the petition.

The petitioner states that it is likely that injuries are caused by mistaken identification, such as automotive products packaged as six-packs. Although the Commission's injury information reveals no data on this possible problem, the Commission notes that risks of injury from hazardous substances in packages resembling food or drink containers are regulated under the Federal Hazardous Substances Act. Section 4(f) of the act (15 U.S.C. 1263(f)) prohibits "the introduction or delivery for introduction into interstate commerce, or the receipt in interstate commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance * * * in a container which * * * is identifiable as a food, * * * by its labeling or by other identification." Therefore, if it learns of specific products that present this problem, the Commission has the authority to take action.

Dated: September 14, 1976.

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

[FR Doc.76-27378 Filed 9-16-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Receipt

Environmental impact statements received by the Council on Environmental Quality from September 7 through September 10, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (November 1, 1976). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

William B. Bankhead National Forest Timber Plan, Winston, Lawrence, Franklin Counties, Ala., Sept. 3: Proposed is the implementation of a Timber Management Plan for the William B. Bankhead National Forest covering the period July 1, 1976 to September 30, 1986. The Bankhead National Forest contains 179,294 acres of which 163,728 acres are classified as commercial forest land. The plan proposes even-aged forest management for that part of the Forest which is suitable for sustained yield timber production and not reserved for some other use. Average annual potential yield is 10.4 million board feet of saw timber and 2,279 thousand cubic feet of small roundwood products. Anticipated adverse effects are minimal. (95 pages.) (ELR Order No. 61331.)

Teton Wilderness Addition, Bridger-Teton National Forest, Teton County, Wyo., Sept. 8: Proposed is the modification of the boundary of Teton Wilderness in northwest Wyoming under Section 3(d) of the Wilderness Act. The recommendation provides for the inclusion of 28,318 acres of unclassified National Forest land within the Wilderness boundary. Adverse effects may include: withdrawal of renewable surface resources, chiefly timber, from economic potential; increased controls on non-renewable sub-surface resources and water development; and elimination of all other development potential. (55 pages.) (ELR Order No. 61325.)

Final

Cossatot-Little Missouri Unit Plan, Ouachita National Forest several Counties in Ark., Sept. 7: The proposed action is to manage, administer, and utilize the forest resources of the Cossatot-Little Missouri Planning Unit, Ouachita National Forest. This 113,507 acre unit is located in southeastern Polk, Southwestern Montgomery, Northern Howard, and Pike Counties. Major actions are regenerating commercial timber stands on approximately 12,300 acres, thinning timber on approximately 16,000 acres, improving wildlife habitat, providing minimum needs for expected recreation users, and construction of 155 miles of road. Environmental effects on soils, water quality, vegetation, and wildlife and forest aesthetics will result. (134 pages.) Comments made by: USDA, DOI, COE, EPA, state and regional services, local groups and individuals. (ELR Order No. 61316.)

Ward-Eagle Planning Unit, Lolo National Forest, Mineral County, Mont., Sept. 7: The action is the implementation of a more intensive Multiple Use Plan for the Ward-Eagle Planning Unit, Lolo National Forest. The action affects 31,770 acres of land. The planning unit is subdivided into nine management units. The plan prescribes that a major portion, 7,480 acres of the 8,960 acre inventoried roadless area, be managed for dispersed outdoor recreation with the remaining to be managed for various combinations for recreation, esthetics, fisheries, timber, wildlife, watershed, and minerals. Adverse effects include alteration of the landscape and disturbance of soil, water vegetation, and wildlife values. (115 pages.) Comments made by: EPA, DOI, organizations and individuals. (ELR Order No. 61320.)

Big Mt. Ski Resort Master Plan, Flathead National Forest, Flathead County, Montana, Sept. 8: The statement concerns a Master Plan for a two-phase, ten to fifteen year development program for the Big Mountain Ski Resort that will include expansion of ski lift and related facilities on National Forest land and adjacent private lands. The resort consists of 1,160 acres within the Flathead National Forest and approximately 440 acres of private land including the base area and lower ski slopes. The clearing of ski runs, building of ski lifts, and construction of roads and buildings would affect the naturalness of the area. (65 pages.) Comments made by: EPA, DOI, USDA, state agencies, concerned individuals. (ELR Order No. 61328.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Flint Creek Power Plant—550 MW, Benton County, Arkansas, Sept. 7: The proposed project involves the request for guaranteed loan funds in the amount of $75 million from REA for Arkansas Electric Cooperative Corporation's 50% participation in the construction of a new power plant in Benton County, Arkansas, to be known as the Flint Creek Power Plant. The proposed plant will have a gross generation capability of 550MW and a net output of 530MW. Approximately 650 acres of grazing land will be taken for construction purposes. (540 pages.) Comments made by: EPA, DOI, FPC, USDA, and State and local agencies, Oklahoma University. (ELR Order No. 61319.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314. (202) 693-6795.

Draft

Milford Lake, Operation and Maintenance, Geary, Clay, Dickenson County, Kansas, Sept. 9: Proposed is the continued operation and maintenance of Milford Lake, Kansas. The project consists of provision for water supply, regulation for flood control, operation and maintenance of recreation areas, and management of public lands and waters. The major adverse effect associated with the operation of the project is related to flood control operations. Fluctuating lake levels cause disruption of recreation and shoreline erosion. Sedimentation affects benthic life, fish populations and recreation use of the lake. (Kansas district.) (90 pages.) (ELR Order No. 61332.)

Bassett Creek Watershed, Hennepin Co. (2), Hennpin County, Minnesota, Sept. 7: This revised statement concerns the Bassett Creek Watershed, Colorado, and proposes a variety of both structural and nonstructural measures. Structural measures involve a 1.5 mile underground conduit and deep tunnel, temporary storage areas, one permanent impoundment, channel modifications, embankments, floodwalls, and culverts and weirs. Non-structural measures are floodplain evacuation, flood proofing, and continuation of the existing floodplain regulation and flood insurance programs. Adverse effects include long-term adverse impacts on existing vegetation and short- and long-term impacts on aquatic ecosystems. (St. Paul District.) (168 pages.) (ELR Order No. 61323.)

Mississippi R. Flood Control, Prairie du Chien, Crawford County, Wisconsin, September 9: The proposed action is a mixture of floodplain evacuation, flood proofing, and continued floodplain regulations within the 100-year floodplain at Prairie du Chien, located on the Mississippi River. The plan recommends that Prairie du Chien designate a somewhat larger floodplain and that all residential homeowners with houses at ground elevations between 625 and 630.5 feet have the option of partially flood proofing their homes at project expense. (St. Paul District.) (40 pages.) (ELR Order No. 61333.)

Final

Granada Local Protection Project, Colorado, September 8: The statement refers to the plan for improvement of flood protection at Granada. The project involves improving the existing Wolf Creek channel and levee system to protect the town from the Standard Project Flood of 41,000 cfs and the adjacent farmlands from floods up to and including the 15-year flood of 9,200 cfs. Adverse impacts are the use of 160 acres of land, alterations in the Arkansas River ecosystems, and potential increases in the levels of air, noise, and water pollution. (Albuquerque District) (76 pages) Comments made by: USDA, EPA, DOI, DOT, and State and county agencies, interested individuals. (ELR Order No. 61324.)

Raritan River Navigation Project, New Jersey, September 8: Proposed is the maintenance dredging of the existing Federal Channel in the Raritan River to its authorized project dimensions. The dredge material from the main channel will be deposited in the Atlantic Ocean, and the dredge material from the South Channel will be deposited at an upland site. Adverse effects include temporary turbidity caused by dredging, and slight disruption of local marine life. Disposal in the Atlantic Ocean disposal site will contribute to the adverse effects associated with the regional problem of ocean waste disposal. (New York District.) (51 pages.) Comments made by: HUD, EPA, DOI, DOC, USDA, DOT, USCG. (ELR Order No. 61329.)

Supplement

B. Everett Jordan Dam and Lake (S-1), North Carolina, September 10: This statement is a supplement to a final EIS filed with CEQ in December, 1975 concerning the B. Everett Jordan Dam and Lake, Cape Fear River Basin, North Carolina. The supplement includes the reassessment of water quality and observations of the effects of present dam operation on vegetation, birds, mosquitoes, and other vectors, fish, mammals, and sedimentation, as well as records of heights and duration of all floods impounded behind the dam. (Wilmington District.) (451 pages.) (ELR Order No. 61335.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington D.C. 20460, (202) 755-0780 (stop 460.)

Draft

State Underground Injection Control Program, Sept. 10: The proposed action prescribes a new set of regulations which sets minimal standards for state programs to prevent underground sources of public water supplies. The regulations have been issued in conformance with the requirements of P.L. 93-523 (The Safe Drinking Water Act), which is designed to minimize or prevent threats to public health from underground drinking water sources contaminated by man's activities. The action is expected to have beneficial impacts by providing improved protection of public health. (350 pages.) (ELR Order No. 61338.)

Final

S. Bloomington, Lake Monroe Sewage Treatment, Monroe County, Indiana, Sept. 8: Proposed is a 15 MGD two-stage activated sludge sewage treatment plant (STP) with sand filters located at a Dillman Road site to meet the needs of the South Bloomington Service Area. Constructing a new sewage treatment plant at this site will result in abandonment of the existing Winston Thomas STP and will require the construction of a connecting sewer approximately 2 miles long paralleling Clear Creek from the Winston Thomas plant site to the Dillman Road site. Adverse effects include the displacement of terrestrial plants and animals. (Region V.) (450 pages.) Comments made by: DOI, COE, and local agencies and interest groups government officials. (ELR Order No. 61330.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-961-8621.

Draft

Cote Blanche Mine—Strategic Petroleum Reserve, St. Mary's County, La., Sept. 10: Proposed is the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act of 1975. The Reserve will store 150 million barrels of oil by December of 1978 in the Early Storage Reserve (ESR), and 500 million barrels by 1982 under the entire program. The present action is part of the ESR and proposes to store 27 million barrels of oil in a conventional salt mine located at Cote Blanche Island in Louisiana. The proposed

storage of oil at Cote Blanche Mine is to be implemented at an existing underground salt mine presently owned and operated by Domtar Chemicals, Inc. Adverse impacts will result on water and air. (500 pages.) (ELR Order No. 61336.)

West Hackberry Salt Dome—Strategic Petroleum Reserve, Cameron County, La., Sept. 10: Proposed is the implementation of the Strategic Petroleum Reserve (SPR), Title I, Part B, of the Energy Policy and Conservation Act of 1975 through the development of a 60 million barrel crude oil facility at the West Hackberry salt dome. Under the initial phase of the SPR, referred to as the Early Storage Reserve (ESR), 150 million barrels of oil will be stored by 1978. The West Hackberry site, a salt dome with existing cavities located in Cameron Parish, Louisiana, has been identified as a candidate site for the ESR. Adverse effects include the risk of oil spills. (385 pages.) (ELR Order No. 61337.)

Weeks Island Mine—Strategic Petroleum Reserve, Iberia County, La., September 70: Proposed is the implementation of the Strategic Petroleum Reserve (SPR), Title I, Part B, of the Energy Policy and Conservation Act of 1975. The Reserve will store 150 million barrels of oil by December of 1978 in the Early Storage Reserve (ESR), and 500 million barrels by 1982 under the entire program. The present action is part of the ESR and proposes storage of oil at Weeks Island Mine, to be implemented at an existing underground salt mine presently owned and operated by Morton Salt Company. Adverse effects include water quality degradation and the possibility of oil spillage. (500 pages.) (ELR Order No. 61339.)

Bayou Choctaw Salt Dome—Strategic Petroleum Reserve, Iberville County, La., September 10: Proposed is the implementation of the Strategic Petroleum Reserve (SPR), Title I, Part B of the Energy Policy and Conservation Act of 1975 through the development of a 99 million barrel crude oil storage facility at the Bayou Choctaw salt dome. The purpose of the SPR is to mitigate the economic impacts of any future interruptions of the petroleum imports. Under the initial phase of the SPR, referred to as the Early Storage Reserve (ESR), 150 million barrels of oil will be stored by 1978. This site-specific EIS analyzes the environmental impacts caused by site preparation and operation. Adverse effects include water quality degradation and the risk of oil spills. (486 pages.) (ELR Order No. 61341.)

Bryan Mound Salt Dome—Strategic Petroleum Reserve, Brazoria County, Tex., September 10: Proposed is the implementation of the Strategic Petroleum Reserve (SPR), Title I, Part B, of the Energy Policy and Conservation Act of 1975 through the development of a 58 million barrel crude oil storage facility at the Bryan Mound salt dome. Under the initial phase of the SPR, referred to as the Early Storage Reserve (ESR), 150 million barrels of oil will be stored by 1978. The Bryan Mound site, a salt dome with existing cavities located in Texas, has been identified as a candidate storage for the ESR. Adverse effects include risk of oil spillage. (400 pages.) (ELR Order No. 61340.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Final

Flood Plain Management Regulations, September 10: The statement refers to the proposed promulgation of revisions to the regulations of the National Flood Insurance Program that deal specifically with flood plain management requirements. All areas of the county would be affected; approximately 16,000 local jurisdictions are partially flood-prone. Adverse impacts, connected with the optional use of fill to elevate are minimized by disallowing fill entirely in high hazard areas on coastlines and in floodways. (250 pages.) Comments made by. EPA, COE, DOC, DOI, ERDA, TVA, and State and local agencies, and concerned citizens. (ELR Order No. 61342.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Downtown Yonkers Commercial Complex (preliminary), New York, Sept. 10: Proposed is the construction and operation of a commercial complex located in the central business district of Yonkers, New York. The project includes 1.2 million square feet (GLA) of retail space, 100,000 square feet of office space and a 300-room hotel, and it is considered a key element in the City's plan to re-vitalize the socio-economic structure of the central city. Three alternatives are also examined: the no-build alternative; a reduction in the size of the retail portion of the development to 860,000 square feet (GLA); and the elimination of plans for the office building and hotel. (205 pages.) (ELR Order No. 61321.)

The CEQ Federal Register entry of September 8, 1976 (41 FR 37843) incorrectly lists *Pine Bluff Southeast Sanitary Sewer* (ELR Order No. 61227) as being a HUD project. This statement is a 104h project and copies may be obtained from the office of the appropriate local chief executive. Copies are not available from HUD.

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

OCS Lease Sale No. 44, Gulf of Mexico, Louisiana and Texas, Sept. 7: This statement concerns the leasing of 61 tracts of OCS land offshore Texas and Louisiana, for oil and gas exploration and development. All tracts offered pose some degree of pollution risk to the environment. Adverse environmental impacts will result from accidental or chronic spillage. (400 pages.) Comments made by: DOC, COE, DOI, USCG, ERDA, EPA, FEA, FPC, NRC, AHP, and state agencies. (ELR Order No. 61318.)

BUREAU OF RECLAMATION

Draft

Fruitland Mesa Project, Delta, Montrose, and Gunnison Counties, Colo., Sept. 7: The proposed project involves construction of a 584-surface acre reservoir and a water delivery system in the Gunnison River basin, Colorado. Water would be stored and distributed for irrigation, fishery, and recreation development. Irrigation water would be provided to 11,940 acres of presently unirrigated land and 6,310 acres of irrigated land in need of a supplemental supply. Construction is scheduled to be initiated in FY 1977 and will extend over 6 years. Milly K. Goodwin Lake would inundate 584 acres of mountain valley and 4.5 miles of stream. (170 pages.) (ELR Order No. 61315.)

Final

Eastern New Mexico Water Supply Project, several Counties in N. Mex., Sept. 7: Proposed is the construction of a 248 mile aqueduct system to deliver a supplemental supply of municipal and industrial water from the Ute Reservoir on the Canadian River to nine eastern New Mexico cities in Quay, Curry, Roosevelt, and Lea counties. The project would require the modification of the Ute Dam and Reservoir, the construction of pumping stations, and appurtenant facilities. Adverse effects include the temporary interruption of land use on 3,000 acres along the aqueduct alinement, and destruction of vegetation. Above-ground project structures and electrical transmission lines would permanently alter the existing landscape. (250 pages.) Comments made by: AHP, USA, DOC, HEW, HUD, DOI, DOT, EPA, FPC, and state and local agencies, private associations and citizens. (ELR Order No. 61317.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

Final

St. Lawrence Seaway, Pollys Gut, New York, Sept. 7: The statement refers to the safe navigation project on the St. Lawrence River at Pollys Gut. The project proposes the construction of approximately a 550-foot curved extension into the existing rubble-mound spur dike. The dike would have a trapezoidal cross-section with a 20-foot top width, a base width averaging about 80 feet and side slopes of 1:1.3. Its average height above the existing river bottom would be approximately 3 feet above the average water surface elevation of 155 International Great Lakes Datum (IGLAD). Adverse impacts are increased levels of noise, dust and water turbidity, and the destruction of 44,000 sq ft of benthic habitat. (Buffalo district.) (270 pages.) Comments made by: DOT, USCG, USDA, DOC, EPA, DOI. State and local agencies, interested persons, (ELR Order No. 61322).

FEDERAL AVIATION ADMINISTRATION

Draft

Gates Learjet Certification, Models 24 and 25, Sept. 1: Proposed is the approval of an increase of the maximum operational altitude of Gates Learjet Models 24 and 25 airplanes to 51,000 feet. The pending action is a proposal to amend Type Certificate Data Sheet A1DCE to change the maximum operational altitude from 45,000 to 51,000 feet for properly equipped Gates Learjet Models 24 and 25 airplanes in response to a Gates Learjet request for this action. No adverse environmental effects are known. (5 pages.) (ELR Order No. 61295.)

Akhiok Airport, Alaska, Sept. 10: This statement refers to proposed construction of the Akhiok Airport, Alaska. The project will consist of a 100' x 200' parking apron, a 20' x 1,325' access road, and a 50' x 50' graded area for a snow removal equipment storage building. The most severe environmental impact will be the destruction of ground cover on land used for the runway. (25 pages.) (ELR Order No. 61334.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

State Route 7 relocation, Meade and Poultney Townships, Belmont County, Ohio, Sept. 8: Proposed is the relocation and improvement of 2.3 miles of State Route 7 in Belmont County, Ohio, beginning near the south corporation line of Shadyside and ending near the south corporation line of

Belaire. This project will involve the construction of a new 4-lane pavement on new location with limited access through the urban area of Shadyside, Ohio, by-passing the central business district of the City. The relocation and improvement of Belmont County Road 46 for a relocation length of 0.83 mile is also included in the project. Adverse effects include the takings of residential property and the relocation of 70 families. A 4(f) statement is included. (Region 5.) (57 pages.) (ELR Order No. 61327.)

Final

F.A.P. 405, F.A.I. 474 and 74 to County Hwy. 25, Peoria County, Ill., Sept. 9: The proposed highway improvement is a four-lane, fully access controlled facility. It begins west of Peoria, Illinois at the intersection of FAI Routes 74 and 474, proceeds north and east around Peoria, and ends near County Highway 25 (Cedar Hills Dr.) north of Mossville, Illinois. The total length of the proposed improvement is approximately 12 miles. Adverse effects include the diversion of approximately 790 acres of land to highway-oriented use, the displacement of families, the potential for ground water pollution, and the alteration of area topography. (Region 5.) (750 pages.) Comments made by: (ELR Order No. 61159.)

Jesus T. Pinero Ave., Puerto Rico, Sept. 8: The project involves the construction of an urban highway, Jesus T. Pinero Avenue, to be located in Rio Piedras, San Juan, Puerto Rico. Total length of the proposed right-of-way is 1.70 miles. Six alternatives design profiles are proposed. Adverse impacts include possible water pollution, loss of 46 acres, increased noise levels, and the displacement of 145 families and 12 businesses. (180 pages.) Comments made by: USDA, HEW, EPA, DOI, DOT, DOC, HUD, COE, and commonwealth agencies. (ELR Order No. 61326.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-27285 Filed 9-16-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Meetings

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Task Force on Demonstration Projects as a Commercialization Incentive will meet on Monday, October 4, 1976, in Conference Room C, Departmental Auditorium, Constitution Avenue, between 12th and 14th Street, Washington, D.C. The meeting will be open to the public and begin at 9:00 a.m. and end at approximately 4:00 p.m. The meeting is to be a working session concerned with preliminary report preparation.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements on the report preparation may do so by mailing 12 copies thereof, postmarked no later than September 30, 1976, to the Assistant Administrator for Planning, Analysis, and Evaluation, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be directly relevant to the report preparation. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on October 1, 1976, to the Office of Planning, Analysis, and Evaluation on (202) 376-4356 between 8:30 a.m. and 5:00 p.m. e.s.t.

(c) Questions at the meeting may be propounded only by members of the Task Force and ERDA officials assigned to participate with the Task Force in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, folowing their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.76-27464 Filed 9-16-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 617-7]

ARLINGTON-EAST SERVICE DISTRICT, WASTEWATER MANAGEMENT FACILITIES, JACKSONVILLE, FLA.

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for Arlington-East Service District, Jacksonville, Florida, Project No. C120541 (EPA 904/9-76-006).

The subject action of this FEIS is awarding grant funds for the construction of a 10.0 mgd wastewater treatment plant, a 13,900-foot outfall line to the St. Johns River, and a 38,000-foot force main which will be used to pump sludge from the proposed facility across the St. Johns River for incineration.

The document is to be used in conjunction with the draft environmental impact statement (EPA 904/9-75-006). The detailed baseline environmental data and alternatives evaluation are contained in the draft environmental impact statement.

This FEIS was transmitted to CEQ on August 23, 1976, and in accordance with the CEQ Guidelines (40 CFR 1500.11) no administrative action will be taken by this Agency until thirty days after receipt of the FEIS by the Council. Copies of the FEIS are available from: Chief, Environmental Impact Statement Branch, Environmental Protection Agency, Region IV, Room 401, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309, (telephone: 404/526-5458 or FTS: 285-5458).

Copies of the FEIS are available for inspection at the following locations:

Environmental Protection Agency, Public Information Reference Unit (PM 213), Room 2922, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.
Environmental Protection Agency, Library—Region IV, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309.

Information copies of the FEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

Copies of the FEIS have been sent to Federal, State and local agencies and interested persons who made substantive comments on the draft environmental impact statement or requested a copy of the FEIS, as outlined in the CEQ Guidelines.

Dated: September 10, 1976.

REBECCA W. HANMER,
Director, Offic of Federal Activities.

[FR Doc.76-27179 Filed 9-16-76;8:45 am]

[FRL 617-4; PP6G1757/T79]

MONSANTO CO.

Establishment of Temporary Tolerance for Glyphosate

Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, has submitted a pesticide petition (PP 6G1727) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the herbicide glyphosate (*N*-phosphonomethyl(glycine)) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities cottonseed at 5 parts per million (ppm), soybean grain, soybean forage, and soybean hay at 10 ppm, cotton forage at 20 ppm, and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are es-

tablished for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 7, 1977. Residues not in excess of 5 ppm in or on cottonseed, 10 ppm in or on soybean grain, soybean forage, and soybean hay, 20 ppm in or on cotton forage, and 0.05 ppm in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: September 7, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-27180 Filed 9-16-76;8:45 am]

[FRL 617-8]

ORTON ROAD INTERCEPTOR, WASHINGTON

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Orton Road Interceptor, King County, Washington.

The proposed action is a 2.1 mile long, 10-inch to 24-inch diameter interceptor sewer which would provide sanitary sewer service to a new public high school and ultimately, a residential area of about 2395 acres.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on August 24, 1976 and in accordance with the provisions of the CEQ Guidelines (40 CFR 1500.11), no administrative action will be taken by this Agency until thirty days after receipt of the FEIS by the Council.

Copies of the FEIS are available for review and comment from: Mr. Richard R. Thiel, Chief, Environmental Impact Section, M/S 443, U.S. Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (telephone: 206-442-4011 or FTS: 399-4011).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Environmental Protection Agency, Library, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

King County Water District No. 90, 15606 S.E. 128th Street, Renton, Washington 98055.

Information copies of the FEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

Copies of the FEIS have been sent to various Federal, State, and local agencies, and interested individuals who made substantive comments on the draft EIS or requested a copy of the FEIS as outlined in the CEQ Guidelines.

Dated: September 10, 1976.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.76-27178 Filed 9-16-76;8:45 am]

[FRL 617-1]

STANISLAUS COUNTY, CALIFORNIA

Air Pollution; Authority Delegation

On December 23, 1971 (36 FR 24876) and March 8, 1974 (39 FR 9308), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations in 40 CFR Part 60 establishing standards of performance for twelve categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 FR 8820), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) require the Administrator to delegate authority to implement and enforce the standards to any State which submits an adequate procedure. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to a State.

On August 19, 1973, the Regional Administrator, Region IX forwarded to the States in his Region information setting forth the requirements for an adequate procedure for implementing and enforcing the NSPS and NESHAPS. On June 2, 1976 William H. Lewis, Jr., Executive Officer of the State of California Air Resources Board, submitted a request on behalf of the Stanislaus County Air Pollution Control District for delegation of authority to implement and enforce the NSPS and NESHAPS. Included in that request were copies of the NSPS and NESHAPS regulations adopted by the Stanislaus County Air Pollution Control District and citations to State law and District regulations which provide the State and District with the requisite authority to implement and enforce the NSPS and NESHAPS.

After a thorough review of the request for delegation, the Regional Administrator has determined that for the source categories set forth in paragraphs (A) and (B) of the following official letter to Mr. Lewis, Executive Officer of the California Air Resources Board, delegation is appropriate subject to the conditions set forth in paragraphs (1) through (11) of that letter dated July 2, 1976:

MR. WILLIAM H. LEWIS, Jr.,
Executive Officer,
California Air Resources Board
Sacramento, CA.

DEAR MR. LEWIS: This is in response to your letter of June 2, 1976 requesting delegation of authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of California on behalf of the Stanislaus County Air Pollution Control District.

We have reviewed the pertinent laws of the State of California and the rules and regulations of the Stanislaus County Air Pollution Control District, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the Air Pollution Control District and the State of California. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the State of California on behalf of the Stanislaus County Air Pollution Control District as of the date of this letter as follows:

A. Authority for twelve categories of new sources located in the Stanislaus County Air Pollution Control District subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60 as in effect November 12, 1974. The categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants.

B. Authority for all sources located in the Stanislaus County Air Pollution Control District subject to the national emission standards for three hazardous air pollutants promulgated in 40 CFR Part 61 as in effect November 12, 1974. The hazardous air pollutants covered by the delegation are asbestos; beryllium; and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Stanislaus County Air Pollution Control District through the State of California Air Resources Board. Such reports shall include, as a minimum, the following information:

(a) *NSPS*

1. Number of operating sources determined to be in compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.

2. Number of operating sources determined to be in violation (failure to meet emission regulations, failure to comply w/monitoring requirements, failure to comply w/performance test requirements, failure to comply w/notification requirements).

3. Number of operating sources of unknown compliance status.

4. Number of sources inspected to determine compliance w/NSPS regulations.
5. Number of enforcement actions taken for violation of NSPS regulations.
6. Number of sources subject to NSPS which have commenced construction.

(b) *NESHAPS*

1. Number sources subject to NESHAPS.
2. Number sources subject to NESHAPS determined in compliance with Standards or in compliance with Waiver of Compliance. Compliance determinations shall be verified annually by methods acceptable to EPA.
3. Number NESHAPS sources inspected.
4. Number of enforcement actions taken against NESHAPS sources.

2. Enforcement of the NSPS and NESHAPS in the Stanislaus County Air Pollution Control District will be the primary responsibility of the District and the State of California Air Resources Board. If the District and the State determine that such enforcement is not feasible and so notify EPA, or where the District or the State act in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the District subject to the NSPS and NESHAPS.

3. Acceptance of this delegation of NSPS and NESHAPS does not commit the State of California and the Stanislaus County Air Pollution Control District to request or accept delegation of future standards and requirements. However, delegation of additional NSPS or NESHAPS standards or requirements, not hereby delegated would require a new request for delegation.

4. The State of California and the Stanislaus County Air Pollution Control District are not requesting delegation of authority over Federal facilities within the District which are subject to the NSPS and NESHAPS. However, this does not relieve Federal facilities of the responsibility of complying with all applicable State laws and Stanislaus County District regulations.

5. The Stanislaus County Air Pollution Control District will at no time grant a variance from compliance with Stanislaus County District Rule 422 and 423 except as provided in this paragraph. Should the District grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the District shall also constitute grounds for revocation of delegation by EPA. However, if the Stanislaus County District in the future amends Rule 422 and 423 so as to make the District regulation more stringent than the applicable Federal regulation, the District may grant variances from the more stringent District regulation if such variances do not relieve subject sources of the responsibility of complying with standards equally as stringent as those contained in the applicable Federal regulations.

6. The Stanislaus County Air Pollution Control District will utilize only the test methods specified in 40 CFR 60 and 61, current to the date of the test, in performing source tests pursuant to their NSPS and NESHAPS regulations. Unless approved by EPA as acceptable for use as "alternative" test methods within the meaning of the Federal NSPS and NESHAPS regulations, any use by the District of test methods to determine compliance with NSPS or NESHAPS not in accordance with the terms and conditions of this delegation shall constitute grounds for revocation of delegation by EPA. Any questions, regarding current source test methods and "alternative" test methods shall be forwarded to EPA, Region IX.

7. The Air Resources Board and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the current compliance status of subject sources in the Stanislaus County Air Pollution Control District and regarding interpretation of applicable regulations.

8. If at any time there is a conflict between a State or Stanislaus County Air Pollution Control District regulation and a Federal regulation (40 CFR Part 60 or 61) the Federal regulation must be applied if it is more stringent than that of the State or District. In the event of such a conflict, if either the Air Resources Board or the District determine that it is unwilling or unable to apply the more stringent Federal regulation, it will so notify EPA. EPA, in consultation with the Air Resources Board and the District, will then modify or revoke the terms of this delegation to the extent it determines to be appropriate.

9. If the Regional Administrator determines that a State or Stanislaus County Air Pollution Control District procedure for enfectively carried out, this delegation may be NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Air Resources Board.

10. As of the date of this delegation, sources subject to the NSPS or NESHAPS located within the Stanislaus County Air Pollution Control District are required to submit all reports pursuant to the NSPS and NESHAPS to the Stanislaus Air Pollution Control District and to EPA, Region IX.

11. The State of California and the Stanislaus County Air Pollution Control District will notify all sources in the categories delegated herein and subject to continuous monitoring requirements contained in 40 CFR Part 60 of such requirements even if such requirements are not covered by the terms of this delegation.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located in the Stanislaus County Air Pollution Control District shall be submitted to the Air Pollution Control District at 820 Scenic Drive, Modesto, California 95350, as well as to EPA, Region IX.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State and District will be deemed to have accepted all of the terms of the delegation.

Sincerely,

PAUL DE FALCO, Jr.,
Regional Administrator.

Therefore, pursuant to authority delegated to him by the Administrator, the Regional Administrator notified Mr. Lewis on July 2, 1976 that authority to implement and enforce the NSPS/NESHAPS was delegated to the State of California on behalf of the Stanislaus County and Air Pollution Control District.

Copies of the request for delegation of authority and the Regional Administrator's letter of delegation are available for public inspection at the following addresses:

California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, CA 94111.

Effective immediately, all reports required pursuant to the NSPS and NESHAPS by sources located in the Stanislaus County Air Pollution Control District should be submitted to the office of the Air Pollution Control District, located at 820 Scenic Drive, Modesto CA 95350, as well as to EPA, Region IX.

Dated: September 8, 1976.

L. RUSSELL FREEMAN,
Deputy Acting Regional Administrator, Region IX, EPA.

[FR Doc.76-27177 Filed 9-16-76;8:45 am]

[FRL 617-6; OPP-180091]

TEXAS STATE DEPARTMENT OF AGRICULTURE

Specific Exemption To Use Sodium Chlorate

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Texas State Department of Agriculture (hereafter referred to as the "Applicant") to use sodium chlorate as a harvest aid to desiccate immature red rice in mature white rice in two (2) counties in southeastern Texas. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the use of this desiccant chemical is necessary because cold weather and heavy rain has prevented growers from controlling red rice by normal methods. There appear to be no alternative registered harvest aid desiccants available for control of red rice. Without the use of a desiccant, rice yields contaminated by red rice could be reduced by five (5) percent, the Applicant stated; a fifty (50) percent loss has been estimated if high winds and heavy rains occur during the maturing period. Approximately 80,000 acres of rice located in Chambers and Jefferson counties in southeastern Texas are involved.

The Applicant proposed to use 480,000 pounds of a sodium chlorate product containing three (3) pounds of sodium

chlorate per gallon and urea as the fire retardant, at the rate of six (6) pounds actual sodium chlorate per acre. Application will be by aircraft, and will terminate on September 15, 1976. Personnel supervising the aerial application will be instructed on the proper application of the sodium chlorate formulation by trained personnel of the Texas Department of Agriculture. There is an established exemption from the requirement of a tolerance (40 CFR 180.1020) for sodium chlorate on cotton seed, chili peppers, and sorghum grain.

Since sodium chlorate is rapidly reduced to sodium chloride after application, it is anticipated that there will be no adverse effects on man or the environment. The Fish and Wildlife Service, U.S. Department of the Interior, has informed EPA that no adverse effects on fish and wildlife populations will occur from the sodium chlorate application to rice.

After reviewing the application and other available information, EPA has determined that (a) there is no pesticide presently registered and available for use to control red rice in Texas; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant economic problems may result if the red rice is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The dosage rate shall not exceed six (6) pounds of actual sodium chlorate per acre;
2. Total rice acreage treated shall not exceed 80,000 acres;
3. Total actual sodium chlorate used shall not exceed 480,000 pounds;
4. There will be only one (1) application of sodium chlorate;
5. A seven (7) day preharvest interval will be observed;
6. Rice treated with sodium chlorate may not be grazed by livestock and the rice straw may not be fed to livestock for fourteen (14) days following treatment;
7. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this use of sodium chlorate on rice; and
8. A sodium chlorate product containing three (3) pounds of actual ingredient per gallon and urea as the fire retardant will be used.

Dated: September 9, 1976.

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

[FR Doc.76-27181 Filed 9-16-76;8:45 am]

[FRL 611-2]

MINORITY BUSINESS ENTERPRISES

Proposed Policy on Utilization of A&E/Consultant

Correction

In FR Doc. 76-25806, appearing at page 37394 in the issue of Friday, September 3, 1976, in the second column on page 37395, change the signature to read:

ALVIN L. ALM,
Acting Administrator.

FEDERAL COMMUNICATIONS COMMISSION

WIRELINE TELEPHONE COMPANIES AND RADIO COMMON CARRIERS

Connection of Facilities and Interchange of Traffic; Extension of Time To File Comments

SEPTEMBER 13, 1976.

The Commission has received a number of requests for extension of time to September 27, 1976, for filing comments on the Joint Motion and a Memorandum of Understanding submitted by the National Association of Radiotelephone Systems (NARS), American Telephone and Telegraph Company (AT&T), GTE Service Corporation (GTE), and United Systems Service, Inc. A public notice on this matter was issued August 25, 1976 (41 FR 36836, Sept. 2, 1976).

The principal reasons given for the extension were that the Joint Motion and Attachments are extensive and complex and the ten-day time period is not adequate to permit review and consultation with respect thereto.

We have considered the reasons for the extension and agree that the public interest would be served by granting the request.

Accordingly, the time for filing comments with respect to the Joint Motion is extended to and including September 27, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-27333 Filed 9-16-76;8:45 am]

FEDERAL MARITIME COMMISSION

ROBERT A. WARREN ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Robert A. Warren, 1927 W. Georgia Avenue, College Park, Ga. 30337.

Empire Shipping Company (Michael Levine, dba), Cargo Bldg. No. 80, JFK International Airport, Jamaica, N.Y. 11430.

Euro-Con International, Inc., 3939 Whitebrook Drive, Suite 120, Memphis, Tenn. 38118.

Officers: Elyse Waldheim, President; James W. Edgin, Secretary/Treasurer; James A. Acuff, Vice President.

Air International Dispatch Services and/or A.I.D.S. (Carolina Cartage Co., Inc., d/b/a), 1486 Willingham Drive, East Point, Ga. 30344.

James A. Lanier, President/Treasurer; Henry P. Willimon, Vice President/Secretary; Cecil T. Turbyfield, Vice President/General Manager; Joseph N. Stretch, Assistant Vice President/OPS. Manager Aids.

Dated: September 14, 1976.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-27345 Filed 9-16-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 487]

RUSS E. KEISER AND ROYAL SHIPPING CO.

Order of Revocation

On August 16, 1976, Russ E. Keiser, d/b/a Royal Shipping Company, 10-31 Jackson Avenue, Long Island City, New York 11101, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 487 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01 (b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 487 issued to Russ E. Keiser, d/b/a Royal Shipping Company be and is hereby revoked effective August 15, 1976 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Russ E. Keiser, d/b/a Royal Shipping Company.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.76-27344 Filed 9-16-76;8:45 am]

FEDERAL POWER COMMISSION

BLANCO OIL CO. AND EXXON CORP., ET AL.

Order Determining Computation of Refunds on Court Remand and Ordering Refunds

SEPTEMBER 3, 1976.

In the matter of Area Rate Proceeding, et al. (Texas Gulf Coast Area), Docket Nos. AR64–2, et al.; Blanco Oil Company (Operator), et al., Docket Nos. CI61–618, et al.; Exxon Corporation [1], Docket Nos. CI62–704, et al.[2]

Blanco Oil Company and Exxon Corporation on May 3, 1976, filed a motion requesting the Commission to enter an order on remand from the United States Court of Appeals for the District of Columbia Circuit [3] directing that the refund liability of the parties under "in-line" pricing orders of the Commission be determined by the difference between the actual rate charged for gas and the just and reasonable rates established in Opinion No. 595.[4] In Blanco the Court, for lack of jurisdiction, did not decide the matter but remanded the question whether Blanco as the holder of a temporary certificate should refund the difference between the rate charged and the "in-line" price or the just and reasonable rate. Here we conclude that Blanco, Exxon and other holders of temporary certificates in the Texas Gulf Coast Area should make refund on the basis of the just and reasonable rates like the holders of permanent certificates because the in-line prices have now been replaced by just and reasonable area rates.

The motion recites that on September 1, 1960, Blanco contracted with Natural Gas Pipeline Company of America to sell gas it owned in Texas Railroad District No. 4 and applied for a temporary certificate at the contract price of 20.0234 cents per Mcf in Docket No. CI61–618, and on November 25, 1960, the Commission granted the temporary certificate at 18 cents per Mcf. Blanco's attempt to file an increase as a holder of a temporary certificate was prevented by *F.P.C.* v. *Hunt* 376 U.S. 515 (1964).

On September 30, 1965, the Commission in Turnbull & Zoch Drilling Company, 34 FPC 1001, 1010, Opinion No. 478,[5] granted a permanent certificate to Blanco and others and determined that the "in-line" price applicable to Blanco's sale was 15 cents per Mcf. On July 25, 1966 in Turnbull & Zoch Drilling Company, 36 FPC 164, Opinion No. 499 (1966) the Commission required the payment of refunds by Blanco and other producers of all amounts collected in excess of the in-line price during the periods producers were operating under temporary certificates but ordered the retention of the refunds. See also Opinion No. 499–A on rehearing, 40 FPC 7 (1968). Later in Amerada Petroleum Corporation, et al. 40 FPC 1352, 40 FPC 1355 (1968) implementing Opinion No. 478 and other opinions the Commission further provided for the computation and retention of amounts received in excess of the in-line rates from the date of the initial delivery both before and after determination of the in-line rate, but it did not order any refunds.

As noted above the just and reasonable rate was determined in Opinion No. 595 on May 6, 1971. The basic rate varied from 15 cents before January 1, 1965, to 20 cents on and after October 1, 1973. In Opinion No. 595 refund liability was to be measured for holders of permanent certificates by the just and reasonable area rate (45 FPC 715, 720–721). On rehearing (Opinion No. 595–A, 45 FPC 827 (1970)) Blanco and Exxon contended that their refunds should also be determined by the just and reasonable rates in Opinion No. 595 rather than the previously decided in-line prices. The Commission, however, rejected this contention saying that it had already determined in the Amerada case, supra, that refunds for unconditioned temporary certificates should be based on amounts collected in excess of the in-line price (46 FPC at pp. 852–833). To accept the producers' argument, the Commission said, would be to require it to withold refunds until each just and reasonable rate is determined. Refunds under Opinion No. 595 were not ordered until the issuance of the Commission's order of February 23, 1976, — FPC —.

In the Blanco case on review the Court said appropriate principles of law entitled Blanco to consideration by the Commission, and this should not be withheld because the Commission lacked jurisdiction. The Court noted that there may be other producers operating under temporary certificates during the same time as Blanco who, by virtue of permanent certificates, received the benefit of the area rate, and the Court said that the Commission must show why Blanco should be treated differently. The Court noted that there may be administrative considerations, or other reasoning which would justify drawing a distinction between Blanco and the producers receiving the benefit of the just and reasonable rate and this should be considered on remand.

On December 20, 1961, Exxon contracted to sell to Tennessee Gas Transmission Company gas in Texas Railroad District No. 4 at the contract rate of 17.24347 cents per Mcf, and a temporary certificate was issued in Docket No. CI62–704 on January 16, 1962, at the contract rate without a refund provision. On March 23, 1964, the Commission issued a permanent certificate to Exxon and other producers and determined an "in-line" price of 16.0 cents per Mcf applicable to this gas.[6] On July 27, 1966, the Commission provided for the reporting and retention of amounts collected in excess of the "in-line" price of 16 cents per Mcf.[7]

In our opinion the "in-line" prices were devised as a basis for issuing certificates while the just and reasonable rate was being determined. *Atlantic Refining Company* v. *P.S.C.* (CATCO), 360 U.S. 378, 392 (1960). Later, it was determined that the Commission could require the producers to make refunds for the period in which they sold their gas at prices exceeding those properly determined to be in the public interest and "could properly measure the refund by the difference between the rates charged and the in-line rates to which the original certificates should have been conditioned." The Court added that the Commission was not required to delay the refunds until the just and reasonable rates could be determined. *United Gas Improvement Company* v. *Callery Properties*, 382 U.S. 223 (1965). Likewise in *F.P.C.* v. *Sunray DX Oil Company*, 391 U.S. 9 (1968) the Court held that "in the exercise of its power to condition permanent certificates under Section 7(f), the Commission may require producers to refund amounts collected under outstanding, unconditioned temporary certificates in excess of the finally established in-line price" and noted that no party had contended that the refunds should have been based on the eventual just and reasonable rate. In our opinion it is perfectly clear that in Callery and Sunray the Court was talking about a situation where there was an in-line price, but not a just and reasonable rate.

Where a just and reasonable rate had been determined a different result was eventually reached in the *Rayne Field* litigation [8] involving a lease-sale transaction. In Opinion No. 565 the Commission determined to base the refund ordered on the in-line price of 20 cents per Mcf up to October 1, 1968, when the Southern Louisiana area decision became effective and from then on the just and reasonable rate of 18.5 cents per Mcf to the date of refund (42 FPC at p. 393). It said it was doing this in order to treat the Rayne Field role like sales contemporarily contracted (42 FPC at p. 385). Actually under the Rayne Field pricing formula the amount of the refund would not affect what the producers received but only its timing. On rehearing, however, in Opinion No. 565–A, the Commission said that the just and reasonable

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[1] Formerly Humble Oil and Refining Company.

[2] Certificate cases pertaining to the Texas Gulf Coast Area which may be affected by the order are listed in Appendix A, hereto.

[3] *Blanco Oil Company* v. *F.P.C.*, 485 F.2d 1036 (CADC-1973).

[4] Area Rate Proceeding, et al. (Texas Gulf Coast Area), 45 FPC 674 (1971), 46 FPC 827 (1971), remanded *Public Service Commission of New York* v. *F.P.C.*, 487 F.2d 1043 (CADC-1973), vacated 417 U.S. 764 (1974).

[5] Affirmed *Continental Oil Company* v. *F.P.C.*, 378 F.2d 510 (CAS–1967), Certiorari denied, 391 U.S. 919 (1968).

[6] *Amerada Petroleum Corporation*, Opinion No. 422, 31 FPC 623, 641; 31 FPC 1315 (1964); aff'd *F.P.C.* v. *Sunray DX Oil Co.*, 391 U.S. 9 (1968).

[7] *Amerada Petroleum Corporation*, Opinion No. 501, 36 FPC 309 (1966).

[8] *Texas Eastern Transmission Corporation*, 42 FPC 376, Opinion No. 565 (1969); on rehearing 44 FPC 1079, Opinion No. 565–A (1970), remanded; *Public Service Commission* v. *F.P.C.* — F. 2d — (CADC, March 25, 1974); — F.2d — (CADC, August 27, 1975).

rates should govern the level of refund payments for the entire refund period, but the Commission deferred refunds pending further proceedings in Southern Louisiana.[9]

On review the Court of Appeals held as a matter of law that "the Commission was compelled to utilize the previously ascertained 18.5 cent just and reasonable area rate both as the unit price for the gas deliveries to be made and as the basis for refunds by the producers on account of deliveries already made." The Court explained that the in-line price was merely an interim measure and the just and reasonable rate was the end aim of price regulation. The Court faulted the Commission for delaying the refund. On rehearing the Court emphatically adhered to the same view. We think Rayne Field is decisive although there it was to the advantage of the producers to use the in-line price, while here they want to use the just and reasonable rate. See also *Hunt Oil Company* v. *F.P.C.*, 424 F.2d 982 (CA5–1970); *Phillips Petroleum Company* v. *F.P.C.*, 405 F.2d 6 (CA10–1969).

In view of the history that "in-line" prices were designed to fill a gap until just and reasonable rates were determined, we think it appropriate at this time that Blanco, Exxon and other producers with temporary certificates in the Texas Gulf Coast area who could have been required to make refunds on the basis of in-line prices in accordance with Callery and Sunray DX should now be permitted and required to use the just and reasonable rate as a basis. In answer to the Court's inquiry in the Blanco case we see no administrative considerations, or other reasons, that would justify the Commission in drawing a distinction between Blanco and the producers receiving the benefit of the just and reasonable rates.

The Commission further finds: It is necessary and appropriate in the administration of the Natural Gas Act that Blanco, Exxon and other producers in the Texas Gulf Coast area making refunds under in-line orders should use the just and reasonable rate for the period involved rather than the in-line price even though their liability to make refunds was determined prior to the determination of just and reasonable rates.

The Commission orders: (A) On or before November 1, 1976, Blanco and Exxon and the other producers in the Texas Gulf Coast area listed in Appendix A hereto and owing refunds under in-line pricing orders shall (1) file three copies of a final refund report showing for each rate schedule and each docket separately the amounts required to be refunded with the interest thereon, (2) disburse the refunds to the purchaser, and (3) file a copy of a release from the purchaser with respect to such refunds, all subject to the approval of the Commission.

(B) All refunds and reports made pursuant to Ordering Paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) In computing the amount of the refunds referred to in paragraph (A) above the appropriate just and reasonable price as determined in Opinion No. 595 shall be used as a basis rather than the in-line price. Refunds shall cover the period from initial delivery until the date the rate was superseded by a rate filed pursuant to Section 4(e) of the Natural Gas Act or required by Opinion No. 595 or other order of the Commission. Interest shall be computed in accordance with the applicable orders and regulations of the Commission.

(D) On or before January 1, 1977, each purchaser shall submit three copies of a plan for the flow-through of the refunds herein ordered to be disbursed and any refunds previously disbursed and presently being retained by the purchaser, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer, the basis used to compute the amount payable, the periods involved, and the applicable FPC docket numbers. Copies of the flow-through plans shall be served on each of the purchaser's jurisdictional customers and upon interested state regulatory commissions.

(E) Upon notification by the Commission's Secretary and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[9] *Area Rate Proceeding (Southern Louisiana)*, 40 FPC 530 (1968), aff'd *Southern Louisiana Area Rate Cases*, 428 F.2d 407 (CA5–1970).

APPENDIX A

IN-LINE PROCEEDING; TEXAS GULF COAST AREA

Texas Railroad Commission District No. 2:

Sinclair Oil & Gas Co., et al., Docket Nos. G–16760, et al. (Op. 476, 34 FPC 930; Op. 545, 40 FPC 410):

Sinclair Oil & Gas Co. et al	G–16760
Union Oil Co. of California	G–18389
Tice Production Co. (operator) et al	G–19340
George Parker	G–19718
H. H. Howell (operator) et al	G–20595, CI60–402, CI60–640
Carrl Oil et al	CI60–403, CI60–593
Edwin L. Cox (operator) et al. (formerly Paul R. Turnbull (operator et al.))	CI60–620
Paul R. Turnbull (operator) et al	CI61–1
Richard M. Finder, d.b.a. Texkan Oil Co. (operator) et al	CI61–352
Mrs. James R. Dougherty et al	CI61–619
W. A. Stockard et al	CI61–751
Lone Star Producing Co	CI61–918
Edwin M. Jones Oil Co	CI61–1202
Producing Properties, Inc	CI61–1236
Heritage Petroleum Corp. (formerly Layton Brown Drilling Co. Inc. (operator) et al.)	CI61–1567
Lamar Hunt (operator) et al	CI61–1736
MPS Production Co. (operator) et al	CI62–314
Southland Royalty Co. (operator) et al (formerly Katz Oil Co.)	CI62–334
J. N. Pratt et al	CI62–1373
Shell Oil Co	CI62–653
The Jupiter Corp. (operator) et al	CI62–698
Ralph E. Fair, Inc	CI62–780
Monsanto Company (operator) et al	CI62–824, CI62–889
Cities Service Co	CI62–959
Continental Oil Co	CI62–961
Rodney Delange (operator) et al	CI62–962
H. B. Zachry Co., Gasoline Production Division	CI62–1023
George R. Brown (operator) et al	CI63–5
Ralph E. Fair	CI63–56
Monsanto Co	CI63–58
Montego Oil Co. (operator) et al	CI63–790
Producing Properties, Inc. (operator) et al	CI63–814
H. D. Bruns (operator) et al	CI63–820
Highland Oil Co	CI64–346
Tidewater Oil Co	CI64–788
Texas Eastern Transmission Corporation	CP63–192, CP63–193

Texas Railroad Commission District No. 3:

H. L. Hawkins & H. L. Hawkins, Jr., Operator et al., Docket Nos. G–18077, et al. (Op. 475, 34 FPC 897; Op. 498, 36 FPC 149):

John A. Newman	G–18481
Kilroy Properties, Inc	CI60–478
W. S. Kilroy	G–18175
Callery Properties, Inc	G–18857
Gregory J. Gallagher	G–19308

Texas Railroad Commission District No. 3—Continued
H. L. Hawkins & H. L. Hawkins, Jr.,—Continued

H. L. Hawkins & H. L. Hawkins, Jr.	G-18077
Skelly Oil Co	G-20155
The Superior Oil Co	G-20359
Gregory J. Gallager	G-20385
Shell Oil Co	G-18805
The Sparta Oil Co	G-19964
Marathon Oil Co	CI60-497
Robert Mosbacher	CI60-343
North Central Oil Corp	CI60-434
C. W. Coffey	CI60-496
Woods Exploration & Producing	CI60-495
Ben H. Schnapp	CI60-642
Oil Reserves Corp	CI61-468
Kirby Petroleum Co	CI60-610
Marathon Oil Co	CI60-497
Sun Oil Co	CI60-348
Placid Oil Co	CI61-1682
H. L. Hunt	CI61-1221
Do	CI61-1282
Hassie Hunt Trust	CI61-1283
George R. Brown	CI61-1688
N. B. Hunt	CI61-1346
Lamar Hunt Trust Estate	CI61-1345
Caroline Hunt Trust Estate	CI61-1344
Caroline Hunt Sands	CI61-1343
A. F. Childers, Jr	CI62-1152
The Superior Oil Co	CI63-584
Skelly Oil Co	CI63-672
Humble Oil & Refining Co	CI63-1057
Do	CI64-677
Tidewater Oil Co	CI63-1134
Pan American Petroleum Corp	CI63-1445

Texas Railroad Commission District No. 4:
Turnbull & Zoch Drilling Co. (operator), et al., Docket Nos. G-17960, et al. (Op. 478, 34 FPC 1001; Op. 499, 36 FCC 164; Op. 499-A, 40 FPC 7).

Turnbull & Zoch Drilling Co. (operator) et al	G-17960
Susanoil, Inc	G-18212
Tenneco Oil Co	G-18223
Getty Oil Co (operator) et al	G-18378
McCurdy & McCurdy	G-18434
Shell Oil Co	G-18439
Herman Brown Estate et al	G-18479
M. W. Crockett et al	G-18522
Investors Syndicate of the Southwest, Inc	G-18590
G. H. Vaughn, Jr. et al	G-18678
George K. Taggart, Jr. (operator)	G-18796
V. F. Neuhaus	G-18861
Zimet Brothers, Inc., Agent (operator) et al	G-18987
Phillips Petroleum Co	G-19498
Diversa, Inc. et al	G-20458
American Petrofina Co. of Texas	CI60-134
Jonnell Gas, Inc. (operator) et al	CI60-323
Tenneco Oil Co	CI60-325
James A. Wood Trustee (operator) et al	CI60-383
Joseph E. Seagram & Sons, Inc., d.b.a.[1]	CI60-506

[1] Texas Pacific Oil Company et al.

Livingston Oil Co	CI60-506
Breuer & Curran Oil Co	CI60-581
George H. Coates	CI60-591
Austral Oil Co., Inc	CI61-427
Blanco Oil Co. (operator) et al	CI61-618
Killam & Hurd	CI61-626
H. J. Mosser	CI61-694
Shell Oil Co. (operator) et al	CI61-783
Bright & Schiff	CI61-1541
K. D. Owen, et al. d.b.a. Owen and Moss	CI61-1579
Appell Petroleum Corp. (operator) et al	CI61-1591
Mayfair Minerals, Inc	CI61-1661
Roy A. Lamb & A. G. Galt, d.b.a. Pan American Engineering Co	CI62-21
J.C. Trahan, Drilling Contractor, Inc	CI62-123
Sohio Petroleum Co. (operator) et al	CI62-826
W. H. Hudson (operator) et al	CI62-1074
Ramada Oil & Gas Co	CI63-304
Tenneco Oil Company (operator) et al	CI63-334
McWood Corp	CI63-751
Jonnell Gas, Inc. (operator) et al	CI63-925
Sun Oil Co	CI63-989
Pan American Petroleum Corp	CI63-1263
Clark Fuel Producing Co. (operator)	CI63-1495
Shell Oil Co	CI63-1509

Texas Railroad Commission District No. 4—Continued
Texas Pacific Oil Company, et al.—Continued

Tenneco Oil Co	CI63-1513
Cities Service Oil Co. (operator) et al	CI64-211
Humble Oil & Refining Co	CI64-297
Do	CI64-298
Do	CI64-299
Shell Oil Co	CI64-310
Texaco, Inc	CI64-375
Pan American Petroleum Corp	CI64-377
R. C. Turner (operator) et al	CI64-439
Sun Oil Co	CI64-470
Shell Oil Co	CI64-655
Do	CI64-703
Lundells, Inc. (operator) et al	CI64-810
The Atlantic Refining Co	CI64-837
Gulf Oil Corp	CI64-883
L. B. Horn (operator) et al	CI64-908
Ginther, Warren & Co	CI64-916
Russell Maguire et al	CI64-933
Humble Oil & Refining Co	CI64-1244
Continental Oil Co	CI64-1307
Do	CI64-1310
Do	CI64-1311

Amerada Petroleum Corp., et al., Docket Nos. CI62-1544, et al. (Op. 422, 31 FCC 623; Op. 501, 36 FCC 309)

Amerada Petroleum Corp. et al	CI62-1544
American Petrofina Co. of Texas	CI61-1418
Busmore Oil & Gas Co. (operator)	CI61-1641
Cherosage Enterprises Inc. et al	CI62-1459
Clark Fuel Producing Co. (operator) et al	CI61-1279
Coates, George H	CI62-355
Edwin L. Cox	CI62-621
H. H. Phillips, Jr., et al	CI62-954
Gulf Oil Corp	CI62-607
Jake L. Hamon (operator) et al	CI61-922
Jake L. Hamon	CI61-1745
W. H. Hudson (operator) et al	CI62-1074
Humble Oil & Refining Co	CI62-704
Lamar Hunt	CI61-730
Sohio Petroleum Co. (operator) et al. (formerly Katz Oil Co. (operator) et al.)	CI61-627
McWood Corp	CI61-839
Do	CI62-703
W. Rinehart Miller & Hewitt B. Fox d.b.a. Miller & Fox (operator) et al	CI62-624
Monsanto Chemical Co	CI61-876
MPS Production Co. (operator) et al	CI62-726
Do	CI62-738
Skelly Oil Co	CI63-73
Emory M. Spencer (operator) et al	CI61-1451
Standard Oil Co. of Texas (Division of California Oil Co.)	CI61-1377
Do	CI62-1140
Sun Oil Co	CI61-657
Do	CI61-1101
Do	CI61-1584
Do	CI62-276
Do	CI61-956
Sunray Mid-Continent Oil Co. (name changed to Sunray DX Oil Co.)	CI61-1103
Texaco, Inc	CI61-961
Do	CI61-1757
Tex-Star Oil & Gas Corp. (operator) et al	CI62-729
Union Producing Co	CI62-639

Skelly Oil Co., Docket Nos. G-18638 et al. (Op. 362, 28 FPC 401; Op. 492, 35 FPC 849)

Skelly Oil Co	G-18638
Glen A. Martin, et al	G-18639
Coastal States Gas Producing Co	G-18645
W. R. Rasome, Trustee	G-18684
Tenneco Corp	G-18765
South Texas Natural Gas Gathering Co	G-18907
Transcontinental Gas Pipe Line Corp	G-18920
George H. Coates (operator) et al	G-18938
Coastal States Gas Producing Company (operator), and Southern Coast Corp	G-19016
Carri Oil and Hawn Bros	G-19146
H. L. Brown	G-19175
Continental Oil Co	CI60-71
Slick Oil Corp	CI60-206
Sunray Mid-Continent Oil Co	CI60-428
Woods Exploration and Producing Co	CI60-600

Texas Railroad Commission District No. 4—Continued	
Skelly Oil Co., et al.—Continued	
Mokeen Oil Co. et al	CI60-789
Tex-Star Oil & Gas Corp. et al	CI61-43
Pralo Oil and Gas Co	CI61-77
Do	CI61-79
Coastal States Gas Producing Co	CI61-123
George H. Coates et al	CI61-178
W. E. Bakke et al	CI61-258
Coastal States Gas Producing Co	CI61-471
Do	CI61-472
George H. Coates et al	CI61-510
Russell Maguire et al	CI61-530
Coastal States Gas Producing Co	CI61-539
Do	CI61-566
Katz Oil Company (operator)	CI61-627
Morgan Minterals Corp	CI61-648
Jake L. Hamon	CI61-922
Do	CI61-930
Sun Oil Co	CI61-956
Texaco Inc	CI61-961
Texas Railroad Commission District Nos. 2, 3 and 4:	
Hassie Hunt Trust, Operator, et al., Docket Nos. G-19115, et al. (Op. 412, 30 FPC 1438):	
Hassie Hunt Trust (operator) et al	G-19115
H. L. Hunt (operator) et al	G-19116
Hunt Oil Co	G-19117
William Herbert Hunt Trust Estate (operator)	G-19118
Lamar Hunt Trust Estate	G-19119
George W. Graham, Inc. (operator) et al	G-19123
Placid Oil Co. (operator) et al	G-19124, G-19125
H. L. Hunt (operator) et al	CI61-1221
H. L. Hunt	CI61-1282
Hassie Hunt Trust (operator) et al	CI61-1283
Caroline Hunt Sands	CI61-1343
Caroline Hunt Trust Estate	CI61-1344
Lamar Hunt Trust Estate	CI61-1345
Nelson Bunker Hunt	CI61-1346
Lamar Hunt, et al	CI61-1736

[FR Doc.76-27145 Filed 9-16-76;8:45 am]

[Docket No. RP76-116, et al.]

ALABAMA-TENNESSEE NATURAL GAS CO., ET AL.

Cancelling Formal Hearing

SEPTEMBER 9, 1976.

Alabama-Tennessee Natural Gas Company, Arkansas-Louisiana Gas Company, Cities Service Gas Company, Columbia Gas Transmission Corporation, East Tennessee Natural Gas Company, Eastern Shore Natural Gas Company, El Paso Natural Gas Company, Lawrenceburg Gas Transmission Corporation, Louisiana-Nevada Transit Company, Mid-Louisiana Gas Company, Northwest Pipeline Corporation, Panhandle Eastern Pipe Line Company, Tennessee Natural Gas Lines, Inc., Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Transwestern Pipeline Company, Trunkline Gas Company, United Gas Pipe Line Company, Texas Eastern Transmission Corporation; Docket Nos. RP76-116, RP 76-117, RP76-118, RP76-119, RP76-120, RP76-121, RP76-122, RP76-123, RP76-124, RP76-125, RP76-126, RP76-127, RP 76-128, RP76-129, RP76-130, RP76-131, RP76-132, RP76-133, RP76-134.

By Notice of August 10, 1976, and pursuant to the directives prescribed in the Commission's order issued on July 20, 1976, in the above-styled proceedings we fixed certain hearing dates for the purpose of convening formal hearings with respect to particular interstate pipeline companies as provided for in the latter order.

After receipt of the data requested with respect to the proceeding relating to Transwestern Pipeline Company in Docket No. RP76-131, it was decided that no purpose would be served by convening a formal hearing with respect to that proceeding as provided in the Commission's July 20, 1976, order. The hearing scheduled in that proceeding in our August 10, 1976, Notice is therefore cancelled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27304 Filed 9-16-76;8:45 am]

[Project No. 533]

CITY OF SEATTLE

Order Granting Further Extension of Time To File Application for New License

SEPTEMBER 10, 1976.

On August 2, 1976, the City of Seattle, Washington, Department of Lighting (City), licensee for the Skagit River Project, FPC No. 553, filed a motion for a further extension of time in which to make application for a new license. The current license for Project No. 553 expires on October 28, 1977.

Section 16.3(a) of our Regulations Under the Federal Power Act, 18 CFR § 16.3 (a) (1976), requires a licensee for a major project to file an application for a new license no later than three years prior to the expiration of its license. By our order issued July 2, 1975, we extended this deadline for the City to October 28, 1976. By its pending motion, the City seeks a further extension of the date for filing its application for a new license to and including October 1, 1977.

The grounds for the City's motion are basically the same upon which we granted its earlier request, and we find them sufficient once more. Briefly stated, the City has pending at the present time and application to raise the height of Ross Dam, one of the three developments licensed under Project No. 553. This application has been the subject of extensive hearings and briefs, and has been approved in an Initial Decision by the presiding Administrative Law Judge. The Initial Decision is presently before us on exceptions. Until we issue a final decision in this matter, it would not be in the public interest to require the filing of a new license application, because the contents of such an application would hinge in large part on our decision. Thus, by not granting the requested extension, we would require the expenditure of much time and effort by the licensee and our own staff which could be rendered useless by our decision on Ross Dam. Such a result would be contrary to the intent of our Order No. 501 (51 FPC 159) (1974).

The City once again has affirmed its intention to file an application for new license for Project No. 553.

The Commission finds: (1) Licensee has shown good cause why an extension of time for filing an application for a new license under Section 16.3(a) of our Regulations under the Federal Power Act should be granted.

(2) It is reasonable and in the public interest to extend such filing date to October 1, 1977.

The Commission orders: The time for filing of an application for a new license for Project No. 553 by the City of Seattle, Department of Lighting, is hereby extended to October 1, 1977.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27300 Filed 9-16-76;8:45 am]

[Docket No. RP75-27]

CITIES SERVICE GAS CO.

Order Approving Settlement Agreement

SEPTEMBER 13, 1976.

On May 18, 1976, Presiding Administrative Law Judge Sherman P. Kimball certified to the Commission a proposed stipulation and settlement agreement to dispose of all issues in the above-captioned proceedings. The Commission will approve the proposed stipulation and agreement for the reasons hereinafter stated.

On October 23, 1974, Cities Service Gas Company (Cities) filed with the Commission the Eleventh Revised Sheet PGA-1 to Second Revised Volume No. 1 of its FPC Gas Tariff to reflect an increase in

jurisdictional revenues of $8.9 million. The filing also included a proposed advance payment tracking provision to be included in Cities' tariff. By orders issued November 22, 1974, and January 17, 1975, the Commission accepted the revised tariff sheet, suspended its effectiveness until April 23, 1975, and rejected the proposed advance payment tracking provision.

Since Cities' general rate increase in Docket No. RP76-13 became effective subject to refund on March 23, 1976, the rates in the instant docket were collected for a locked-in period from April 23, 1975, through March 22, 1976.

The Staff and intervenors served their evidence in this case in November 1975, and January 1976, respectively. A settlement conference convened in January 1976, failed to resolve any issues. Subsequently, Staff and various intervenors served revised and updated evidence, and Cities served its rebuttal testimony.

A hearing scheduled for April 6, 1976, was recessed to permit settlement discussions among the parties. During this conference and another on May 10, 1976, the parties reached the agreement reflected in the stipulation and agreement.

Public notice of the proposed settlement agreement was issued on June 8, 1976. The Commission Staff filed comments in support of the proposed agreement on June 10, 1976.

The stipulation and agreement in summary provides as follows:

Article I identifies the cost of service underlying the agreement. The cost of service is set forth in Appendix A to the Agreement and is predicated on actual per books data for the 12 month period ended February 29, 1976.

Article II discusses the termination of refund obligations. The parties agree that Cities shall retain without refund obligation all revenues collected during the locked-in period of April 23, 1975, through March 22, 1976.

Article III discusses the utilization of functional depreciation rates for the period May 1, 1975, through March 31, 1976, and a revision of depreciation accruals previously recorded for the period at a composite rate of 3.73% to reflect such revised depreciation rates.

Article IV establishes the term of effectiveness of the agreement. The term is April 23, 1975, through March 22, 1976.

Article VI deals with the effectiveness of the proposed agreement. It provides that upon issuance of a final and nonappealable Commission order fully approving the agreement it shall be effective and that such order shall constitute:

(1) The elimination of any condition or refund obligation with regard to Substitute Second Revised Sheet No. 37D,[1] (2) waiver of compliance by Cities with the requirements of the Commission's Rules and Regulations to the extent necessary to effectuate all the provisions of the agreement, and (3) the termination of the proceeding in Docket No. RP75-27.

The four appendices to the agreement include:

(A) The settlement cost of service;

(B) The settlement rate of return computation and capitalization structure;

(C) A schedule showing the actual revenues collected under each jurisdictional rate schedule for the 12 months ended February 29, 1976; and

(D) A comparison of the collected revenues in Appendix C and the jurisdictional cost of service.

The Commission's review of the proposed stipulation and agreement leads to the conclusion that it reflects a just and reasonable resolution of the issues in this proceeding, and should be approved without modification.

The Commission finds: The proposed stipulation and agreement certified to the Commission in this proceeding on May 18, 1976, is reasonable and proper and in the public interest. Accordingly, it should be approved as hereinafter ordered.

The Commission orders: (A) The stipulation and agreement offered as part of the certified record in this proceeding, and incorporated herein by reference, is hereby accepted and approved.

(B) Within thirty days of the issuance of this order, Cities shall file appropriate amendments to its rate schedules reflecting the provisions of the proposed settlement agreement.

(C) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, Cities or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Cities or any other person or party.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27303 Filed 9-16-76;8:45 am]

[1] Substitute Second Revised Sheet No. 37D contains 25.25¢ per Mcf base cost of purchased gas which was filed February 18, 1975, with a PGA increase. There are no gas costs imbedded in the 25.25¢ per Mcf which are subject to refund pending hearing (i.e. emergency purchases).

[Docket No. ER76-797]

CLEVELAND ELECTRIC ILLUMINATING CO.

Filing of Service Schedule

SEPTEMBER 9, 1976.

Take notice that on August 27, 1976 the Cleveland Electric Illuminating Company (CEI) submitted for filing with the Commission Service Schedule F-Facilities Services to be included as part of an interconnection agreement between CEI and the City of Painesville, Ohio (Painesville) that was filed in this docket on July 21, 1976. CEI states that the interconnection agreement provides for the synchronous interconnection of CEI's 138 KV transmission system with Painesville's 13.8 KV transmission system.

CEI states that Service Schedule F-Facilities Services, filed pursuant to the agreement, is necessary to define the cost responsibility of the two parties for the permanent facilities which are to be installed.

CEI states that, due to the forced outage of Painesville's main boiler with a resulting loss of generation, CEI commenced emergency service to Painesville under the agreement on July 19, 1976. CEI requested waiver of the notice requirements so that the interconnection agreement may take effect on July 19, 1976. Accordingly, CEI now requests waiver of the notice requirements so that Service Schedule F-Facilities Services may be also take effect on July 19, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27305 Filed 9-16-76;8:45 am]

[Docket No. CP76-494]

COLORADO INTERSTATE GAS CO.

Application

SEPTEMBER 9, 1976.

Take notice that on August 23, 1976, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-494 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition from McCulloch Interstate Gas Corporation (McCulloch Interstate) and operation of natural gas pipeline, compression, and measurement facilities, the transportation for Mountain Fuel Supply Company (Mountain Fuel) of gas presently being transported by McCulloch Interstate, and the transportation for McCulloch Gas Processing Corporation (McCulloch Gas Processing) of gas presently being transported by McCulloch Interstate for ultimate delivery to intrastate customers of McCulloch Gas Transmission Company (McCulloch Gas Transmission), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to acquire from McCulloch Interstate and to operate the following facilities:

1. Approximately 71 miles of 16-inch transmission pipeline extending from a point near the outlet of the Hilight plant owned by McCulloch Gas Processing in Sec. 26, T. 45 N., R. 71 W., Campbell County, Wyoming, to the point of interconnection with Applicant's Powder River lateral pipeline in Sec. 34, T. 36 N., R. 73 W., Converse County, Wyoming.

2. An inert gas generation and compression facility located at the Hilight plant.

3. Measurement facilities located in or near Sec. 26, T. 38 N., R. 73 W., Converse County, Wyoming, used in connection with the purchase of gas from The Superior Oil Company (Superior) in the Bear Creek Field, Converse County.

4. Approximately 3.5 miles of 4-inch pipeline and associated measurement facilities located primarily in T. 39 N., R. 73 W., Converse County, used in connection with the purchase of gas from Clyde C. Lamar and William L. Pease in the Manning Field, Converse County.

Applicant proposes to pay the net book value or fair market salvage value for the facilities which would be acquired from McCulloch Interstate, whichever might be greater at the time of closing. Further, Applicant would pay for any gas previously delivered by McCulloch Interstate but not yet paid for by Applicant, the line pack in the 16-inch pipeline, and the intangibles on the books of McCulloch Interstate which are attributable to the assets to be sold and acquired. Applicant states that it believes that the net book value of the facilities exceeds the fair market salvage value and estimates the net book value and the amounts for line pack and intangibles to be $3,374,206 as of December 31, 1976. Applicant's net cash requirement for the acquisition is estimated to be $38,047 on December 31, 1976, after deducting certain indebtedness of McCulloch Interstate.

In connection with the acquisition, the application states, McCulloch Interstate has agreed to assign to Applicant the gas purchase agreement with Superior dated July 21, 1972, for gas produced by Superior from the Bear Creek Field and the gas purchase agreement with Lamar and Pease dated April 1, 1976, for the purchase of gas from the Manning Field. Further, the application states McCulloch Gas Processing would sell to Applicant 25 percent of the residue gas from the Hilight plant attributable to the Hilight Field and approximately 50 percent of the residue gas from the Well Draw gas plant attributable to gas produced from the Well Draw Field. In addition, it is stated, McCulloch Interstate and its affiliated companies would grant to Applicant the right of first refusal to purchase gas or to meet any bona fide offer to purchase gas which such companies may have from time to time for sale in interstate commerce from the Powder River Basin of Wyoming and Montana.

Applicant proposes to transport certain gas volumes from the Spearhead Ranch and Bear Creek (Allemand) areas for Mountain Fuel. It is stated that such volumes, together with Applicant's gas, are presently being transported by McCulloch Interstate pursuant to its Rate Schedule X-1. Further, Applicant proposes to transport for McCulloch Gas Processing up to 1,500 Mcf of gas per day for ultimate delivery to certain intrastate customers of McCulloch Gas Transmission. It is stated that McCulloch Interstate presently transports such gas in the 16-inch pipeline.

Applicant states that it believes that substantial additional supplies of gas which could assist in meeting Applicant's long-term needs are yet to be found in the Powder River Basin. Many recent discoveries are said to be in the southern part of the basin within a reasonable distance from McCulloch Interstate's 16-inch pipeline. The application states that with the acquisition of the 16-inch pipeline, Applicant would be in a position to connect new gas supplies more expeditiously without the necessity of making transportation arrangements with a third party.

The application states that in connection with the proposed acquisition Mountain Fuel has agreed to extend the term of the Spearhead Ranch exchange agreement an additional five years beyond its present termination date in 1978. It is stated that in 1975 McCulloch Interstate advised Applicant and Mountain Fuel that effective in 1978 it would terminate the Spearhead Ranch transportation agreement which provides for the transportation of Applicant's and Mountain Fuel's Spearhead Ranch and Bear Creek (Allemand) volumes. Thus, Applicant states, by Applicant's acquisition of McCulloch Interstate's 16-inch pipeline and Mountain Fuel's agreement to extend the term of the exchange and sale, the continued purchase by Applicant of 25 percent of new supplies in the Spearhead Ranch area and transportation of gas from the area without the construction of duplicative facilities would be assured. Furthermore, it is said, transportation revenues received from Mountain Fuel would reduce the cost of service to Applicant's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1976, file with the Federal Power Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27306 Filed 9-16-76;8:45 am]

[Docket No. ER76-887]

DAYTON POWER AND LIGHT CO.

Tariff Change

SEPTEMBER 10, 1976.

Take notice that The Dayton Power and Light Company, on September 1, 1976, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $993,603 based on the 12 month period ending April 30, 1976. The proposed Fuel Adjustment Clause is designed to conform with present Commission regulations concerning the form of such clauses.

The proposed effective date for the increased rates is October 1, 1976.

The Company states that the additional revenue which would result from the proposed rates is needed to offset increases in the cost of labor, materials, taxes and other expenditures incurred to provide electric service to its customers, as well as increases in the cost of facilities and the cost of capital required to provide such service.

Copies of the filing were served upon the Company's fourteen (14) jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27301 Filed 9-16-76;8:45 am]

[Docket No. ER76-871]

DELMARVA POWER AND LIGHT CO.

New Service Agreement

SEPTEMBER 9, 1976.

Take notice that Delmarva Power & Light Company on August 23, 1976 tendered for filing an initial Service Agreement with Lincoln and Ellendale Electric Company, a Delaware corporation, under Delmarva FPC Electric Tariff Volume No. 6.

Delmarva states that it has offered such Service Agreement to Lincoln and Ellendale, a new wholesale for resale customer, upon the representation of Lincoln and Ellendale that it has terminated service from its prior electric supplier, City of Milford, and all-requirements wholesale for resale customer of Delmarva, as of October 15, 1976, and its request for service directly from Delmarva as of that date. Delmarva proposes to make the filing effective September 25, 1976.

Delmarva states that a copy of this filing has been served upon City of Milford, Milford, Delaware, and Lincoln and Ellendale Electric Company, Ellendale, Delaware.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27307 Filed 9-16-76;8:45 am]

[Docket No. ER76-443]

DUQUESNE LIGHT CO.

Revised Fuel Adjustment Clause

SEPTEMBER 9, 1976.

Take notice that on August 25, 1976, Duquesne Light Company (Duquesne) tendered for filing a revised Fuel Adjustment Clause, designated as Supplement No. 2 to its Rate Schedule FPC No. 11. This submittal was made pursuant to the Commission's letter order of January 23, 1976, which indicated Duquesne's filing of December 28, 1975, was deficient. Duquesne tendered also statements supporting the revised fuel adjustment clause.

Duquesne states a copy of its submittal was mailed to the Borough of Pitcairn, Pennsylvania, the only customer served under its Rate Schedule FPC No. 11.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27308 Filed 9-16-76;8:45 am]

[Docket Nos. RP72-140, (PGA76-3); RP71-16, (PG976-5); RP72-154, (PGA76-4); RP76-110]

GREAT LAKES GAS TRANSMISSION CO., ET AL.

Order Accepting for Filing and Making Effective Without Suspension Proposed Rate Increase, Granting Interventions, and Granting Requests for Waiver

SEPTEMBER 9, 1976.

On June 10, 1976, the Canadian Government announced that the cost of gas exported from Canada to the United States will increase to $1.80 (Canadian) per MMBtu on September 10, 1976 and $1.94 (Canadian) per MMBtu on January 1, 1977. Three pipeline companies[1] have filed purchase gas cost adjustment rate increases to track the increase to $1.80 with proposed effective dates of September 10, 1976. In addition, Pacific Gas Transmission Company (PGT) tendered for filing a Section 4 rate increase proposed to become effective September 10, 1976, to reflect the increased cost of gas exported from Canada.

Great Lakes Gas Transmission Company, Docket No. RP72-140 (PGA76-3)

On July 14, 1976, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing in Docket No. RP72-140 (PGA76-3) revised tariff sheets[2] to reflect the PGA rate increase amounting to $30,300,000 annually.

Notice of Great Lakes tender was issued on July 27, 1976, with protests and petitions to intervene due on or before August 12, 1976.

Timely petitions to intervene were filed by Michigan Wisconsin Pipe Line Company on August 10, 1976; Michigan Consolidated Gas Company on August 11, 1976; Transcanada Pipelines, Ltd. on August 12, 1976; and an untimely petition to intervene was filed by Natural Gas Pipeline Company of America on August 23, 1976. The petitioners do not protest Great Lakes filing, nor do they request suspension or that a hearing be held. The Commission will grant intervention to the petitioners.

The Commission will accept for filing to become effective September 10, 1976, Second Revised Sheet No. 54 to First Revised Volume No. 1 and Third Revised Sheet No. 53-B and First Revised Sheet No. 53-C to Original Volume No. 2 which are based on the new allocation formula contained in the settlement agreement which has been approved by the Commission in Docket No. RP75-94.[3] The Commission will reject Eighteenth Revised Sheet No. 57 and Alternate Eighteenth Revised Sheet No. 57 to First Revised Volume No. 1 inasmuch as they are based upon a base cost of gas and an allocation formula superseded by the aforementioned settlement. The Commission will require Great Lakes to file within 10 days a revised tariff sheet for effectiveness September 10, 1976, setting forth rates based upon a base cost of purchased gas of $1.546 in accordance with the settlement.

Midwestern Gas Transmission Company, Docket No. RP71-16 (PGA76-5)

On July 10, 1976, Midwestern Gas Transmission Company (Midwestern) tendered for filing in Docket No. RP-71-16 (PGA76-5) a revised tariff sheet, Substitute Fifteenth Revised Sheet No. 5 to Third Revised Volume No. 1 to reflect the PGA rate increase amounting to $23,624,560 annually.

Notice of Midwestern's tender was issued on August 4, 1976, with protests and petitions to intervene due on August 12, 1976.

Timely petitions to intervene were filed by Michigan Wisconsin Pipe Line Company on August 10, 1976, and by North Central Public Service Co., a Division of Donovan Companies, Inc. on August 11, 1976; and an untimely petition to intervene was filed by Wisconsin Gas Company on August 16, 1976. The petitioners do not protest Midwestern's filing, nor do they request suspension or that a hearing be held. The Commission will grant intervention to the petitioners.

The Commission will accept Substitute Fifteenth Revised Sheet No. 5 to Third Revised Volume No. 1 for filing and allow it to become effective on September 10, 1976.

Northwest Pipeline Corporation, Docket No. RP-72-154 (PGA76-4)

On July 9, 1976, Northwest Pipeline Corporation (Northwest), tendered for filing in Docket No. RP72-154 (PGA76-4) a revised tariff sheet, Substitute Thirteenth Revised Sheet No. 10 to Original Volume No. 1 reflecting the PGA rate increase amounting to $54,896,688 annually.

Notice of Northwest's filing was issued on July 29, 1976, with protests and peti-

[1] Great Lakes Gas Transmission Company, Midwestern Gas Transmission Company and Northwest Pipeline Corporation.

[2] First Revised Volume No. 1: Second Revised Sheet No. 54, Eighteenth Revised Sheet No. 57, Alternate Eighteenth Revised Sheet No. 57. Original Volume No. 2: Third Revised Sheet No. 53-B, First Revised Sheet No. 53-C.

[3] Order Approving Stipulation and Agreement issued August 31, 1976, in Docket Nos. RP75-94 and RP72-140 (PGA975-5).

tions to intervene due on August 9, 1976.

On August 9, 1976, Colorado Interstate Gas Company timely filed a petition to intervene, but did not protest Northwest's filing, nor did it request suspension or that a hearing be held. The Commission will grant intervention to the petitioner.

Northwest requests waiver of its purchased gas cost adjustment (PGA) clause which provides for the tracking of purchased gas costs every six months. The Commission will accept Substitute Thirteenth Revised Sheet No. 10 to Original Volume No. 1 for filing to become effective on September 10, 1976, and will grant waiver of Northwest's PGA clause.

Pacific Gas Transmission Company, Docket No. RP76-110

On June 17, 1976, Pacific Gas Transmission Company (PGT) tendered for filing in Docket No. RP76-110 a Section 4 rate increase to reflect in its cost of service charges to Pacific Gas & Electric Company the increased border rates ordered by the Canadian Government. PGT's filing is pursuant to the Commission's order in Docket No. RP73-111 issued September 3, 1974, as modified on November 1, 1974, which required PGT to file pursuant to Section 4 of the Natural Gas Act to reflect increases in the cost of gas it purchases from its Canadian supplier. PGT requests that it be authorized to pay its Canadian supplier $1.80 (Canadian) per MMBtu on September 10, 1976, and $1.94 (Canadian) per MMBtu on January 1, 1977, which are estimated to amount to increases in purchased gas costs of $82,029,000 (U.S.) and $57,421,000 (U.S.), respectively, for a total increase of $139,450,000. PGT requests waiver of the notice requirements.

Notice of PGT's tender was issued on September 1, 1976, with protests and petitions to intervene due on or before September 9, 1976.

On June 28, 1976, the People of the State of California and the Public Utilities Commission of the State of California (California) filed a Notice of Intervention and request for suspension. California withdrew such request on August 9, 1976.

The Commission will allow PGT to include in its cost of service charges a cost of purchased gas from its Canadian supplier of $1.80 (Canadian) per MMBtu, effective September 10, 1976. We will deny PGT's request to include in its cost of service charges a cost of purchased gas from its Canadian suppliers of $1.94 per MMBtu effective January 1, 1977, without prejudice to PGT's refiling for this rate in the manner prescribed in Section 4(d) of the Natural Gas Act.

The Commission finds: (1) Good cause exists to allow Great Lakes, Midwestern, and Northwest to track the increase in their purchased gas costs to $1.80 (Canadian) per MMBtu effective September 10, 1976.

(2) Good cause exists to reject Great Lakes' Eighteenth Revised Sheet No. 57 to First Revised Volume No. 1 and Alternate Eighteenth Revised Sheet No. 57 to First Revised Volume No. 1, and to require Great Lakes to file within 10 days a revised tariff sheet setting forth rates based upon a base cost of purchased gas of $1.546 to become effective on September 10, 1976.

(3) Good cause exists to allow PGT to include in its cost of service charges a cost of purchased gas from its Canadian supplier of $1.80 (Canadian) per MMBtu effective September 10, 1976.

(4) Good cause exists to grant Northwest's request for waiver of the terms of its PGA clause and to grant PGT's request for waiver of the notice requirements.

(5) Good cause exists to grant intervention to the petitioners named supra in the captioned proceedings.

The Commission orders: (A) Great Lakes' Second Revised Sheet No. 54 to First Revised Volume No. 1, and Third Revised Sheet No. 53-B and First Revised Sheet No. 53-C to Original Volume No. 2 are accepted for filing and allowed to become effective on September 10, 1976.

(B) Grat Lakes' Eighteenth Revised Sheet No. 57 to First Revised Volume No. 1 and Alternate Eighteenth Revised Sheet No. 57 to First Revised Volume No. 1 are hereby rejected, and Great Lakes is directed to file within 10 days a new revised Sheet No. 57 basing its determination of the amount of purchased gas cost applicable to resale and to T-4 rate schedule customers, respectively, on a base cost of purchased gas of $1.546, which revised sheet the Commission will allow to become effective on September 10, 1976.

(C) Midwestern's Substitute Fifteenth Revised Sheet No. 5 to Third Revised Volume No. 1 is accepted for filing and allowed to become effective on September 10, 1976.

(D) Northwest's Substitute Thirteenth Revised Sheet No. 10 to Original Volume No. 1 is accepted for filing and allowed to become effective on September 10, 1976.

(E) Waiver of Northwest's PGA clause is hereby granted.

(F) PGT's proposed rate increase is accepted for filing and made effective without suspension and waiver of the notice requirements are granted. Accordingly, PGT is allowed to include in its cost of service charges a cost of purchased gas from its Canadian supplier of $1.80 (Canadian) per MMBtu effective September 10, 1976.

(G) PGT's proposed rate increase to become effective January 1, 1977, is denied, without prejudice to PGT's refiling for this rate in the manner prescribed in Section 4(d) of the Natural Gas Act.

(G) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27299 Filed 9-16-76;8:45 am]

[Docket No. ER76-876]

HARTFORD ELECTRIC LIGHT CO.

Filing of Purchase Agreement

SEPTEMBER 9, 1976.

Take notice that on August 25, 1976, The Hartford Electric Light Company (HELCO) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with Respect to Middletown Unit No. 4 between HELCO and Public Service Company of New Hampshire (PSNH) dated as of December 1, 1973.

HELCO states that the Purchase Agreement provides for a sale to PSNH of a specified percentage of capacity and energy from HELCO's Middletown Unit No. 4 generating unit during the period November 1, 1976 through October 31, 1977.

HELCO requests an effective date of November 1, 1976 for the Purchase Agreement.

HELCO states that a copy of the rate schedule has been mailed or delivered to HELCO, Hartford, Connecticut and PSNH, Manchester, New Hampshire.

Any person desiring to be heard to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27309 Filed 9-16-76;8:45 am]

[Docket No. ER76-877]

HARTFORD ELECTRIC LIGHT CO.

Filing of Purchase Agreement

SEPTEMBER 9, 1976.

Take notice that on August 5, 1976, The Hartford Electric Light Company (HELCO) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with Respect to Middletown Unit No. 4 between HELCO and New England Power Company (NEPCO) dated as of December 1, 1973.

HELCO states that the Purchase Agreement provides for a sale to NEPCO of a specified percentage of capacity and energy from HELCO's Middletown Unit No. 4 generating unit during the period November 1, 1976 through October 31, 1977.

HELCO requests an effective date of November 1, 1976 for the Purchase Agreement.

HELCO states that a copy of the rate schedule has been mailed or delivered to HELCO, Hartford, Connecticut and NEPCO, Westborough, Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27310 Filed 9-16-76;8:45 am]

[Docket No. ID-1798]

KENNETH D. ARCHER

Application

SEPTEMBER 9, 1976.

Take notice that on August 30, 1976, Kenneth D. Archer (Applicant), filed an application with the Federal Power Commission, Pursuant to Section 305(b) of the Federal Power Act. Applicant seeks authority to hold the following positions:

Vice President and Secretary, Orange and Rockland Utilities, Inc., Public Utility.
Vice President and Secretary, Rockland Electric Company, Public Utility.
Vice President and Secretary, Pike County Light and Power Company, Public Utility.

Rockland Electric Company and Pike County Light & Power Company are wholly-owned subsidiaries of Orange and Rockland Utilities, Inc.

Orange and Rockland Utilities, Inc. (formerly Rockland Light and Power Company) has its principal place of business at Spring Valley, New York. The Company is engaged in the generation, distribution and sale of electric current in Rockland County and portions of Orange County and the easterly portion of Sullivan County, all in the state of New York, and owns and operates facilities for the transmission of electric energy across the New Jersey and Pennsylvania state lines to its wholly-owned subsidiary companies, Pike County Light & Power Company, Milford, Pennsylvania; and Rockland Electric Company, Ramsey, New Jersey. The Company also distributes natural gas in parts of the territory.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27311 Filed 9-16-76;8:45 am]

[Project Nos. 518 and 520]

PUBLIC SERVICE CO. OF COLORADO

Finding and Order Vacating Land Withdrawals

SEPTEMBER 9, 1976.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawals for transmission line Project Nos. 518 and 520 be vacated in their entirety, thereby requiring Commission consideration under Section 24 of the Federal Power Act. The lands affected by the withdrawals, as described in Commission letters to the General Land Office (now Bureau of Land Management), lie in the Roosevelt National Forest and are listed in the attachment hereto.

Project No. 518 consisted of a 44kV line about 22 miles long which extended from the Boulder Canyon Powerhouse to the east portal of the Moffat Tunnel. This line is presently operated at 13 kV and has had numerous taps connected to it. Project No. 520 consisted of the 3-mile-long Conger-Caribou 13 kV line. The licenses for Project Nos. 518 and 520, held by the Public Service Company of Colorado (PSCC), expired on October 5, 1974, and December 31, 1974, respectively.

By letter dated September 15, 1972, the staff advised PSCC that the transmission lines which constituted Project Nos. 518 and 520 were not primary lines or parts of a "project" as defined in Section 3(11) of the Federal Power Act and, therefore, were not within the licensing authority of the Commission. Consequently, PSCC obtained authorization from the Forest Service for the continued occupancy of the Federal lands traversed by the lines.

The Commission finds.—That the land withdrawals for Project Nos. 518 and 520 no longer serve a useful purpose and should be vacated in their entirety.

The Commission orders.—The land withdrawals for Project Nos. 518 and 520 are hereby vacated in their entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

PROJECT NOS. 518 AND 520-COLORADO
PUBLIC SERVICE COMPANY OF COLORADO
ATTACHMENT

SIXTH PRINCIPAL MERIDIAN, COLORADO

1. Portions (totaling about 80 acres) of the following described lands were withdrawn pursuant to the filing on July 18, 1924, of an application for license for Project No. 518 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated August 25, 1924. Descriptions in Tps. 1 S., Rs. 71 and 73 W., have been adjusted to conform to plats of resurvey accepted February 19, 1930, and March 15, 1943, respectively.

T. 1 S., R. 71 W.,
Sec. 18, lots 12, 13, and 14.
T. 1 S., R. 72 W.,
Sec. 13, lots 1 and 2;
Sec. 14, lots 4, 5, and 6;
Sec. 17, lots 5, 6, 7, 8, 9, 10, 11, and 12;
Sec. 19, lots 11, 23, and 27;
Sec. 21, lot 2;
Sec. 22, lots 1 and 2;
Sec. 23, lot 4.
T. 1 S., R. 73 W.,
Sec. 25, SE¼NE¼;
Sec. 34, lots 8, 9, and 10;
Sec. 35, lots 21 and 23;
Sec. 36, NW¼NE¼ and N½NW¼.
T. 2 S., R. 73 W.,
Sec. 4, lot 2.
T. 2 S., R. 74 W.,
Sec. 2, SW¼NE¼, S½NW¼ and N½SE¼.

2. Portions (totaling about 19 acres) of the following described lands were withdrawn pursuant to the filing on July 18, 1924, of an application for license for Project No. 520 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated August 26, 1924. Descriptions have been adjusted to conform to the plat of resurvey accepted March 15, 1943.

T. 1 S., R. 73 W.,
Sec. 8, lots 71, 72, 75, 76, 78, 79, and 81;
Sec. 9, lots 99, 100, 108, 109, 112, 116, and NE¼SE¼;
Sec. 10 lots 58, 61, 62, 64, 68, and 69;
Sec. 11, lot 10 and N½SE¼.

[FR Doc.76-27312 Filed 9-16-76;8:45 am]

[Docket No. RP76-66]

MCCULLOCH INTERSTATE GAS CORP.

Certification of Settlement Agreement

SEPTEMBER 9, 1976.

Take notice that on August 27, 1976, the Presiding Administrative Law Judge certified to the Commission for its disposition a proposed "Stipulation and Agreement of Settlement" which purports to resolve all issues in the above-captioned proceeding.

Any person desiring to be heard as to said settlement agreement should file comments with the Federal Power Com-

mission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 8, 1976. Copies of this settlement agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27313 Filed 9-16-76;8:45 am]

[Docket No. RP76-91]

MONTANA-DAKOTA UTILITIES CO.

Offer of Settlement and Substitute Tariff Sheets

SEPTEMBER 9, 1976.

Take notice that on August 31, 1976, Montana-Dakota Utilities Co. (MDU) filed with the Commission in Docket No. RP76-91 a settlement proposal styled as "Stipulation and Agreement in Settlement of Curtailment Proceeding." MDU states that all of the customer-intervenors join in the offer of settlement, that the four state commissions that have intervened have not yet taken positions, and that the Staff of the Commission has indicated opposition. It is proposed that if the offer of setlement is accepted by the Commission the "Stipulation and Agreement in Settlement of Curtailment Proceeding" would constitute MDU's permanent curtailment plan effective October 1, 1976.

On April 26, 1976, MDU filed in Docket No. RP76-91 a proposed curtailment plan, as amended on May 18, 1976,[1] which in principal part provides for curtailment on an annual basis according to the following four-priority classification scheme:

Priority 1—Residential and small commercial (less than 50 Mcf on a peak day).

Priority 2—Large commercial requirements (50 Mcf or more on a peak day); industrial requirements for plant protection, feedstock, and process needs; storage injection requirements; small industrial requirements (50 Mcf or less on a peak day); and requirements of the U.S. Government for national defense purposes.

Priority 3—All industrial requirements not specified in Priority 2 where the total annual industrial requirements at a single location are 36,720 Mcf or less.

Priority 4—All industrial requirements not specified in Priorities 2 or 3.

The curtailment plan contains no limitations on MDU's continued attachment of new residential and commercial customers.

The curtailment plan was accepted by the Commission for filing and suspended until October 1, 1976, by Commission order issued June 17, 1976. In that order the Commission found that MDU's curtailment plan may be unjust, unreasonable, preferential or unduly discriminatory and, accordingly, set the matter for formal hearing. At a prehearing conference held on August 5, 1976, MDU tendered for the record prepared testimony, and settlement discussions commenced.

While MDU states that its offer of settlement does not propose to change MDU's four-priority curtailment scheme, it does propose significant modifications to be made to the curtailment plan presently on file with the Commission and under suspension. The principal changes are said to be the inclusion of four difference exemption provisions, a modification of the enforcement provision, and major changes in the index of base period requirements. Substitute tariff sheets reflecting the aforestated changes were filed by MDU concurrently with the offer of settlement.

More specifically, MDU proposes to allow complete exemption from curtailment without any payback during the period October 1976 through June 1977 for those customers which do not have any alternate fuel capabilities already installed. For these same customers, a second exemption would be available during the July 1977 through June 1978 supply year, but a partial payback will be required during the 1978-79 supply year. An 18-month exemption is available which requires full payback. Finally, a three-year period of full deliveries would be allowed for those customers who wish to convert their Priority 4 operations (industrial usages over 36,720 Mcf per year) completely to coal, after which they would have no further entitlement to any Priority 4 volumes.

Changes in the index of base period requirements, beyond those already made pursuant to MDU's filing of May 18, 1976, are said to be proposed (a) to correct remaining errors in the calculation of requirements due either to omission of equipment from the original end use survey or due to erroneous data for equipment that was surveyed; (b) in recognition of requirements related to reasonably recent plant expansion commenced before the affected customer was fairly on notice of MDU's filing of the curtailment plan; and (c) to reflect the classification of all space heating requirements in Priority 2. MDU states that all of the changes in categories (a) and (b) must be fully documented by the affected customer.

MDU proposes a change in its curtailment plan enforcement provisions to provide that no penalty shall be imposed if an annual overrun is incurred by a customer which uses gas solely for plant space heating and if the overrun derives exclusively from temperature-sensitive space heating fluctuations.

MDU claims that the offer of settlement disposes permanently of all issues in the proceeding in Docket No. RP76-91 except the "growth" issue (i.e., MDU's continuing to add new residential and commercial customers on its distribution system while curtailing deliveries to lower priority customers). The "growth" issue is said to be treated as a reserved issue for ultimate disposition by the Commission. However, MDU states that on the basis of MDU's curtailment projections and solely for the purpose of curtailment, the customer-intervenors will not contest in this proceeding the growth issue. Furthermore, MDU states that its customers have also agreed that on an interim basis, pending Commission resolution of the "growth" issue on a permanent basis, MDU should be allowed to continue connecting, at least until December 31, 1978, new residential and small commercial customers and those hospitals, schools, and public institutions to which commitments have already been made; MDU would, however, limit such attachments to 4,000 per year and would only be able to continue making such attachments as long as new reserve additions since January 1, 1976, average 30 Million Mcf per year.

The Stipulation and Agreement provides that it shall not be effective unless: (1) the Commission waives the requirements of its Rules and Regulations as necessary to carry out the provisions of the Stipulation and Agreement and (2) the Commission shall have entered an order on or before September 30, 1976, (or if subsequent to September 30, 1976, subject to any party's election within ten days of the Commission's order disposing of this Stipulation and Agreement not be governed by the provisions of this Stipulation and Agreement), approving this Stipulation and Agreement without condition or modifications.

Any person, including the parties to this proceeding, may file comments either in support of or in opposition to the proposed settlement. Such comments should be filed on or before September 28, 1976. Copies of such comments will be available for public inspection in the Office of Public Information of the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27314 Filed 9-16-76;8:45 am]

[Docket Nos. CP76-313, CP76-381]

NATIONAL FUEL GAS SUPPLY CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Consolidating Proceedings and Convening Conference

SEPTEMBER 9, 1976.

On March 30, 1976, National Fuel Gas Supply Corporation (NFG Supply) filed in Docket No. CP76-313 an application pursuant to Section 7(c) of the Natural Gas Act for a temporary and permanent limited term certificate of public convenience and necessity authorizing the storage of natural gas for South Jersey Gas Company (South Jersey) and UGI Corporation (UGI), all as more fully set forth in the application.

NFG Supply proposes to store gas for South Jersey from April 1, 1976, through March 31, 1977, in the aggregate of 1,000,000 Mcf of storage capacity, delivery of which shall be a rate no greater

[1] Notice of MDU's original tariff filing in Docket No. RP76-91 was issued on May 10, 1976 (41 FR 19159), and notice of the amendment thereto was issued on May 28, 1976 (41 FR 21840).

than 6,667 Mcf per day. NFG Supply also proposes to store gas for UGI from May 1, 1976, through April 30, 1977, in the aggregate amount of 2,000,000 Mcf of storage capacity, delivery of which shall be at a daily rate not to exceed NFG Supply's daily receipts from Columbia Gas Transmission Corporation (Columbia) at the delivery point during the delivery period.

NFG Supply alleges that on the basis of the currently effective curtailment plan and supply projections of Transcontinental Gas Pipe Line Corporation (Transco), South Jersey's sole pipeline supplier, total Transco system wide curtailment may be 44.6% (or about 8.37 Bcf) during the 1976–77 winter heating season. NFG Supply alleges that this will result in some curtailment of South Jersey's Priority 2 customers.

NFG Supply further alleges that on the basis of the currently effective curtailment plan and supply projections of Columbia, UGI's principal supplier, Columbia systm wide curtailment during the 1976–77 winter heating season could be 40.7 percent (or about 12.1 Bcf). It is also alleged that this will also result in some curtailment of priority 2 customers of UGI.

NFG Supply proposes to charge UGI $815,400 and to charge South Jersey $407,700, which amounts are equivalent to 40.77 cents per Mcf of storage capacity allocated to the customers. This rate is alleged to be equivalent to that provided in a stipulation and agreement of settlement said to have been certified to the Commission on or about March 15, 1976, in Docket No. CP75–348.

The gas to be placed into storage will be sold by NFG Supply in place to National Fuel Distribution Corporation. (NFG Distribution), the parent of NFG Supply[1]. NFG Distribution will then sell the volumes in place to South Jersey and UGI pursuant to Section 2.68 of the Commission's General Policy and Interpretations. NFG Distribution will charge South Jersey and UGI $2.25 per Mcf. Such volumes will be stored by NFG Supply beginning April 1, 1976, for use by South Jersey and UGI during the 1976–77 winter heating season.

The gas will be transported from storage to South Jersey and UGI by their respective pipeline suppliers, Transco and Columbia. On June 2, 1976, Transco filed in Docket No. CP76–381 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of gas to South Jersey. Authorization is requested for deliveries of daily volumes averaging approximately 6,667 Mcf. Deliveries through existing facilities would be made to South Jersey at existing delivery points in New Jersey.

[1] NFG Supply sells 98.67 percent of its gas to NFG Distribution for resale in the states of Ohio, New York, and Pennsylvania. The balance is sold to three nonaffiliated customers in Pennsylvania.

Transco would retain 4 percent of the quantities received for compressor fuel and line loss make-up. For the proposed service South Jersey is to pay Transco an initial rate of 9.75 cents per Mcf at 14.7 psia.

Because the transportation proposed by Transco in Docket No. CP76–381 is an integral part of the proposal of NFG Supply, the two proceedings are herein consolidated for further disposition.

As of this date Columbia has not made the requisite application for a certificate of public convenience and necessity to transport the volumes sold to UGI. This filing will be necessary before further disposition of the NFG Supply proposal can be made. Such filing will be consolidated herein when made, and further procedures will be established.

After due notice by publication in the FEDERAL REGISTER on April 14, 1976 (41 FR 15754), timely petitions to intervene in the proceeding in Docket No. CP76–313 were filed by South Jersey and UGI. Both parties support the proposal which would provide a total of 3,000,000 Mcf service for both.

After due notice and publication in the FEDERAL REGISTER on June 17, 1976 (41 FR 24629) timely petitions to intervene in the proceeding in Docket No. CP76–381 were filed by NFG Supply and South Jersey, who as the respective seller and buyer of gas to be transported, support the proposal.

Because the above discussion indicates that there is a lack of information necessary for disposition of the above application, and because Columbia has not yet filed for authority to implement a requisite part of the transaction, a conference is herein convened to obtain further information and ascertain whether and when Columbia intends to submit the necessary application. In this regard NFG Supply should submit data showing curtailment on its system. NFG Distribution should supplement this with a showing of alternative sources which it may have to offset any curtailment. Transco should submit detailed information regarding its projected curtailment of South Jersey. South Jersey should provide, in conjunction with the Transco showing, alternative fuels and sources of gas available to it. Likewise Columbia is invited to show the impact of curtailment on UGI. UGI should show what alternative fuels or sources of gas are available. In addition the public service commissions of NFG Distribution's, UGI's and South Jersey's areas of distribution; i.e., New York, New Jersey, Pennsylvania and Ohio, are invited to submit evidence in regard to curtailment and relative needs of the above distributors. NFG Distribution should also address the questions as to whether it has authority to purchase storage gas in place from NFG Supply; and whether deliveries of gas sold by it to UGI and South Jersey over a period of greater than 60 days falls within the Section 2.68 exemption of the Commission's General Policy and Interpretations. Finally, Columbia should report on the status of its application for authority to transport the gas.

Accordingly, the above-described data shall be submitted to the Commission and filed on all parties by September 16, 1976.

A conference to consider the above data and proper disposition of the above applications shall be convened in a hearing room in the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on September 29, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27315 Filed 9-16-76;8:45 am]

[Docket No. RP74-96]

NATURAL GAS PIPELINE CO. OF AMERICA

Intent To Act

SEPTEMBER 10, 1976.

Take notice that on August 13, 1976, Northern Illinois Gas Company (NI-Gas) filed with the Federal Power Commission an untimely petition for rehearing of a Commission order issued on May 21, 1976, approving a proposed settlement agreement. NI-gas seeks rehearing of that portion of the Commission's order approving the issuance of refunds at 7 percent. NI-gas claims that the decision rendered by the Court of Appeals for the District of Columbia in *American Public Gas Association* v. *F.P.C.*, No. 75–1104 (D.C. Cir., May 19, 1976) entitles NI-gas to receive refunds from Natural Gas Pipeline Company of America at a 9 percent refund interest rate.

Because NI-gas filed its petition for rehearing in an untimely fashion, this petition will be deemed a motion for reconsideration. Due to the complex issues raised by this motion and the Commission's desire to allow pleadings to be received by all parties before acting, the Commission believes that further consideration is necessary before action is taken on this motion.

Notice is hereby given of the Commission's intention to act upon this motion subsequent to the time prescribed by the Commission's Rules of Practice and Procedure.

By the Direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27302 Filed 9-16-76;8:45 am]

[Docket No. RP76-22]

SOUTH GEORGIA NATURAL GAS CO.

Settlement Conference

SEPTEMBER 9, 1976.

Take notice that on September 14, 1976, Staff is convening an informal conference of all interested persons for the purpose of discussing the proposed draft settlement agreement and associated tariff sheets in the above referenced

docket in South Courtroom 358 at the U.S. Tax Court, 400 Second Street, NW., Washington, D.C., at 9:30 A.M.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

Letters concerning this conference are being mailed to all parties to the proceeding, and all of the jurisdictional customers.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27291 Filed 9-16-76;8:45 am]

[Project No. 2730]

SOUTHERN CALIFORNIA EDISON CO.

Order Vacating Previous Order and Permitting Withdrawal of Application

SEPTEMBER 9, 1976.

On July 14, 1976, Southern California Edison Company (Company) filed a document styled Petition of Applicant for Withdrawal of Order and Dismissal of Application for Preliminary Permit for the Black Star Project No. 2730, which would be located in Black Star and Fremont Canyons in Orange County, California. The Company, within its petition, expressed uncertainty regarding the correct procedure for termination of this proceeding, and therefore requested that the Commission take whatever action it deemed appropriate in order to grant the Company's petition. We will consider the filing as a request for withdrawal of its application and under the circumstances will vacate our prior order.

On June 15, 1976, we issued an order granting a preliminary permit to the Company for Project No. 2730 for a period of 36 months. Under the preliminary permit, the Company planned to study the feasibility of installing a 1235 MW pumped storage project. The proposed project would include an upper and lower reservoir (created by earthfill dams and provided with spillways), a water tunnel between the two reservoirs, a power station, and a switchyard. Existing non-project transmission lines would be utilized to connect the project with the Company's system. The original supply of water and that required for make-up for the project would be purchased and delivered by pipeline from the Municipal Water District of Orange County.

Southern California Edison Company cites the following reasons, among others, for requesting the withdrawal of its application for its preliminary permit:

(1) The Company no longer expects to file an Application for License for the Black Star Project, FPC Project No. 2730, within 3 years.

(2) Since April 27, 1973, when the Permit Application was filed, there have been dramatic changes in the cost of construction and operation and in the generation resource program of the Company to such an extent that the project is not economically feasible at this time.

(3) The project is no longer a part of the Company's Future Generation Resource Program due to the lack of adequate economic base load generation of the Company's system for project pumping. The Company does not anticipate that such condition will change within the next few years.

The Commission finds: It is appropriate and in the public interest that Southern California Edison be permitted to withdraw its application for preliminary permit for the proposed Project No. 2730.

The Commission orders: (A) The request by Southern California Edison Company for withdrawal of its application for preliminary permit for Project No. 2730 is hereby granted.

(B) Our order of June 15, 1976, issuing preliminary permit is hereby vacated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27310 Filed 9-16-76;8:45 am]

[Docket No. RP76-143]

SOUTHERN NATURAL GAS CO.

Notice of Filing

SEPTEMBER 9, 1976.

Take notice that on August 26, 1976, Southern Natural Gas Company (Southern) tendered tariff revisions seeking to implement Opinion No. 770 under Southern's Rate Schedule No. F-9. Southern states that the revised tariff sheets will provide for increased annual revenues of $1,845,725.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27293 Filed 9-16-76;8:45 am]

[Docket No. CP76-399]

SOUTHWEST GAS CORP.

Acceptance of Filing

SEPTEMBER 9, 1976.

On August 27, 1976, Southwest Gas Corporation filed an objection to Northwest Pipeline Corporation "Motion to Reject and Answer in Opposition to Application of Southwest Gas Corporation for Additional Delivery Point."

Notice is hereby given that Southwest's objection is accepted as timely filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27294 Filed 9-16-76;8:45 am]

[Docket No. RP71-130, et al.]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

SEPTEMBER 9, 1976.

Take notice that on August 26, 1976, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, tendered for filing as part of its FPC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective September 1, 1976:

Third Revised Sheet No. 95
Second Revised Sheet No. 96
Second Revised Sheet No. 101B

Third Revised Sheet No. 95 would extend until August 31, 1977, the provision in the General Terms and Conditions which exempts small customers (10,200 decatherms per day or less) of Texas Eastern from curtailment on a daily basis by allowing them to take a daily quantity of gas up to their maximum daily quantity contractual entitlement on days of peak demand.

Second Revised Sheet Nos. 96 and 101B would reflect the name change of United Natural Gas Company to National Fuel Gas Supply Corporation in Texas Eastern's Fourth Revised Volume No. 1, General Terms and Conditions.

Any person desiring to be heard or to make any protest with reference to said filing to amend should on or before September 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27296 Filed 9-16-76;8:45 am]

[Docket No. RP76-141]

TRUNKLINE GAS CO.

Change in Rates

SEPTEMBER 9, 1976.

Take notice that on August 26, 1976 Trunkline Gas Company (Trunkline) tendered for filing Eleventh Revised Sheet No. 37 to its FPC Gas Tariff, Original Volume No. 2. Trunkline states that the rate change reflects a redetermination of the price to be paid under Rate Schedule F-2 to show the rate increase prescribed in ordering paragraph (A) of Opinion 770, Docket No. RM75-14 (issued July 27, 1976) and in accordance with the provisions of the rate schedule.

Trunkline agrees that:

Any amounts charged or collected pursuant to the rates permitted under Section 2.56a (a), (b), (c), (d) and (e) during the period prior to final decision by the Commission on any applications for rehearing under 15 U.S.C. S.717r(a) shall be refunded with interest, pursuant to Commission Regulations, to the purchaser of the natural gas hereunder, in the event that, and to the extent that, such rates may be subsequently held to be unlawful.

Trunkline requests an effective date of July 27, 1976 for this rate change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27298 Filed 9-16-76;8:45 am]

[Docket No. RP72-156 (PGA76-3)]

TEXAS GAS TRANSMISSION CORP.

Filing of Emergency Purchase Data

SEPTEMBER 9, 1976.

Take notice that on August 30, 1976, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, pursuant to Paragraph (F) of the Commission's Order issued on July 30, 1976, in Docket Nos. RP72-152 (PGA76-3) and RP72-64 (DCA76-2), information relating to certain 60-day emergency purchases made by Texas Gas at rates in excess of the applicable nationwide new gas or small producer rate and which affected Texas Gas' PGA76-3 rates.

Any person desiring to be heard or to protest said filing should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 24, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27297 Filed 9-16-76;8:45 am]

[Docket No. RP76-147]

SOUTHERN NATURAL GAS CO.

Application for Reclassification of Requirements Under Curtailment Plan

SEPTEMBER 9, 1976.

Take notice that on June 24, 1976, Delta-Macon Brick and Tile Company, the City of Macon, Mississippi, and the Board of Supervisors, Noxubee County, Mississippi (Delta-Macon) filed a document styled "Motion for Expedited Hearing on Reclassification of Process Gas Volumes." Delta-Macon requests reclassification of 50% of its requirements into priority category 2 under the current interim curtailment plan of Southern Natural Gas Company, (Southern) which supplies Delta-Macon's distributor, Mississippi Valley Gas Company (MVG).

Delta-Macon reasserts its contention made during the Southern curtailment proceeding in Docket Nos. RP72-74 and RP74-6 that 50% of its requirements used in manufacturing light colored bricks cannot technologically be converted to alternate fuel and that accordingly these requirements should be upgraded to priority category 2 and classified as process end-use.

In support of this motion Delta-Macon refers to Opinion Nos. 747 and 747-B as permitting it to apply for such reclassification.

Take notice that the Commission intends to issue a procedural order on this matter in the near future; therefore, Delta-Macon's August 12, 1976, application for rehearing in regard to its June 24, 1976, motion should not be construed as denied pursuant to the provsions of the Natural Gas Act and the Commission's Rules of Practice and Procedure thereunder.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parts to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27292 Filed 9-16-76;8:45 am]

[Docket Nos. RI76-36, et al.]

CONTINENTAL OIL COMPANY, ET AL.

Amendment to Application

SEPTEMBER 15, 1976.

Take Notice that on August 25, 1976, Continental Oil Company (Continental), P.O. Box 2197, Houston, Texas 77001, filed an amendment to its application for a certificate of public convenience and necessity and special relief filed in Docket No. RI76-35 on September 29, 1975, and amended on February 2, 1976.

Continental filed its application to sell gas to Tennessee Gas Pipeline Company (Tennessee). On October 6, 1975, Getty Oil Company (Getty) filed application in Docket No. RI76-42 for a certificate of public convenience and necessity to sell gas to Tennessee.[1] On October 31, 1975, Cities Service Oil Company (Cities) filed application in Docket No. RI76-51 for a certificate of public convenience and necessity to sell gas to Tennessee. The subject gas was to be produced from the subsea surface down to and including the base of the RD sand, or its correlative equivalent, from approximately 2,500 acres in West Cameron Block 69 (North Half), Offshore Louisiana, an interest owned ⅓ by Continental, ⅓ by Getty, and ⅓ by Cities. Continental dedicated ½ of its ⅓ working interest to the sale; Getty dedicated all of its ⅓ working interest; and Cities dedicated all of its ⅓ working interest. Sales volumes were estimated to be 275,000 Mcf per month for the Continental sale and 550,000 Mcf per month each for the Getty and Cities sales. Applicants stated that a total of seven wells had been drilled on the property committed to these proposed sales; that three were completed at depths greater than 15,000 feet; that two were completed at depths less; and that two drilled to depths greater than 15,000 feet were dry holes.

Under its application as previously amended, Continental sought a rate in excess of the National rate at that time of (52¢ at 14.73 psia, plus production taxes, gathering, and Btu adjustment) by way of special relief under 18 CFR 2.56a(g) and/or 18 CFR 2.76. The contract rate was the highest of $1.60 per Mcf at 15.025 psia, excluding production taxes; such rate as may be determined in this proceeding; or such rate as may be determined in a future area rate proceeding. Continental sought temporary authorization to commence this sale of gas and expressed its willingness to accept, subject to refund upon Commission determination of the rate applicable thereto, a rate of $1.71 per Mcf.

In its filing of August 25, 1976, Continental further amended its application:

(1) To commit all, rather than one half of its interest in the gas to the sale to Tennessee.

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[1] On August 30, 1976, Getty moved that it be permitted to withdraw its petition for special relief and that its application be deemed an application for a temporary certificate at the nationwide rate of $1.42 per Mcf with adjustments.

(2) To seek a higher rate of $2.10 or $2.43 per Mcf depending on whether production begins as of beginning 1977 or 1978, respectively,[2] and

(3) To seek a temporary certificate at $2.10 per Mcf, subject to refund of an amount in excess of the higher of the rate determined herein or the nationwide ceiling established by Commission order No. 770, $1.42 per Mcf.

The applications herein and the previous amendments thereto have previously been noticed by the Commission, and a prehearing conference has been held. A further prehearing conference-hearing, duly set and noticed by the Presiding Administrative Law Judge by order of September 7, 1976, will be held at a hearing room of the Federal Power Commission in Washington, D.C., on September 27, 1976.

Any person desiring to be heard or to make any protest with reference to the above-described amendment should on or before October 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by its in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

A petition to intervene previously filed pursuant to any notice in any docket of this consolidated proceeding will automatically be considered as having been filed pursuant to this notice as well, without necessity for refiling.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-27465 Filed 9-17-76;8:45 am]

FEDERAL TRADE COMMISSION

GENERAL COUNSEL

Delegation of Authority

Pursuant to the authority provided by Reorganization Plan No. 4 of 1961 (26 F.R. 6191), the Federal Trade Commission delegates to the General Counsel, without power of redelegation, the authority to seek civil contempt in cases where a court order enforcing compulsory process has been violated.

By direction of the Commission dated January 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-27407 Filed 9-16-76;8:45 am]

[2] This increased amount is based in part upon a claim for income tax reimbursement.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76-76)]

NASA HISTORICAL ADVISORY COMMITTEE

Meeting

The NASA Historical Advisory Committee will meet at 9:00 AM October 8, 1976, at NASA Headquarters, Washington, DC (Room 7002, FOB 6). Members of the public will be admitted to the open portions of the meeting on a first-come, first-served basis, up to the seating capacity of the room, which is about 50 persons.

The committee advises NASA on the agency's history program, including research, writing, publication, and preservation of records. Composed of six members, the committee is chaired by Professor Walter Rundell, Jr., of the University of Maryland.

The agenda is:

9:00-10:00—History Office activities of the past year.
10:00-10:45—Status of current history projects.
11:00-11:30—History of NASA.
11:30-12:00—History of Apollo through first lunar landing.
1:00-1:45—Proposed contracts and grants.
1:45-2:00—Length of committee appointments.
2:10-3:00—Evaluation of current and potential authors. Closed session.
3:00-4:00—Preparation of report. Open session.

During the closed session, from 2:10 PM to 3:00 PM, the committee will consider and make recommendations on candidates for undertaking various NASA historical activities. The personal and professional qualifications of the candidates, who are not members of the committee, will be candidly discussed and appraised. Public discussion of these matters would invade the privacy of the candidates and other individuals involved. Since this committee session will be concerned throughout with matters listed in 5 U.S.C. 552(b)(6), it has been determined that the session will be closed to the public.

For further information, call Monte D. Wright, (202) 755-3612.

Dated: September 13, 1976.

WILLIAM W. SHAVELY,
Assistant Administrator for Department of Defense and Interagency Affairs.

[FR Doc.76-27184 Filed 9-16-76;8:45 am]

[Notice (76-77)]

SPACE PROGRAM ADVISORY COUNCIL (SPAC)

Meeting

The SPAC Life Sciences Committee will meet on November 3-4, 1976, at NASA Headquarters, 400 Maryland Avenue, Washington, D.C. 20546. The meeting will be held in Room 5026, Federal Office Building 6. Members of the public will be admitted on a first come first served basis, up to the seating capacity of the room, which is about 60 persons.

The SPAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel and habitation, with exobiology, with other life forms, and including: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, nutrition and food technology, biology of gravity and rhythms, and biotechnology. The current Chairman is Dr. G. Donald Whedon. There are 19 members.

The following lists sets forth the approved agenda and schedule for the November 3-4, 1976, meeting of the Life Sciences Committee. For further information, please contact Dr. Walton L. Jones: Area Code 202-755-2206.

November 3, 1976

Time	
0830-0900	Administrative. (Purpose: Subjects being discussed will include topics such as final approval of previous committee minutes.)
0900-1030	Life Sciences Aspects of LANDSAT. (Purpose: To apprise the Life Sciences Committee in more detail, the Life Sciences Aspects of LANDSAT.)
1030-1200	Viking Results. (Purpose: To brief the Life Sciences Committee on the findings and significance of the biological and related experiments on Viking I and II.)
1330-1500	Science Briefing of Past and Future Experiments in Vestibular Functions Research. (Purpose: To detail and discuss results of the previous orbital otolith experiment in relation to proposed experiments and to solicit comments and advice of Life Sciences Committee members.)
1500-1600	NASA Stratospheric Physics Program. (Purpose: To brief the Life Sciences Committee on the Stratospheric Physics Program and to discuss findings and plans.)
1600-1630	Status of Shuttle Environmental Impact Statement. (Purpose: To brief the Life Sciences Committee on the more comprehensive revision underway on the Shuttle Environmental Impact Statement and to solicit the comments and advice of the Life Sciences Committee members.)
1630-1700	Discussion. (Purpose: To formulate position on issues discussed during the day.)

November 4, 1976

0830–0930—— Highlights of 7th US/USSR Medical and Biology Working Group Meeting. (Purpose: To apprise the Life Sciences Committee of the matters discussed at this 7th US/USSR meeting and to solicit the comments of the Life Sciences Committee members.)

0930–1000—— Status of Science Review of Spacelab 1 (SL–1) Life Sciences Payloads. (Purpose: To apprise the Life Sciences Committee of the review status and findings on the Life Sciences Experiments proposed for SL–1.)

1000–1100—— Search for Extraterrestial Intelligence. (Purpose: To brief the Life Sciences Committee on the studies under this program and to solicit the comments and advice of the LSC members.)

1100–1200—— Space Shuttle Astronaut and Mission Specialist Medical Selection Criteria. (Purpose: To brief the Life Sciences Committee on the medical selection criteria proposed for future Shuttle astronauts and mission specialists and to solicit the comments and advice of the LSC members.)

1200–1230—— Shuttle EMU/MMU Plans and Features. (Purpose: To apprise the Life Sciences Committee of the features and test/production plans for the Shuttle space suit and maneuvering unit.)

1230–1300—— Discussion. (Purpose: To formulate position on issues discussed during the meeting.)

Dated: September 13, 1976.

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.76–27185 Filed 9–16–76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

CONTRACT PRICING AND PROFIT POLICIES

Public Meeting; Invitation for Public Comment

The Office of Federal Procurement Policy (OFPP) will hold a public meeting November 4, 1976, to consider major issues pertinent to the adoption of Government-wide pricing and profit policies on negotiated procurements. This meeting will commence at 10:00 a.m., in Room 2008, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503. Entrance to the building may be facilitated by telephoning (202) 395–4946 in advance.

OFPP's objective in this matter is to develop uniform profit and pricing policies including principles governing the allowability of costs for application to negotiated Government contracts. Due to the interrelationship of cost principles, pricing and profit, such policies must be compatible and, where applicable, take into account promulgations of the Cost Accounting Standards Board (CASB). This objective is in response to Commission on Government Procurement (COGP) Recommendations A–28, A–30, A–31, and A–35 which call for the following:

Government-wide principles on allowability of costs (A–28).

Uniform Government-wide guidelines for determining equitable profit objectives in negotiated contracts (A–30).

New incentives to stimulate contractor acquisition and ownership of production facilities (A–35).

Comparison of negotiation objectives (including the application of pricing and profit policies) with the results obtained in completed contracts (A–31).

These COGP recommendations were considered by interagency task groups which concluded that they should be accepted by the executive branch. The Administrator for Federal Procurement Policy concurs and, by this notice, formally accepts COGP Recommendations A–30, A–31 and A–35. Recommendation A–28 has already been accepted by the executive branch.

The CASB recently promulgated Cost Accounting Standard (CAS) 414 entitled "Cost of Money as an Element of the Cost of Facilities Capital." This Standard, which becomes mandatory for application to CAS covered defense-related contracts on October 1, 1976, will result in allocation to such contracts of an imputed cost of capital committed to facilities.

CAS 414 is based on the premise that such costs, even though imputed, are real and should be recognized and allowed along with "incurred costs" of contract performance. Previously, these costs were included in profit or fee in non-identifiable amounts. Therefore, implicit recognition of the cost of money as an element of the cost of facilities capital employed as an allowable cost, where applicable, must be taken into account in pricing contracts. For this reason, agencies are being advised that the allowability of costs imputed under CAS 414 is to be limited to those prime and subcontracts where the profit policies employed take into consideration the implicit recognition of such costs.

Although CASB rules, regulations and standards are statutorily or adminitratively applicable to many Federal agencies, the Department of Defense (DOD) is the only agency to date that has developed a composite approach for integrating CAS 414 into applicable contract cost principles and pricing policies. This was accomplished by DOD in conjunction with implementation of the findings of its Profit '76 Study which constituted the type of continuing evaluation envisioned by COGP Recommendation A–31.

While there is general uniformity between civil and defense procurement regulations regarding factors to be considered in establishing profit and fee negotiation objectives, the procedures employed in applying such factors vary. The Federal Procurement Regulations profit policy prescribes profit factors for consideration using a nonstructured approach, whereas the Armed Services Procurement Regulation (ASPR) provides for application of a structured approach known as the Weighted Guidelines Method.

The ASPR Weighted Guidelines Method, which has been in effect since 1964, is modified by Defense Procurement Circular (DPC) 76–3 to implement the findings of the DOD Profit '76 Study and to accommodate CAS 414. DPC 76–3 also provides for recognition of the costs imputed under CAS 414 as allowable with respect to contracts subject to ASPR Section XV, Part 2, contracts cost principles. In addition, the Weighted Guidelines Method, as modified by DPC 76–3, provides for meaningful consideration of those factors and incentives cited in COGP Recommendations A–30 and A–35.

DPC 76–3 is effective October 1, 1976, which corresponds with CAS 414's effective date. While reserving final judgment relative to DPC 76–3, the OFPP recognizes that the policies, procedures and forms embodied therein involve many aspects of pricing and profit which should be considered in the development of Government-wide policies. Furthermore, the comprehensiveness of DPC 76–3 should facilitate an understanding of the issues to be discussed at the public meeting.

Comments on this matter should be submitted to the Administrator for Federal Procurement Policy, Room 9001, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503 before October 29, 1976. Any interested person, organization, or Government agency desiring to make an oral presentation at the public meeting on November 4, 1976, shall provide an advance copy or a written statement, with a request to be heard, which should be received by OFPP before October 29. Oral presentations should be limited generally to a summary of the views expressed in writing.

Defense Procurement Circular 76–3 may be obtained from Colonel Thomas F. Blake, Jr., Chairman, ASPR Committee, OASD (I&L), Department of Defense, Washington, D.C. 20301. CAS 414 was published in Vol. 41—No. 107 of the FEDERAL REGISTER, June 2, 1976. Respondents may wish to refer to these in the preparation of their comments.

Dated: September 10, 1976.

HUGH E. WITT,
Administrator.

[FR Doc.76–27229 Filed 9–16–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5051]

SHELL INTERNATIONAL FINANCE, N.V.

Application and Opportunity for Hearing

SEPTEMBER 9, 1976.

Notice is hereby given that Shell International Finance, N.V. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for a finding that an exemption from the requirement to file reports pursuant to Section 13 of the 1934 Act would not be inconsistent with the public interest or the protection of investors.

Section 12(b) of the 1934 Act provides that an issuer may register securities on a national securities exchange by filing a registration statement with both the exchange and the Securities and Exchange Commission which registration statement contains information as to the issuer and any person directly or indirectly controlling or controlled by the issuer as the Commission may require for the protection of investors or in the public interest.

Section 13 of the 1934 Act requires that issuers of securities registered pursuant to Section 12 must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration or periodic reporting provisions under Sections 12 and 13, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The applicant states in part: 1. Applicant, a Netherlands corporation, is a wholly-owned subsidrary of Shell Petroleum, N.V. whose shares are 60% owned by Royal Dutch Petroleum and 40% owned by Shell Transport and Trading Company, Limited. Applicant raises funds for the general financing purposes of the Royal Dutch/Shell Group of companies through offerings outside the United States.

2. In November 1967, Applicant issued $50,000,000 principal amount of 6½% Loan Bonds due 1979 (the "Bonds").

3. The Bonds are unconditionally guaranteed as to payment of principal, premium (if any) and interest, jointly and severally, by Shell N.V. and Shell Limited.

4. The Bonds were offered abroad to foreign nationals in accordance with procedures designed to prevent the sale of the Bonds in the United States or its territories or to nationals or residents thereof.

5. The Bonds are listed on the New York Stock Exchange and are registered pursuant to Section 12(b) of the 1934 Act.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Section 13 of the 1934 Act because the Bonds are registered with both the New York Stock Exchange and the Commission.

Accordingly, Applicant believes that the exemption order requested by it is appropriate in view of the fact that none of the securities of the Applicant (other than the Bonds) are held by any person other than Royal Dutch and Shell Transport, the two parent companies of the Royal Dutch/Shell Group of Companies; that since the Bonds are guaranteed, jointly and severally, by Shell N.V. and Shell Limited, it is the reports of the Royal Dutch/Shell Group of Companies and not those of Applicant, in which investors would by primarily interested; and because no transactions in the Bonds have occurred on the NYSE since January 1, 1972.

Notice is further given that any interested person not later than October 4, 1976, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-27182 Filed 9-16-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 01/01-0284]

FIRST UNITED SMALL BUSINESS INVESTMENT COMPANY, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1976)), under the name of First United Small Business Investment Company, Inc. (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the Commonwealth of Massachusetts on April 21, 1976, and it will commence operations with a capitalization of $293,000. James Ferrera & Sons, Inc., the Applicant's parent through ownership of 100 percent of its issued and outstanding no par value common shares, is a wholesale grocery company.

Stockholders owning 10 percent or more of the parent's stock are:

Stockholder:	*Percent of Ownership*
Alfred W. Ferrera	21.10
Kenneth G. Ferrera	10.55
Don H. Ferrera	21.10
Harold H. Ferrera	21.10
Arthur R. Ferrera	10.45

The proposed officers, directors, and general manager of the Applicant are:

Arthur R. Ferrera, Chairman of the Board and Director, 5 Longfellow Road, Winchester, Massachusetts 01890.

Walter J. Ferrera, President, Director and General Manager of the SBIC, 6 Valleywood Circle, Winchester, Massachusetts 01890.

Alfred W. Ferrera, Vice President, Treasurer, and Director, 21 Ferriter Street, West Quincy, Massachusetts 02144.

Claude L. Gibson, Vice President, Clerk, and Director, 7 Stonewood Drive, Canton, Massachusetts 02021.

Harold H. Ferrera, Vice President and Director, 6 Frost Street, Arlington, Massachusetts 02174.

Kenneth G. Ferrera, Vice President and Director, 50 Hillside Circle, Hanover, Massachusetts 02339.

Don H. Ferrera, Vice President and Director, 138 Harbor View Road, Milton, Massachusetts 02186.

The Applicant's office will be located at 135 Will Drive, Canton, Massachusetts 02021, and it will conduct its operations principally in the Commonwealth of Massachusetts. It plans to specialize in financings in the retail independent food industry in rural and small town localities with limited or no facilities for the area's residents, and to render management consulting services to its portfolio and other small business concerns.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, on or before October 4, 1976, submit written comments on the Applicant to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Canton, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 8, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-27235 Filed 9-16-76;8:45 am]

ATLANTA DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Atlanta District Advisory Council will hold a public meeting from 1:00 p.m., thru 5:00 p.m., Thursday, October 14, 1976, and from 9:00 a.m., thru 12:00 noon, Friday, October 15, 1976, at Dunfey's Royal Coach, in the King Henry Room, 1750 Commerce Drive NW., Atlanta, Georgia, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call John D. Sewell, U.S. Small Business Administration, Peachtree-25th Complex, 1720 Peachtree Road NW., 6th Floor, Atlanta, Georgia 30309, (404) 285–5749.

Dated: September 9, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76-27230 Filed 9-16-76;8:45 am]

LUBBOCK DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Lubbock District Advisory Council will hold a public meeting at 8:45 a.m., Friday, November 12, 1976, at Best Western Mesa Inn, 4151 North Mesa, El Paso, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Philip J. O'Jibway, U.S. Small Business Administration, Federal Office Building and Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401, (806) 762–7462.

Dated: September 9, 1976.

HENRY V. Z. HYDE, Jr.
Deputy Advocate for Advisory Councils.

[FR Doc.76-27231 Filed 9-16-76;8:45 am]

[Declaration of Disaster Loan Area No. 1273]

NEW MEXICO

Declaration of Disaster Area

Sandoval County, and adjacent counties within the State of New Mexico, constitute a disaster area because of damage resulting from flooding on August 19, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 9, 1976, and for economic injury until the close of business on June 9, 1977, at:

Small Business Administration, District Office, 5000 Marble Avenue, N.E., Patio Plaza Building, Albuquerque, New Mexico 87110.

or other locally announced locations.

Dated: September 9, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-27232 Filed 9-16-76;8:45 am]

[Declaration of Disaster Loan Area No. 1274]

NEW YORK

Declaration of Disaster Area

As a result of the President's declaration, I find that Nassau, Suffolk, City of New York, and adjacent counties within the State of New York, constitute a disaster area because of damage resulting from Hurricane Belle beginning about August 9, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 5, 1976, and for economic injury until the close of business on June 3, 1977, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, New York 10007.

or other locally announced locations.

Dated: September 9, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-27233 Filed 9-16-76;8:45 am]

[Declaration of Disaster Loan Area 1272]

RHODE ISLAND

Declaration of Disaster Area

Providence County and adjacent counties within the State of Rhode Island constitute a disaster area because of damage resulting from severe rain storm and flooding which occurred on July 30, 1976. Eligible persons, firms and organizations may file application for loans for physical damage until the close of business on November 5, 1976, and for economic injury until the close of business on June 3, 1977, at:

Small Business Administration, District Office, 57 Eddy Street, Providence, Rhode Island 02903.

or other locally announced locations.

Dated: September 3, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-27234 Filed 9-16-76;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Meeting

The Veterans Administration gives notice pursuant to Public Law 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Veterans Administration Central Office, 811 Vermont Avenue, NW, Washington, D.C., on October 15, 1976 at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Center Office (phone 202–389–2868), prior to October 15, 1976.

Dated: September 14, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-27329 Filed 9-16-76;8:45 am]

GERIATRIC RESEARCH AND CLINICAL CENTERS ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Public Law 92–463 that a meeting of the Geriatric Research and Clinical Centers Advisory Committee, authorized by 38 USC 4101, will be held in the Lobby Salon Conference Room, Colonnade Hotel, 120 Huntington Avenue, Boston, Massachusetts on October 6 and 7, 1976 and the Independence East Conference Room, Sheraton-Boston Hotel, 39 Dalton Street, Boston, Massachusetts on October 8, 1976. The meeting will be held from 9 a.m. to 12 m. on October 6, and from 8:30 a.m. to 4:30 p.m. on October 7. The meeting will be held from 9 a.m. to 12:30 p.m. on October 8. The meeting will be for the purpose of reviewing the existing Geriatric Research, Education and Clinical Centers and advising the Veterans Administration on their development and future goals; deciding internal administration tasks of the Geriatric Research and Clinical Centers Advisory Committee; and to advise the Veterans Administration officials on other pertinent Geriatric Research, Education and Clinical Center subjects. The Committe advises the Veterans Administration through the Assistant Chief Medical Director for Extended Care and Assistant Chief Medical Director for Professional Services.

All sessions of the meeting will be open to the public up to the seating capacity of the rooms. To assure adequate accommodations, those who plan to attend should contact Dr. Paul A. L. Haber, Assistant Departmental Committee Manager, Veterans Administration Central Office, Washington, DC (202–389–3281) prior to September 24, 1976.

Dated: September 14, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-27330 Filed 9-16-76;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

[Commissioner's Administrative Order No. 27]

CONTRACTING OFFICER AUTHORITY

Redelegation From the Commissioner to Other Bureau Officials

1. *Purpose.* The purpose of this Order is to redelegate the authority and responsibility for entering into contracts.

2. *Directives Affected.* This Order replaces Mr. Ben Burdetsky's August 30, 1968, memorandum to Mr. Leo R. Werts on "Redelegation of Contracting Authority."

3. *Background.* Secretary's Order 27–73 delegates to the Commissioner the authority and responsibility for contracts, procurement and grant operations, as well as the authority to redelegate as appropriate.

4. *Redelegations of Authority and Assignment of Responsibility.* A. Only the Commissioner of Labor Statistics has the sole authority and responsibility—with the concurrence of the parties involved—to sign contracts which involve the release of confidential data outside the Bureau.

B. The Associate Commissioner for Administrative Management and the Chief of the Division of Planning and Financial Management are hereby designated Contracting Officers, with full authority and responsibility to enter into and execute contracts on behalf of the Bureau of Labor Statistics, except contracts which involve the release of confidential data outside the Bureau. Their authority may not be redelegated further.

C. The Regional Commissioners for BLS are hereby granted the authority and responsibility to enter into and execute contracts related to BLS/State cooperative programs with participating State agencies, provided they have the concurrence of the Chief of the Division of Planning and Financial Management and the appropriate Program Office (e.g., OSHS and ES&T) for each contract. The Regional Commissioners will serve as Contract Officers and have authority to appoint the Government Authorized Representatives for each contract.

5. *Effective date.* This order is effective on June 1, 1976.

Signed at Washington, D.C., this 10th day of September 1976.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.76-27348 Filed 9-16-76;8:45 am]

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 to:

Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of September, 1976.

BEN BURDETSKY,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending September 10, 1976.

Name of applicant	Location of enterprise	Principal product or activity
Rosedale Funeral Chapel	Martinsburg, W. Va	Funeral service and crematories.
Pender Grocery Co., Inc	Burgaw, N.C	Grocery store.
Howard Oil Co., Inc	Jacksonville, N.C	Distributor of wholesale gas and oil.
Colonial Chemical Distributors, Inc	Edenton, N.C	Wholesale distributor of farm supplies.
Kimball of Minnesota, Inc. (tenant of city of Kimball Prairie).	Kimball, Minn	Manufacture of energy gard.
Buchmin Industries (tenant to city of Reedley).	Reedley, Calif	Manufacture of glass products.

[FR Doc.76-27415 Filed 9-16-76;8:45 am]

Occupational Safety and Health Administration

CALIFORNIA STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health, (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, notice was published in the FEDERAL REGISTER (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards comparable to 29 CFR Part 1910, Subparts F and K and § 1910.263 of Subpart R were submitted with the State plan. However, the following State standards were determined to need additional revision: 29 CFR Part 1910, Subparts D, E, G, H, I, J, L, M, N, O, P, Q, R except § 1910.263 and S; all of 29 CFR Parts 1926, 1915, 1916, 1917, and 1918. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. Section 1952.173(b) of Subpart K of 29 CFR Part 1952 sets forth the State's schedule for the adoption of at least as effective State standards. By letters dated November 19, 1975, and June 25, 1976, from Steven A. Jablonsky, Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, and incorporated as part of the plan, the State submitted proof documents concerning all of 29 CFR Part 1910 except for the temporary labor camp standards of § 1910.142, all of 29 CFR

Parts 1915, 1916, 1917, 1918, 1919, and 1926. This also includes all changes to the above Federal Standards published in the FEDERAL REGISTER up to and including July 28, 1975. These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code were promulgated by the State after public hearings between the dates of July 12, 1972 and January 29, 1976.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The State standards are more specific in several areas, particularly, with respect to Subpart H, 29 CFR 1910.110, "Storage and Handling of Liquified Gases" and Subpart K, 29 CFR 1910.151, "Medical and First Aid". The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator—OSHA, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102, California Occupational Safety and Health Administration, Room 2152, 455 Golden Gate Avenue, San Francisco, California 94102; and Office of the Associate Assistant Secretary for Regional Programs, Room N3603, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2 (c) of this chapter, as Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective September 17, 1976.

(Sec. 18, Pub. L. 91-956, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at San Francisco, California this 25th day of June, 1976.

GABRIEL J. GILLOTTI,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.76-27349 Filed 9-16-76;8:45 am]

Office of the Secretary

[TA-W-906]

AMERICAN BRIDGE DIVISION, UNITED STATES STEEL CORP., ANTIOCH, CALIFORNIA

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-906; investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 27, 1976 in response to a worker petition received on May 27, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers fabricating structural steel at the Antioch, California plant of the American Bridge Division of United States Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER June 18, 1976 (41 FR 24803). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Antioch plant decreased 9.9 percent in 1974 compared with 1973, increased 60.0 percent in 1975 compared with 1974 and decreased 36.4 percent in the first half of 1976 compared with the first half of 1975. The plant was closed May 31, 1976.

SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

Production of structural steel in terms of quantity decreased 18.0 percent in 1974 compared with 1973, decreased 17.8 percent in 1975 compared with 1974 and decreased 64.0 percent in the first half of 1976 compared with the first half of 1975.

INCREASED IMPORTS

Imports of carbon steel structural shapes increased 9.2 percent in 1972 compared with 1971, decreased 22.5 percent in 1973 compared with 1972, decreased 8.6 percent in 1974 compared with 1973 and decreased 29.6 percent in 1975 compared with 1974. Imports decreased 2.8 percent in the first quarter of 1976 compared with the first quarter of 1975, however the ratios of imports to domestic shipments and consumption increased from 21.8 percent and 18.4 percent respectively, in the first quarter of 1975 to 28.7 percent and 22.8 percent respectively, in the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

The majority of jobs bid for by the Antioch plant of United States Steel Corporation were lost to fabricators and erectors using either foreign steel for domestic fabrications or foreign fabricated products. The trend has existed since 1973 and has been particularly evident in 1975 and the first half of 1976. Competitive bids based on the usage of less expensive foreign steel resulted in lower bids and contracts thus awarded to these other firms. There is normally a lead time of between 12 to 18 months from the time a contract is awarded to the initiation of of the project production. Antioch lost bids during the period 1973 through 1976 and a decision was made to close the plant on May 31, 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with structural steel fabricated at the Antioch, California plant contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the fabrication of structural steel at the Antioch, California plant of the American Bridge Division of United States Steel Corporation who became totally or partially

separated from employment on or after December 26, 1975 and before August 1, 1976 are eligible to Apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who become totally or partially separated on or after August 1, 1976 are denied certification.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27352 Filed 9-16-76;8:45 am]

[TA-W-897]

AUTOMOTIVE ELECTRONICS DIVISION, GENERAL INSTRUMENT CORP., CHICOPEE, MASSACHUSETTS

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-897: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 27, 1976 in response to a worker petition received on May 27, 1976 which was filed on behalf of workers of the Engineering Department and Model shop of the Chicopee, Massachusetts plant of the Automotive Electronics Division of General Instrument Corporation.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 24801) on June 18, 1976. No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of General Instrument Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criterion (1) has not been met. Since 1965, the Engineering and Model shops in Chicopee, Massachusetts have been designing and building models of auto car tuners being produced only in Canada. In 1974, production of auto car tuners was transferred to Juarez, Mexico, while the Engineering Department and Model shop continued to operate in Chicopee. This year, the Engineering and Model shop facilities of the Chicopee plant are being transferred to Mexico. General Instrument has offered to transfer all its employees who wish to do so. All transferred employees will live in El Paso, Texas and work in Juarez, Mexico. For any positions not filled by employees from the Chicopee plant, the company will hire Americans who will live in El Paso, Texas.

No layoffs occurred in 1975 or to date in 1976, according to a company official. Layoffs anticipated with the transfer of the Engineering and Model shops to Mexico have not occurred as all employees not moving to El Paso have been transferred to other jobs at the General Instrument facility in Chicopee, Massachusetts.

The investigation revealed that the company plans to transfer the Engineering and Model shop facilities of the Chicopee plant to Mexico in the near future. The exact date of this transfer is not known and at this time it is not possible to relate a decline in employment to the impending move. This imminent transfer may pose a direct threat to the employment of workers engaged in the design of auto car radio tuners, creating a situation in the future that may warrant coverage under the provisions of the Trade Act of 1974. To facilitate the monitoring of this situation, the petitioners are urged to file a request to reopen this investigation when in their view a decline in employment related to the transfer has occurred.

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers designing auto car radio tuners in the Engineering Department and Model shop of the Chicopee, Massachusetts plant of the Automotive Electronics Division of General Instrument Corporation have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 2d day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27353 Filed 9-16-76;8:45 am]

[TA-W-1031]

BERGMAN KNITTING MILLS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 13, 1976 the Department of Labor received a petition dated August 4, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Workers Union on behalf of the workers and former workers of Bergman Knitting Mills, Philadelphia, Pennsylvania (TA-W-1031). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's, boys' and women's sweaters produced by Bergman Knitting Mills 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case is 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 13th day of August 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27354 Filed 9-16-76;8:45 am]

[TA-W-868]

BETHLEHEM STEEL CORP., WILLIAMSPORT, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In acocrdance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-868: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker

petition received on April 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire rope for the Bethlehem Steel Corporation, Williamsport plant, Williamsport, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 20942) on May 21, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel 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 Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that imports of wire rope declined absolutely and relatively in 1975 compared to 1974 and in the first quarter of 1976 compared to the first quarter of 1975. Imports declined from 64,114 tons in 1974 to 52,404 tons in 1975, a decline of 18.0 percent. Imports declined from 1,600 tons in the first quarter of 1975 to 1,000 tons in the first quarter of 1976, a decline of 52.8 percent. The imports to production ratio declined from 26.0 percent in 1974 to 23.2 percent in 1975 and declined from 34.9 percent in the first quarter of 1975 to 19.7 percent in the first quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that wire rope like or directly competitive with that produced by the Bethlehem Steel Corporation, Williamsport, Pennsylvania, is not being imported in increasing quantities, either actual or relative to domestic production, as required in section 222 of the Trade Act of 1974. For the reasons I hereby determine that workers producing wire rope at of the Williamsport, Pennsylvania plant of Bethlehem Steel Corporation are ineligible to apply for adjustment assistance.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27355 Filed 9-16-76;8:45 am]

[TA-W-812]

COMPLETE AUTO TRANSIT, INC., ST. LOUIS, MISSOURI

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-812: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 26, 1976 in response to a worker petition received on April 26, 1976 which was filed on behalf of truck drivers of Complete Auto Transit, Inc., St. Louis, Missouri providing automobile transportation services to the General Motors Corporation at its St. Louis, Missouri assembly plant.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 20041) on May 14, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Complete Auto Transit, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in that workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied a negative determination must be made.

Complete Auto Transit, Inc., does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). The only question presented in this case is whether General Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm". See Notice of Determination in "Nu-Car Driveway, Inc." (TA-W-393, 41 FR 12749).

Complete Auto Transit, Inc., is an independent business incorporated under the laws of the state of Michigan and licensed by the state of Missouri to haul within the commercial zone of St. Louis. Complete Auto Transit competes for available business with a number of other carriers in the St. Louis area and each is free to haul for any business requesting its services.

Neither General Motors, on one hand, nor Complete Auto Transit on the other, is financially or otherwise involved in the business of the other. Complete Auto Transit either owns or leases the facilities necessary to the operation of its business, and all equipment is owned and maintained by Complete Auto Transit.

The workers upon whose behalf this petition was filed were hired and are paid by Complete Auto Transit, Inc. They are supervised by and subject to the control of Complete Auto Transit personnel only. All employment benefits which they enjoy are provided and maintained by Complete Auto Transit.

CONCLUSSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Complete Auto Transit, Inc., are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974, and that General Motors Corporation cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27356 Filed 9-16-76;8:45 am]

[TA-W-802]

COMPLETE AUTO TRANSIT, INC., ST. LOUIS, MISSOURI

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-802: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 23, 1976 in response to a worker petition received on April 23, 1976 which was filed on behalf of the office employ-

ees of Complete Auto Transit, Inc., St. Louis, Missouri providing automobile transportation services to the General Motors Corporation at its St. Louis, Missouri assembly plant.

The notice of investigation was published in the FEDERAL REGISTER on May 18, 1976 (41 FR 20458). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Complete Auto Transit, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

Complete Auto Transit, Inc., does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Negative Determination in "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). The only question presented in this case is whether General Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm." The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm". See Notice of Negative Determination in "Nu-Car Driveway, Inc." (TA-W-393, 41 FR 12749).

Complete Auto Transit, Inc., is an independent business incorporated under the laws of the state of Michigan and licensed by the State of Missouri to haul within the commercial zone of St. Louis. Complete Auto Transit competes for available business with a number of other carriers in the St. Louis area and each is free to haul for any business requesting its services.

Neither General Motors, on one hand, nor Complete Auto Transit on the other, is financially or otherwise involved in the business of the other. Complete Auto Transit either owns or leases the facilities necessary to the operation of its business, and all equipment is owned and maintained by Complete Auto Transit.

The workers upon whose behalf this petition was filed were hired and are paid by Complete Auto Transit, Inc. They are supervised by and subject to the control of Complete Auto Transit personnel only. All employment benefits which they enjoy are provided and maintained by Complete Auto Transit.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Complete Auto Transit, Inc., are not "articles" within the meaning of Section 222(3) of Trade Act of 1974, and that General Motors Corporation cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27357 Filed 9-16-76;8:45 am]

[TA-W-911]

CONVERSE RUBBER CO., BRISTOL, RHODE ISLAND

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-911: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 18, 1976 in response to a worker petition received on that date which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing canvas footwear at the Bristol, Rhode Island plant of Converse Rubber Company.

The notice of investigation was published in the FEDERAL REGISTER on July 2, 1976 (41 FR 27465). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Bristol plant of Converse Rubber Company decreased 43 percent in 1975 compared to 1974 and 26 percent in the first half of 1976 compared to the first half of 1975.

Since December 1974, most of the production workers at the Bristol plant have been furloughed approximately 25 percent of the time due to production cutbacks.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 11 percent in quantity and 6 percent in value in the first half of 1976 compared to the first half of 1975.

Production at the Bristol, Rhode Island plant of Converse Rubber Company declined 53 percent in quantity and 37 percent in value in 1975 compared to 1974 and 39 percent in quantity and 35 percent in value in the first half of 1976 compared to the first half of 1975. Approximately 90 percent of the Canvas footwear made at the Bristol plant is directly competitive with "athletic" footwear.

INCREASED IMPORTS

Imports of athletic footwear increased absolutely and relative to domestic production and consumption each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic consumption. In 1975 imports increased 102 percent absolutely, and relative to domestic production on imports increased from 84.3 percent in 1974, to 148.0 percent. In that first half of 1976, imports increased 75 percent and relative to domestic production imports increased from 140.2 percent in the first half of 1975, to 188.7 percent.

CONTRIBUTED IMPORTANTLY

Imports of canvas and athletic footwear by Converse Rubber Company increased 1011 percent in quantity and 1012 percent in value in 1975 compared to 1974 and 7 percent in quantity and 4 percent in value in the first half of 1976 compared to the first half of 1975.

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear from Converse Rubber Company and have increased their purchases of imported footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shoes produced at Converse Rubber Company, Bristol, Rhode Island, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of shoes at Converse Rubber Company, Bristol, Rhode Island, who became totally or partially separated from employment on or after June 10, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27358 Filed 9-16-76;8:45 am]

[TA-W-937]

CUYAHOGA WORKS, U.S. STEEL CORP., CLEVELAND, 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-937: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 10, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon wire rod, wire and wire products, sheet, strip and strapping at the Cuyahoga Works of the U.S. Steel Corporation, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27804). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corporation, its customers, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) and criterion (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers employed at the Cuyahoga Works, of the U.S. Steel Corporation declined 26 percent in 1975 compared to 1974, 16 percent in the first quarter of 1976 compared to the like period in 1975, and increased 14 percent in the second quarter of 1976 compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of carbon wire rod decreased 36 percent in quantity in 1975 compared to 1974 and 13 percent in the first quarter of 1976 compared to the like period of 1975.

Production of carbon wire and wire products decreased 54 percent in quantity in 1975 compared to 1974, and 11 percent in the first quarter of 1976 compared to the like period of 1975.

Production of carbon sheet, strip, and strapping decreased 55 percent in quantity in 1975 compared to 1974, and increased 19 percent in quantity in the first quarter of 1976 compared to the like period of 1975.

Sales of carbon wire rod decreased 26 percent in value in 1975 compared to 1974, and 15 percent in value in the first quarter of 1976 compared to the like period in 1975.

Sales of carbon wire and wire products decreased 40 percent in value in 1975 compared to 1974, and 2 percent in value in the first quarter of 1976 compared to the like period in 1975.

Sales of carbon sheet, strip, and strapping decreased 55 percent in value in 1975 compared to 1974, and increased 24 percent in value in the first quarter of 1976 compared to the like period of 1975.

INCREASED IMPORTS

Imports of carbon wire rod decreased in 1972 and 1973 compared to the previous year, increased in 1974, then decreased 43.8 percent in 1975 compared to 1974, and 45.3 percent in the first quarter of 1976 compared to the like period of 1975. The ratio of imports to domestic shipments decreased in 1972 and 1973 compared to the previous year, increased in 1974, then decreased from 71.8 percent in 1974 to 65.1 percent in 1975, and from 77.3 percent in the first quarter of 1975 to 35.8 percent in the first quarter of 1976.

Imports of carbon wire and wire products increased each year from 1972 through 1974, then decreased 39.2 percent in 1975 compared to 1974, and 28.3 percent in the first quarter of 1976 compared to the first quarter of 1975. The ratio of imports to domestic shipments increased each year from 1972 through 1974, then decreased from 32 percent in 1974 to 28.5 percent in 1975, and from 35.3 percent in the first quarter of 1975 to 25.2 percent in the first quarter of 1976.

Imports of carbon sheet and strip (includes strapping) decreased each year from 1972 through 1975. Imports decreased 23.3 percent in 1975 compared to 1974, and 16.3 percent in the first quarter of 1976 compared to the like period of 1975. The ratio of imports to domestic shipments decreased in 1972 and 1973 compared to the previous year, then increased from 13.3 percent in 1974 to 14.9 percent in 1975. The ratio of imports to domestic shipments decreased from 18.4 percent in the first quarter of 1975 to 11.7 percent in the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they have not switched from carbon wire rod, wire and wire products, sheet, strip and strapping produced at the Cuyahoga Works of the U.S. Steel Corporation to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the Cuyahoga Works of the U.S. Steel Corporation, Cleveland, Ohio are not being imported in increased quantities, either actual or relative to domestic production and therefore workers at the Cuyahoga Works of the U.S. Steel Corporation are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27359 Filed 9-16-76;8:45 am]

[TA-W-799]

ELLWOOD KNITTING MILLS, INC., ELLWOOD CITY, 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-799: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 16, 1976 in response to a worker petition received on April 16, 1976 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing material, men's sweaters and sweater shirts at the Ellwood City, Pennsylvania plant of Ellwood Knitting Mills, Incorporated. The Department's investigation revealed that the Ellwood plant produced only men's sweaters.

The notice of investigation was published in the FEDERAL REGISTER on May 14, 1976 (41 FR 20041). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ellwood Knitting Mills, Incorporated, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at Ellwood declined 4.1 percent from 1973 to 1974 and declined 43.4 percent from 1974 to 1975. From the first quarter of 1974 through the first quarter of 1976, the average number of production workers declined in each quarter when compared to the same quarter of the previous year.

Average weekly hours worked declined 3.9 percent from 1973 to 1974 and declined 13.9 percent from 1974 to 1975. In the first quarter of 1976, average weekly hours worked increased 10.0 percent compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Ellwood are identical to production.

Production of men's sweaters declined 4.2 percent from 1973 to 1974 and declined 31.8 percent from 1974 to 1975. From the second quarter of 1975 through the first quarter of 1976, production declined in each quarter when compared to the same quarter of the previous year.

INCREASED IMPORTS

Imports of men's and boys' sweaters increased absolutely in each year from 1971 through 1973 and then declined absolutely from 1973 to 1974, and from 1974 to 1975. Imports remained stable relative to domestic production from 1971 to 1972 and then increased relatively from 1972 to 1973. Imports declined relatively from 1973 to 1974 and then increased relatively from 1974 to 1975. The ratios of imports to domestic production and consumption increased from 36.5 percent and 26.9 percent, respectively, in 1974 to 36.6 percent and 27.0 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the manufacturers for whom Ellwood did contract work reduced purchases of sweaters produced at Ellwood and substituted purchases of imported men's sweaters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sweaters produced at the Ellwood City, Pennsylvania plant of Ellwood Knitting Mills, Inc. contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification.

All workers engaged in employment related to the production of men's sweaters at the Ellwood City, Pennsylvania plant of Ellwood Knitting Mills, Incorporated who became totally or partially separated from employment on or after April 7, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27360 Filed 9-16-76;8:45 am]

[TA-W-1,035]

FASHION SHOE PRODUCTS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 20, 1976 the Department of Labor received a petition dated August 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America on behalf of the workers and former workers of Fashion Shoe Products, Inc., Sullivan, Missouri (TA-W-1,035). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with wood-fibre heels produced by Fashion Shoe Products, Inc. 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case is 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 20th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27361 Filed 9-16-76;8:45 am]

[TA-W-182]

FRIEDMAN-MARKS CLOTHING CO., RICHMOND, VIRGINIA

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a notice of negative determination regarding eligibility to apply for adjustment assistance on December 4, 1975 (41 FR 847) applicable to former workers producing men's suits and sportscoats at Friedman-Marks Clothing Company, Richmond, Virginia, a subsidiary of Rapid-American Corporation, New York, New York.

At the request of an official of the Amalgamated Clothing Workers of America, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. The further investigation developed addi-

tional information from company officials and a broader spectrum of Friedman-Marks' customers concerning the influence of imports on the decision to close the Richmond plant.

Friedman-Marks primarily produced suits for retailers under private labels. Such suits sold in the lower price category and were frequently used by retailers for promotional purposes.

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 Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met:

Significant Total or Partial Separation

The average employment of production workers at Friedman-Marks declined 23 percent in the first quarter of 1975 compared to the like period in 1974. All production related employment was terminated by the end of March 1975.

Sales or Production, or Both, Have Decreased Absolutely

Only value data were available from the company. Such data show a slight increase in the value of sales from 1973 to 1974. If adjusted for price increases the value of sales would reflect a decline. In January 1975, the value of sales was 11 percent below that of January 1974. All production operations at Friedman-Marks were terminated in January 1975.

Increased Imports

Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 to 1973. Such imports declined in 1974, but the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971–1973 averages of 8.6 percent and 7.8 percent, respectively. In the first seven months of 1975, imports of men's and boys' suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Contributed Importantly

The new facts developed in the investigation revealed that in 1974, the Rapid American Corporation, also the parent company of Joseph H. Cohen, Inc. (TA–W–210) and Cross Country Clothes (TA–W–184), both manufacturers of men's suits, experienced declining sales and production of its men's clothing operations, due in substantial part to increasing import competition during a recessionary period. In view of the insurmountable problems posed by increasing import competition, the Rapid American Corporation consolidated a large portion of its men's clothing operations at the Philadelphia plant of Joseph H. Cohen, Inc. which had approximately twice the floor space of the Friedman-Marks plant. As a result of this consolidation, Friedman-Marks was closed and its operations were taken over by Joseph H. Cohen, which completed the Friedman-Marks contracts. The management decision to consolidate the operations of Friedman-Marks with Joseph H. Cohen, Incs. was based on the fact that Friedman-Marks was able to retain contracts with retailers only at unprofitable prices and was never able to increase its production to full capacity. Price competition in the lower-priced suit category was substantially influenced by the availability of low priced suits from foreign sources.

A sample of Friedman's Marks' customers revealed that imports played a significant role in price competition. Although the customers appear to have imported to a relatively minor extent prior to the closing of Friedman-Marks, there was a marked increase in the purchases of imports by some customers after its closure.

Conclusion

All workers at the Richmond, Virginia plant of Friedman-Marks Clothing Company, who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act.

Signed at Washington, D.C., this 3d day of September 1976.

Herbert N. Blackman,
Associate Deputy Under Secretary International Affairs.

[FR Doc.76–27362 Filed 9–16–76;8:45 am]

[TA–W–926]

GIBBS MANUFACTURING AND RESEARCH CORP., JANESVILLE, WISCONSIN

Determinations 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–926: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 7, 1976 in response to a worker petition received on that date which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing organs, cables and printed wiring boards for organs, safety and arming devices, and program switches at the Gibbs Manufacturing and Research Corporation, Janesville, Wisconsin.

The notice of investigation was published in the Federal Register on June 18, 1976 (41 FR 24795). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Gibbs Manufacturing and Research Corporation, its customers, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met in regard to the production of organ cables but that the fourth criterion has not been met in regard to the production of organs and the third and fourth criteria have not been met in regard to the production of the various safety and arming devices produced by Gibbs in fiscal year 1976 (April 1975–March 1976).

Significant Total or Partial Separations

The average employment of production workers declined 60 percent from fiscal year 1975 to fiscal year 1976. Average employment of production workers declined in each quarter of calendar year 1975 and of calendar year 1976 to date compared to the previous quarter. Bumping from one department to another was permitted by the union agreement.

Sales or Production, or Both, Have Decreased Absolutely

Total sales declined 61 percent from fiscal year 1975 (April 1974–March 1975) to fiscal year 1976 (April 1975–March 1976). Production of all products at Gibbs ceased on April 28, 1976. The production of organ cables was entirely phased out by the end of August 1975. The production of organs, on the other hand, increased in each quarter of fiscal

year 1976 compared to the previous quarter and was not phased out until April 1976.

INCREASED IMPORTS

There are no separately identifiable data on organ cables in the Tariff Schedules of the United States Annotated (TSUSA). However, the evidence developed by the Department's investigation indicates that imports of organ cables increased relative to domestic production in 1975 when compared to 1974. This finding is based on the fact that a major domestic consumer of organ cables, which accounted for about 25 percent of the total domestic production of electronic organs in 1975, switched its entire purhases of organ cables from Gibbs to a foreign source during the period from 1973 to 1975.

Imports of electronic organs (in terms of quantity) increased from 1971 through 1973 and decreased from 1973 through 1975, declining 32 percent from 1974 to 1975. Imports of electronic organs increased 204 percent in the first quarter of 1976 compared to the like period of 1975. The ratio of imports to domestic production for electronic organs decreased from 7.1 percent in 1974 to 5.4 percent in 1975 and increased from 4.9 percent in the first quarter of 1975 to 13.7 percent in the first quarter of 1976.

Customers of the various safety and arming devices produced by Gibbs indicated that they have not purchased imports of these particular products.

CONTRIBUTED IMPORTANTLY

The customer of the organs assembled at Gibbs terminated imports of the two spinet organ models in April 1975 and June 1975. This customer also decreased imports of every other organ model by the end of March 1976, before Gibbs began to decrease its production of organs. On the other hand, the customer of the organ cables produced at Gibbs switched purchases of this product from Gibbs to a foreign source.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the organ cables produced at the Gibbs Manufacturing and Research Corporation of Janesville, Wisconsin, contributed importantly to the total or partial separation of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the production of organ cables at the Gibbs Manufacturing and Research Corporation of Janesville, Wisconsin, who became totally or partially separated from employment on or after May 21, 1975 and before November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who are separated on or after November 1, 1975 are denied certification.

I further conclude that all employees engaged in the production and assembly of completed organs and safety and arming devices are denied certification.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27363 Filed 9-16-76;8:45 am]

[TA-W-925]

INTERNATIONAL SHOE CO., BELLE, MISSOURI

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-925: investigation regarding certification of eligibility to apply for adjustment asistance as prescribed in section 222 of the Act.

The investigation was initiated on June 7, 1976 in response to a worker petition dated May 29, 1976 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' shoes at the Belle, Missouri plant of International Shoe Co.

The notice of investigation was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26299). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the International Shoe Co., the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met.

The evidence developed in the Department's investigation reveals that employment at the Belle, Missouri plant of International Shoe Co. decreased 9 percent in 1975 compared to 1974. This decrease was due primarily to a 32 percent decrease in the first quarter of 1975 from the first quarter of 1974. Since May 29, 1975, the first date on which separated workers could possibly be certified as eligible to apply for trade adjustment assistance, employment has risen steadily. Employment was 34 percent higher in the second quarter of 1975 than the first, 8 percent higher in the third than in the second and 3 percent higher in the fourth quarter than the third. Average employment in the first 5 months of 1976 was 27 percent higher than the first 5 months of 1975.

Average weekly hours worked by production workers at the Belle plant were 20 percent higher in the year beginning May 29, 1975, the first date in which workers could possibly be certified as eligible to apply for trade adjustment assistance, than in the previous year.

Production at the Belle plant decreased 9 percent in quantity and 1 percent in value in 1975 compared to 1974. This decrease was due to a decrease of 56 percent in quantity, and 53 percent in value in the first quarter of 1975 compared to the first quarter of 1974.

Since the first quarter of 1975, production increased in each quarter, compared to the previous quarter. Production was 85 percent higher in the second quarter than the first, 12 percent higher in the third quarter than the second, and 3 percent higher in the fourth quarter than the third. Production was 59 percent higher in quantity and 63 percent higher in value for the first 5 months of 1976 than for the first 5 months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at the Belle, Missouri plant of International Shoe Company have not become nor are threatened with becoming totally or partially separated as required under section 222 (1) of the Act. I further conclude that sales or production, or both, of the Belle, Missouri plant of International Shoe Company have not decreased absolutely as required under section 222 (2) of the Act. Therefore, workers of the Belle, Missouri plant of International Shoe Company are not eligible to apply for trade adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27364 Filed 9-16-76;8:45 am]

[TA-W-956]

JO-GAL SHOE, INC., LAWRENCE, MASSACHUSETTS

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-956: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 29, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing infants', children's, and misses' shoes at Jo-Gal Shoe, Incorporated, Lawrence, Massachusetts, a subsidiary of Morse Shoe Company, Canton, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on July 23, 1976 (41 FR 30418). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jo-Gal Shoe, Incorporated, and Morse Shoe Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether either of the other criteria has been met, criteria (1) and (2) have not been met.

Jo-Gal produces on order and production closely approximates sales. Sales at Jo-Gal increased by 50 percent from 1974 to 1975, and increased by 18 percent in the first six months of 1976 compared to the same period of 1975. Sales increased in each quarter of 1975 and in the first two quarters of 1976 compared to the respective quarter of the previous year.

Average employment at Jo-Gal increased by 27 percent from 1974 to 1975, and increased by 21 percent in the first five months of 1976 compared to the same period of 1975. Average employment increased in each quarter of 1975 compared to the same quarter of the previous year, and in the first quarter of 1976 compared to the first quarter of 1975.

Average weekly hours worked by production workers at Jo-Gal increased 8.2 percent from 1974 to 1975. Average weekly hours declined 2.7 percent in the first five months of 1976 compared to the first five months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production, or both, at Jo-Gal have not decreased absolutely, and that a significant number of proportion of workers at Jo-Gal Shoe, Incorporated, Lawrence, Massachusetts have not become totally or partially separated, as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 2d day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27365 Filed 9-16-76;8:45 am]

[TA-W-930]

LOWENGART CORP., PONCE, PUERTO RICO

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-930; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 16, 1976 in response to a worker petition received on June 16, 1976 which was filed on behalf of workers and former workers of the Ponce, Puerto Rico Tanning Division of Lowengart Corporation.

The notices of investigation were published in the FEDERAL REGISTER on July 23, 1976 (41 FR 30419). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Lowengart Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in section 222(3) of the Act. See Notice of Negative Determination in "Pan American World Airways, Incorporated" (TA-W-153; 40 FR 54630). Further, Section 223(b) of the Act states that no certification shall apply to any employee separated more than one year prior to the date of the petition—in this case May 28, 1976.

Subsequent to December 1974, the facility used by the Ponce, Puerto Rico Tanning Division of Lowengart Corporation has functioned as a warehouse. The employees at the Ponce facility have been engaged in work related to the receiving, storing and shipping of raw cattle hides. The Ponce Tanning Division purchases hides from various sources in Puerto Rico and sells the same hides to tanneries, not affiliated with Lowengart Corporation, located primarily in the Dominican Republic.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by workers at the Ponce, Puerto Rico Tanning Division of Lowengart Corporation are not "articles" within the meaning of section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-27366 Filed 9-16-76;8:45 am]

[TA-W-1034]

MERAMEC INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 20, 1976 the Department of Labor received a petition dated August 3, 1976 which was filed under section 221 (a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America on behalf of the workers and former workers of Meramec Industries, Inc., Sullivan, Missouri, a wholly-owned subsidiary of Fashion Shoe Products, Inc. Sullivan, Missouri (TA-W-1034). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with thermoplastic soles and heels produced by Meramec Industries, Inc. 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. The investigation will further related, 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case, is 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 20th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27367 Filed 9-16-76;8:45 am]

[TA-W-846]

METTOWEE LUMBER AND PLASTICS COMPANY, INC., GRANVILLE, NEW YORK

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-846; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed by the United Furniture Workers of America on behalf of workers and former workers producing lumber and plastics at the Granville, New York plant of the Mettowee Lumber and Plastics Company, Inc., a wholly owned subsidiary of the Telescope Folding Furniture Company of Granville, New York.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20954). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mettowee Lumber and Plastics Company, Inc., Telescope Folding Furniture Company, and its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, the third criterion and the fourth criterion have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment at Mettowee increased 20.0 percent from 1973 to 1974, and then declined 66.7 percent from 1974 to 1975. Employment fell in each quarter of 1975 as compared to the corresponding quarters of the previous year.

SALE OF PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

The dollar value of total sales at Mettowee increased 20.2 percent from 1973 to 1974 and then declined 25.1 percent from 1974 to 1975.

Sales at Mettowee are directly related to sales of wooden and metal casual and outdoor furniture at the Telescope Folding Furniture Company, Granville, New York for which Mettowee is a captive supplier.

Production at Mettowee is equivalent to sales.

INCREASED IMPORTS

Imports of metal outdoor furniture increased both absolutely and relatively in each year from 1971 through 1974. Imports decreased absolutely by 11.5 percent from 1974 to 1975. Domestic production increased 3.0 percent during the same period. The ratios of imports to domestic production and consumption decreased from 38.3 percent and 28.6 percent, respectively, in 1974 to 32.8 percent and 25.6 percent, respectively, in 1975. Import data for 1976 were not available.

Imports of wood outdoor chairs increased both absolutely and relatively in each year from 1971 through 1974. Imports decreased absolutely by 8.1 percent from 1974 to 1975. Domestic production increased 3.1 percent during the same period. The ratios of imports to domestic production and consumption decreased from 12.7 percent and 11.3 percent, respectively, in 1974 to 11.3 percent and 10.2 percent, respectively, in 1975. Imports increased absolutely by 33.3 percent in the January through April 1976 period when compared to the same period of the previous year. Domestic production data were not available for 1976.

Imports of wood director chairs increased absolutely from from 1971 to 1972. Imports decreased absolutely from 1972 through 1975. Imports increased 112.5 percent in the January through April 1976 period as compared to the same period in 1975. Domestic production data for wood director chairs were not available.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that Mettowee is a captive supplier of raw materials to Telescope Folding Furniture Company which uses Mettowee's lumber and plastic in the production of casual and outdoor furniture. Customers of Telescope do not purchase imported casual or outdoor furniture.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with wooden and metal outdoor and casual furniture produced at the Telescope Folding Furniture Company, Inc., for which the Granville, New York plant of the Mettowee Lumber and Plastics Company is a captive supplier of raw materials, did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27368 Filed 9-16-76;8:45 am]

[TA-W-675]

MIRANDO MANUFACTURING COMPANY, INC., ELIZABETH, NEW JERSEY

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-675: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 19, 1976 in response to a worker petition received on March 19, 1976 which was filed by the Amalgamated Clothing Workers of America, on behalf of workers and former workers producing men's leather jackets at the Elizabeth, New Jersey plant of Mirando Manufacturing Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on April 2, 1976 (41 FR 14223). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mirando Manufacturing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT PARTIAL OR TOTAL SEPARATIONS

The average number of workers at Mirando increased 6.7 percent from 1973 to 1974 and then declined 6.2 percent from 1974 to 1975. Employment declined 5.6 percent from the fourth quarter of 1974 to the first quarter of 1975. In the second and third quarters of 1975, employment declined 38.1 percent and 5.3 percent, respectively when compared to the second and third quarters of 1974. Employment remained stable in the four quarter of 1975 when compared to the fourth quarter of 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Mirando is not involved in the final sale of finished products.

Production of men's leather jackets declined 39.5 percent from 1973 to 1974 and declined 9.7 percent from 1974 to 1975. In the second and third quarters of 1975, production declined 59.2 percent and 9.1 percent, respectively, compared to the same quarters of 1974. In the fourth quarter of 1975 production increased 28.1 percent compared to the fourth quarter of 1974.

INCREASED IMPORTS

Imports of men's, women's and children's leather coats and jackets increased absolutely in each year from 1971 through 1975. Imports increased 25.3 percent from 1974 to 1975. Domestic production of men's, women's, and children's leather coats and jackets increased 9.5 percent during the same period. The ratios of imports to domestic production and consumption increased from 58.6 percent and 37.2 percent, respectively, in 1974 to 67.1 percent and 40.4 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation indicated that customers reduced purchases of leather jackets from Mirando as a result of competition from imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's leather jackets produced at the Elizabeth, New Jersey plant of Mirando Manufacturing Co., Inc. contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's leather jackets at the Elizabeth, New Jersey plant of Mirando Manufacturing Company, Incorporated who became totally or partially separated from employment on or after February 17, 1975 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974. All employees totally or partially separated on or after October 1, 1975 are denied certification.

Signed at Washington, D.C., this 4th day of August 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27369 Filed 9-16-76;8:45 am]

[TA-W-1,032]

REXNORD, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 20, 1976 the Department of Labor received a petition dated August 10, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Milwaukee, Wisconsin plant of Rexnord-Nordberg Machinery Group of Rexnord, Inc., Milwaukee, Wisconsin (TA-W-1,032). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with frames, bowls, and rings for crushers produced by Rexnord, Incorporated 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case is 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27370 Filed 9-16-76;8:45 am]

[TA-W-845]

TELESCOPE FOLDING FURNITURE COMPANY, INC., GRANVILLE, NEW YORK

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-845: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations was initiated on April 30, 1976 in response to a worker petition received on April 30, 1976 which was filed by the United Furniture Workers of America on behalf of workers and former workers producing wooden and metal outdoor and casual furniture at the Granville, New York plant of the Telescope Folding Furniture Company,

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20968). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Telescope Folding Furniture Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) 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;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, the third criterion and the fourth criterion have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at Telescope increased 4.0 percent from 1973 to 1974, and then declined 32.5 percent from 1974 to 1975. Production employment fell in each quarter of 1975 compared to the respective quarters of the previous year. In the first quarter of 1976, production employment increased 9.9 percent compared to the same quarter of the previous year.

Average annual employment of management workers increased 3.5 percent from 1973 to 1974, and then declined 9.5 percent from 1974 to 1975. Employment fell in each quarter of 1975 and in the first quarter of 1976 compared to the respective quarter of the previous year.

Imports of wood director chairs increased absolutely from 1971 to 1972. Imports decreased absolutely in each year from 1972 through 1975. Imports increased absolutely by 112.5 percent in the January through April 1976 period compared to the same period of the previous year. Domestic production data for wood director chairs were not available.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that customers of Telescope surveyed do not purchase imported casual or outdoor furniture.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with wooden and metal outdoor and casual furniture produced at the Granville, New York plant of the Telescope Folding Furniture Company, Inc., did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 9th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27371 Filed 9-16-76;8:45 am]

[TA-W-1052]

STANDARD MANUFACTURING CO.

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance

On August 30, 1976, the Department of Labor received a petition dated August 18, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Standard Manufacturing Company, Troy, New York (TA-W-1052). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and boys' outerwear produced by Standard Manufacturing Company 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The dollar value of total sales at Telescope increased 20.0 percent from 1973 to 1974, and then declined 12.1 percent from 1974 to 1975. Sales for the first quarter of 1976 increased 30.9 percent as compared to the first quarter of 1975.

Total production at Telescope increased 5.1 percent from 1973 to 1974 and then declined 33.5 percent from 1974 to 1975. Production increased 17.2 percent in the first quarter of 1976 when compared to the first quarter of 1975.

INCREASED IMPORTS

Imports of metal outdoor furniture increased both absolutely and relatively in each year from 1971 through 1974. Imports decreased absolutely by 11.5 percent from 1974 to 1975. Domestic production increased 3.0 percent during the same period. The ratios of imports to domestic production and consumption decreased from 38.3 percent and 28.6 percent, respectively, in 1974 to 32.8 percent and 25.6 percent, respectively, in 1975. Import data for 1976 were not available.

Imports of wood outdoor chairs increased both absolutely and relatively in each year from 1971 through 1974. Imports decreased absolutely by 8.1 percent from 1974 to 1975. Domestic production increased 3.1 percent during the same period. The ratios of imports to domestic production and consumption fell from 12.7 percent and 11.3 percent, respectively, in 1974 to 11.3 percent and 10.2 percent, respectively, in 1975. Imports increased absolutely by 33.3 percent in the January through April 1976 period as compared to the same period of 1975. Domestic production data for 1976 were not available.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case is 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 NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27372 Filed 9-16-76;8:45 am]

[TA-W-955]

VULCAN MOLD AND IRON CO., LATROBE, PENNSYLVANIA

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-955: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 29, 1976 in response to a worker petition received on June 29, 1976 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers and former workers producing ingot molds at the Latrobe, Pennsylvania plant of the Vulcan Mold and Iron Company.

The notice of investigation was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29523). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Vulcan Mold and Iron Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (3) and (4) have not been met.

There are no separately identifiable import statistics on igot molds in the Tariff Schedules of the United States Annotated (TSUSA). The evidence developed by the Department during the course of the investigation reveals that industry sources state that imports of ingot molds are negligible. Customers of Vulcan Mold and Iron Company have not imported ingot molds during the last 3 years.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports did not contribute importantly to the decline in sales, production and employment at the Latrobe, Pennsylvania plant of Vulcan Mold and Iron Company and therefore workers at Vulcan Mold and Iron Company are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 2nd of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-27373 Filed 9-16-76;8:45 am]

[TA-W-1,033]

WEYENBERG SHOE MANUFACTURING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On August 20, 1976 the Department of Labor received a petition dated August 11, 1976 which was filed under section 221 (a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers Union on behalf of the workers and former workers of the Westport plant, Portage, Wisconsin of Weyenberg Shoe Manufacturing Co., Milwaukee, Wis. (TA-W-1,033). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's dress shoes produced by Weyenberg Shoe Manufacturing Co. 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 September 27, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1976.

The petition filed in this case is 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 20th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-27374 Filed 9-16-76;8:45 am]

Wage and Hour Division

[Administrative Order No. 647]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Appointment; Convention; Notice of Hearings

1. Pursuant to section 5 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR Part 511, I hereby appoint the following industry committees for the indicated industries:

Committee No.:	*Industry*
137	Tobacco manufactures industry in Puerto Rico.
138-A	Women's and children's underwear and women's blouse industry in Puerto Rico.
138-B	Business, professional, and miscellaneous services industry in Puerto Rico.

2. These industries are defined as indicated below:

a. The tobacco manufactures industry in Puerto Rico is defined as follows: The processing of leaf tobacco including, but without limitation, the grading, fermenting, stemming, chopping, packing, storing, drying, and handling of tobacco; and the manufacture of cigarettes, cigars, cheroots, little cigars, snuff, chewing tobacco, and smoking tobacco.

b. The women's and children's underwear and women's blouse industry in Puerto Rico is defined as follows: The knitting or manufacture from woven or knit fabric, of women's, misses', girls', boys' size 6X or under, and infants' underwear and nightwear, including but not by way of limitation, slips, petticoats, nightgowns, negligees, panties, undershirts, briefs, shorts, pajamas, sleepers, and similar articles; and the manufacture of women's and misses' blouses, shirts, waists, and neckwear (including collar and cuff sets but excluding scarves): *Provided, however,* That the industry shall not include any product or activity included in the corsets, brassieres, and allied garments industry in Puerto Rico; or the outlining or embroidery of lace by machine, or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

c. The business, professional, and miscellaneous services industry in Puerto Rico is defined as the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education, or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or to the consumer; and the production of photographs and blueprints, the production and distribution of motion pictures and all activities incidental thereto; and all nonmanufacturing activities which are not included in the definitions of other industries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

3. Pursuant to section 8 of the Fair Labor Standards Act of 1938 (29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

a. Convene the above-appointed industry committees;

b. Refer to the industry committees the question of the minimum rates to be

fixed for the above-mentioned industries in Puerto Rico.

c. Give notice of the hearings to be held by the several committees at the times and place indicated. The committees shall investigate conditions in the industries, and the committees, or any authorized subcommittee thereof, shall hear witnesses and receive such evidence as may be necessary or appropriate to enable the committees to perform their duties and functions under the aforementioned Act.

Industry Committee No. 137 will meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 10 a.m. on Monday, November 15, 1976.

Industry Committee No. 138–A will meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 10 a.m. on Monday, November 29, 1976.

Following this hearing Industry Committee No. 138–B will immediately convene to conduct its investigation and begin its public hearing.

The hearings will take place in the offices of the Wage and Hour Division on the fourth floor of the New Federal Office Building, Carlos Chardon Street, Hato Rey, Puerto Rico.

4. The rate or rates recommended by the committees shall not exceed the rates prescribed by section 6(a) of the Act, namely $2.30 an hour after December 31, 1975, for those classifications covered before the Fair Labor Standards Amendments of 1966; nor those rates prescribed by section 6(b) of the Act, namely, $2.20 an hour during the year beginning January 1, 1976, nor $2.30 an hour after December 31, 1976, for those classifications brought under the Act by the Fair Labor Standards Amendments of 1966.

Each industry committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, or American Samoa; except that each committee shall recommend the minimum rates prescribed in section 6(a) or section 6(b), unless there is substantial documentary evidence including pertinent unabridged profit and loss statements and balance sheets for a representative period of years which establishes that the industry or a predominate portion thereof, is unable to pay the wage.

5. Whenever an industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities in the industry than may be determined for other employees in that industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10 which will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classification, and in determining the minimum wage rates for such classifications, the industry committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

6. The Administrator shall prepare an economic report for the industry committees containing such data as he is able to assemble pertinent to the matters referred to them. Copies of such reports may be obtained at the National and Puerto Rican offices of the Wage and Hour Division of the U.S. Department of Labor as soon as they are completed and prior to the hearings. The industry committees shall take official notice of the facts stated in the economic reports to the extent that they are not refuted at the hearing.

7. The procedure of industry committees shall be governed by 29 CFR Part 511. Interested persons wishing to participate in the hearings shall file prehearing statements, as provided in 29 CFR 511.8 containing the data specified in that section not later than 10 days before the first hearing date set for each committee as set forth in this notice of hearing i.e. November 5, 1976 for matters to be considered by Industry Committee No. 137; and November 19, 1976 for matters to be considered by Industry Committees No. 138–A and 138–B.

Signed at Washington, D.C., this 13th day of September 1976.

W. J. USERY, Jr.,
Secretary of Labor.

[FR Doc.76-27351 Filed 9-16-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 145]

ASSIGNMENT OF HEARINGS

SEPTEMBER 14, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 730 (Sub-No. 373), Pacific Intermountain Express Co., now assigned November 8, 1976 at Des Moines, Iowa, has been postponed indefinitely.

MC 141665, Peninsula Bus Co., Inc. now assigned September 23, 1976 at Newark, New Jersey is now cancelled, application dismissed.

MC 133916, O'Nan Transportation Company, Inc., MC 133916 Sub 3, O'Nan Transportation Company, Inc., MC 134817 (Sub-No. 1), Owenton Express, Inc., MC 134817, Owenton Express, Inc., MC 136018, Tri-City Express, Inc. and MC-F-12774, O'Nan Transportation Company, Inc.—Investigation of Control—Owenton Express, Inc., now assigned September 27, 1976, at Frankfort, Ky. is postponed to November 15, 1976, (1 week), at the Capitol Plaza, G-2, Ground Level, Frankfort, Kentucky.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-27383 Filed 9-16-76;8:45 am]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Mandatory Car Service Rules

[Ex Parte No. 241; 2nd Rev. Exemption No. 111]

Upon further consideration of Exemption No. 111 issued March 3, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 111 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire December 15, 1976.

This amendment shall become effective September 15, 1976.

Issued at Washington, D.C., September 7, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-27382 Filed 9-16-76;8:45 am]

[Ex Parte No. 241; 2nd Rev. Exemption No. 116]

GRAND TRUNK WESTERN RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 116 issued March 6, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 116 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire December 15, 1976.

This amendment shall become effective September 15, 1976.

Issued at Washington, D.C., September 7, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76-27381 Filed 9-16-76;8:45 am]

TRANSPORTATION OF "WASTE"
Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC 85, 124 MCC 583 (1976).

An original and one copy of protests against applicant's participation may be filed with the Interstate Commerce Commission on or before October 7, 1976. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-15-76 (Special Certificate—Waste Products), filed August 26, 1976. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: James P. O'Donnell (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse,* between points in the United States (except Alaska and Hawaii), in furtherance of a recognized pollution control program sponsored by Donco Paper Supply Co. at Chicago, Ill., for the purpose of recovering industrial waste for recycling.

P-16-76 (Special Certificate—Waste Products), filed August 27, 1976. Applicant: CONTRACTORS CARGO COMPANY, 11100 South Garfield Ave., South Gate, Calif. 90280. Applicant's representative: G. J. Wheeler (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *forest products, paper, paper products, rags, chemicals, chemical solutions, scrap metals, scrap metal alloys, waste electrical products, scrap automobile bodies, glass, petroleum, petroleum products, plastic and plastic products,* between points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, in furtherance of recognized pollution control programs sponsored by: (1) National Metal & Steel Corp. of Terminal Island, Calif., for the purpose of recycling shredded auto bodies; (2) Clean Steel, Inc. of Long Beach, Calif., for the purpose of shredding smashed auto bodies and disposing of dirt; (3) Timco of Long Beach, Calif., for the purpose of recycling aluminum into ingots; (4) Lincoln Machinery of Santa Fe Springs, Calif., for the purpose of salvaging and reusing mining, construction and industrial machinery and equipment; and (5) Nelson Equipment Co. of Santa Fe Springs, Calif., for the purpose of recycling industrial sludge and mine waste to improve farmland.

P-17-76 (Special Certificate—Waste Products), filed August 25, 1976. Applicant: CHARLES GAJDA AND CHESTER GAJDA, a Partnership, doing business as GAJDA TRUCKING COMPANY, R.D. No. 3, Volant, Pa. 16156. Applicant's representative: John A. Pillar, The Colonial Building, 205 Ross Street, Pittsburgh, Pa. 15219. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *millscale, swarf grindings, and flue dust,* between points in Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia, in furtherance of a recognized pollution control program sponsored by P. Pettler Company of Beaver Falls, Pa., for the purpose of recycling steel mill and related production plant waste for reuse by the iron and steel industries.

NOTE.—Applicant presently holds Waste Products Certificate No. P-6-73.

P-18-76 (Special Certificate—Waste Products), filed, August 20, 1976. Applicant: HAULMARK TRANSFER, INC., P.O. Box 343, Stenersen Lane, Cockeysville, Md. 21030. Applicant's representative: F. Vernon Schmidt (same address as above). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *waste paper, rags, and metals,* between points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia, in furtherance of recognized pollution control programs sponsored by: (1) Castle & Overton, Inc. of Bridgeport, Pa.., for the purpose of recycling waste secondary fibers (paper); (2) Gordon Waste Company, Inc., of Columbia, Pa., for the purpose of brokering waste paper for recycling; (3) Container Corporation of America of Philadelphia, Pa., for the purpose of recycling waste paper; and (4) Schapiro & Whitehouse, Inc. of Baltimore, Md., for the purpose of grading textile wastes and waste paper.

NOTE.—Applicant presently holds Waste Products Certificate No. P-4-72 (as Hollstein Transfer, Inc.).

P-19-76 (Special Certificate—Waste Products), filed August 24, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse* (except in bulk), between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, in furtherance of recognized pollution control programs sponsored by: (1) American Paper Stock Company of Indianapolis, Ind., for the purpose of brokering waste paper for recycling; (2) Annadale Scrap Co., Inc. of Akron, Ohio, for the purpose of brokering and processing iron and steel scrap and non-ferrous metals for reuse; (3) Container Corporation of America of Detroit, Mich., for the purpose of brokering and recycling waste paper; (4) Container Corporation of America of Carol Stream, Ill., for the purpose of brokering waste corrugated containers, box cuttings, newsprint, and mixed papers; (5) Grossman and Sons, Inc. of Columbus, Ohio, for the purpose of brokering waste paper and waste rags.

(6) Handler Sons Compressed Steel Corp. of Columbus, Ohio, for the purpose of segregating and processing nonferrous scrap materials; (7) Michigan Paper Stock Co. of Southfield, Mich., for the purpose of brokering waste newspaper, corrugated mixed paper, tabulating cards, magazines, and various paper; (8) North American Paper Co. of Columbus, Ohio, for the purpose of brokering secondary fibre products; (9) Northwest Salvage Company, Inc. of Chicago, Ill., for the purpose of grading and brokering waste paper, scrap iron, metals and rags; (10) The Salvation Army of Wheeling, W. Va., for the purpose of brokering waste rags and items not resaleable; (11) Segal Schadel of Columbus, Ohio, for the purpose of recycling waste paper; (12) The Salvation Army of Indianapolis, Ind., for the purpose of brokering domestic waste items for reuse; (13) League For The Handicapped—Goodwill Industries of Detroit, Mich., for the purpose of collection, renovation, and resale of usable discards by handicapped persons; (14) H. Muehlstein & Co., Inc. of Greenwich, Conn., for the purpose of recycling waste rubber, plastic, and synthetic rubber; and (15) The Salvation Army of Fort Wayne, Ind., for the purpose of brokering domestic waste items for reuse.

NOTE.—Applicant presently holds Waste Products Certificate No. P–15–72.

P–20–76 (Special Certificate—Waste Products), filed August 31, 1976. Applicant: McALISTER TRUCKING COMPANY, doing business as, MATCO P. O. Box 2377, Abilene, Tex. 79604. Applicant's representative: Leslie N. Oldham (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *scrap automobiles, scrap metal,* and *ferrous and nonferrous waste,* between points in the United States (except Alaska and Hawaii), in furtherance of a recognized pollution control program sponsored by Century Enterprises of Denver, Colo., for the purpose of collecting both private industry and city and municipal government waste for recycling.

NOTE.—Applicant presently holds Waste Products Certificate No. P–3–74.

P–21–76 (Special Certificate—Waste Products), filed August 30, 1976. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse,* between points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming, in furtherance of pollution control programs sponsored by: (1) Brockway Glass Company, Inc. of Brockway, Pa., for the purpose of recycling broken glass or cullet; (2) Liberty Glass Company of Sapulpa, Okla., for the purpose of recycling nonreturnable glass containers; and (3) Stag Sales Co., Inc. of Tulsa, Okla., for the purpose of recycling aluminum cans and non-returnable glass bottles.

NOTE.—Applicant presently holds Waste Products Certificate No. P–3–73.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–27384 Filed 9–16–76;8:45 am]

[Notice No. 30]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

SEPTEMBER 17, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following number proceedings on or before October 7, 1976. Pursuant to Section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76385. By order entered September 10, 1976 the Motor Carrier Board approved the transfer to Eddie L. Bell and Verdean Bell, a partnership, doing business as Bell Transfer, Winner, South Dakota the operating rights set forth in Certificate No. MC 58495 Sub-No. 1, issued December 15, 1964, to Howard Schramm (Charles H. Schramm, Administrator) and Herbert Schramm (Harriet C. Schramm, Administratrix), a partnership, doing business as Schramm Transfer, Winner, South Dakota, authorizing the transportation of general commodities between Winner, S. Dak., and White River, S. Dak., serving the intermediate points of Witten, Mosher, and Wood, S. Dak., over specified regular routes. Ruben G. Maulis, Esq., 338 South Main Street, Winner, South Dakota, 57580, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR. Doc.76–27385 Filed 9–16–76;8:45 am]

[AB 5 Sub-No. 161]

MONONGAHELA RAILWAY COMPANY ABANDONMENT SCOTTS RUN BRANCH, RANDALL, IN MONONGALIA COUNTY, WEST VIRGINIA

SEPTEMBER 9, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed abandonment by the Monongahela Railway Company of its Scotts Run Branch extending approximately 15.6 miles in a westerly direction from Randall, W. Va., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321, et seq., and the preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that because of a lack of demand no traffic has operated over the line since February 1967 and the low volume of traffic handled by the branch at that time has since been accommodated by other modes with minimal environmental alteration. Although the line previously served a number of mines in the area, the primary coal seam has been virtually exhausted and current mining activities are limited. An industrial park is being developed adjacent to the subject line but the types of industry which are planned for the site would not be dependent on rail service.

The county has expressed interest in acquiring portions of the subject right-of-way for use as a utility corridor.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before October 21, 1976.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–27383 Filed 9–16–76;8:45 am]

[Notice No. 122]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 14, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106433 (Sub-No. 11TA), filed September 1, 1976. Applicant: ANTRIM TRANSPORTATION CO., INC., 7-11 Suffern Place, Suffern, N.Y. 10901. Applicant's representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite of Midland Glass Company, Inc., located at or near Cliffwood, N.J., to points in New York; *glass containers*, on return, from points in New York, to the plantsite of Midland Glass Company, Inc., located at or near Cliffwood, N.J., for 180 days. Supporting shipper: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 108297 (Sub-No. 25TA), filed September 7, 1976. Applicant: FOX TRANSPORT SYSTEM, 21 South Fifth St., Philadelphia, Pa. 19106. Applicant's representative: James Fox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cable scrap, lead covered copper and reels, cable, electric*, on vehicles with specialized equipment for loading and unloading, between points in Cumberland, Dauphin, Perry, Lancaster, and York Counties, Pa., on the one hand, and, on the other, Kearny, N.J., and Tottenville, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Telephone & Telegraph Co., 5554 Port Royal Road, Springfield, Va. 22151. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 118039 (Sub-No. 29TA), filed September 7, 1976. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner St., S.W., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith; Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the plantsite of Miller Brewing Company, at Fort Worth, Tex., to points in Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 7 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof, which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 123765 (Sub-No. 7TA), filed September 3, 1976. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, Wis. 53204. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, between the retail outlets, storage facilities and distribution centers of H. C. Prange Co., in Wisconsin, on the one hand, and, on the other, the retail outlets and storage facilities of H. C. Prange, at or near Marquette, Mich., restricted to traffic originating at or destined to the said retail outlets, storage facilities and distribution centers of H. C. Prange Company, for 180 days. Supporting shipper: H. C. Prange Co., 504 N. Adams, Green Bay, Wis. 54301. Send protests to: Gail A. Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 127834 (Sub-No. 112TA), filed September 3, 1976. Applicant: CHEROKEE HAULING & RIGGING INC., P.O. Drawer, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lift trucks and lift truck attachments* (except commodities which because of size or weight require the use of special equipment), between the facilities of Nissan Industrial Equipment Company, at or near Memphis, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nissan Industrial Equipment Company (Corp.), 2900 Datsun Drive, P.O. Box 161404, Memphis, Tenn. 38116. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 133689 (Sub-No. 79TA), filed September 7, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen* (except commodities in bulk), from the plantsite and storage facilities of Northern Star Company, located in Minneapolis and St. Paul, Minn., to Omaha and North Platte, Nebr., for 180 days. Supporting shipper: Northern Star Company, 3171 5th St., S.E., Minneapolis, Minn. 55414. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136008 (Sub-No. 77TA), filed September 3, 1976. Applicant: JOE BROWN COMPANY, INC., P.O. Box 1669, 20 Third St., N.E., Ardmore, Okla. 73401. Applicant's representative: G. Timothy Armstrong, 6161 N. May Ave., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and fly ash;* (1) *Sand*, from points in Johnston and Pontotoc Counties, Okla., to points in Mobile and Baldwin Counties, Ala.; (2) *Fly ash*, from points in Freestone County, Tex., to points in Mobile and Baldwin Counties, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Halliburton Services, Div. of Halliburton Company, P.O. Box 1431, Duncan, Okla. 73533. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 139495 (Sub-No. 161TA), filed September 7, 1976. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from the facilities of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Tennessee, and Texas, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 140469 (Sub-No. 4TA), filed September 3, 1976. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Ave., Jamaica, N.Y. 11435. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books and educational materials, equipment, and supplies*, between points in New Jersey, New York City, Nassau and Westchester Counties, N.Y., on the one hand, and, on the other, points in Fairfield County, Conn.; New Castle County, Del.; Orange, Putnam, Rockland, and Suffolk Counties, N.Y.; Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., under a continuing contract with Bro-Dart, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bro-Dart, Inc., 1609

Memorial Ave., Williamsport, Pa. 17701. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 141205 (Sub-No. 4TA), filed September 7, 1976. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry St., Denver, Colo. 80222. Applicant's representative: Karl F. Anuta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from oil wells, located in Carbon County, Mont., to refineries and pipeline injection stations, located in Park County, Wyo., under a continuing contract with Husky Oil Company of Delaware, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Company of Delaware, 600 South Cherry St., Denver, Colo. 80222. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 New Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 142414TA, filed August 27, 1976. Applicant: JIMMY WESTERN AND ELMER JOHNSON, 1440 East 23rd St., Jacksonville, Fla. 32206. Applicant's representative: Earl M. Johnson, 625 West Union St., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, in containers* (except commodities in bulk and automobiles), between points in Jacksonville, Fla., and its commercial zone (except Yulee and Fernandina Beach, Fla.), restricted to traffic having a prior or subsequent movement by water, for 180 days. Supporting shippers: Puerto Rico Marine Management, Inc., Blount Island, Jacksonville, Fla. Trailer Marine Transportation Corp., 1045 Bond Ave., Jacksonville, Fla. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142415TA, filed September 7, 1976. Applicant: BAR-MAC CONTRACT CARRIER CORP., P.O. Box D960, Highway 17, Darien, Ga. 31305. Aplicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses* (except commodities in bulk), between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin, under a continuing contract with Jones-Chambliss Co., and Henry's Hickory House, for 180 days. Supporting shippers: Jones-Chambliss Co., and Henry's Hickory House, 2135 Forest St., Jacksonville, Fla. 32205. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 142416TA, filed September 2, 1976. Applicant: HAMILTON TRANSFER STORAGE & FEEDS, INCORPORATED, Highway 26 West, Torrington, Wyo. 82240. Applicant's representative: Rufus Brott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Cheyenne and Casper, Wyo., via I-25 serving all intermediate points and serving off-route points of Natrona County Airport approximately 10 miles west of Casper via U.S. 26 including intermediate points; Wardell Airfield site approximately 10 miles north of Casper, Wyo., via I-25 including all intermediate points; and Paradise Valley approximately 10 miles southwest of Casper via U.S. 220 including all intermediate points; and the off-route points of the Exxon Company U.S.A. 10 miles north of Douglas, Wyo., on State Highway 59 including all intermediate points; (2) between Cheyenne and Torrington, Wyo., via U.S. 85 serving all intermediate points and serving all off-route points in Laramie County east of U.S. 85 and all points in Goshen County; (3) between Torrington, Wyo., and Junctions of U.S. 26 and I-25 west of Dwyer, Wyo., via U.S. 26 serving all intermediate points and all off-route points in Platte County, Wyo., east of I-25; and (4) between Lingle, Wyo., and Orin Junction, Wyo., via Lusk, Wyo., via U.S. 85 to Lusk, Wyo., and thence via U.S. 20 serving all intermediate points and off-route points of Lance Creek, Wyo. Above routes will be tacked at common junction points of Junction I-25 and U.S. 26; Orin Junction (I-25 and U.S. 20) and at Lingle (Junction U.S. 85 and U.S. 26). Applicant requests authority to serve the commercial zones of all points authorized to be served, for 180 days. Supporting shippers: There are approximately 92 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: P. A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006 Federal Bldg. & Post Office, 100 East "B" St., Casper, Wyo. 82601.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-27387 Filed 9-16-76;8:45 am]

[Notice No. 123]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 15, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 100449 (Sub-No. 69TA), filed September 8, 1976. Applicant: MALLINGER TRUCK LINE, INC., R.R. No. 4, Fort Dodge, Iowa 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chicago and Deerfield, Ill., to points in Kansas, Oklahoma, and Texas, restricted to traffic originating at the plantsite and storage facilities of Kitchens of Sara Lee, at or near Deerfield and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 105566 (Sub-No. 128TA), filed September 7, 1976. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 2069, Springfield, Va. 22152. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Waseca, Minn., to points in Arizona, California, Nevada, and Utah, for 180 days. Applicant has also field an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Time, Inc., 330 East 22nd St., Chicago, Ill. 60616. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 106194 (Sub-No. 29TA), filed September 3, 1976. Applicant: HORN TRANSPORTATION, INC., 1600 West 25th St., P.O. Box 1808, Kansas City, Mo. 64141. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of Descriptions in Motor Carrier Certificates, 61 M.C.C. 276, from the plantsite of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Colorado, Kansas, Missouri and Oklahoma, restricted to the transportation of traffic originating at the plantsite or warehouse facilities of Nucor Corporation, located at or near Norfolk, Nebr., and destined to points in the above-named destination states (except for traffic moving in foreign commerce), for 180 days. Supporting shipper: Nucor Steel, a Division Nucor Corporation, P.O. Box 309, Norfolk, Nebr. 68701. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 107452 (Sub-No. 6TA) (Amendment), filed August 12, 1976, published in the FEDERAL REGISTER issue of August 27, 1976, and republished as amended this issue. Applicant: R. D. BROWN, doing business as DAN BROWN TRUCKING, Greybull Heights, Greybull, Wyo. 82426. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and (2) *Machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main and trunk pipeline); (a) between points in Nevada, Montana, Colorado, and Utah, on the one hand, and, on the other, points in that part of North Dakota on and west of a line beginning at the Interational Boundary Line between the United States and Canada and extending along North Dakota Highway 30 through St. John, York, and Medina, to Lehr, thence along unnumbered highway (formerly North Dakota Highway 30) to Ashley and thence along North Dakota Highway 3 to the North Dakota-South Dakota state line and those points in that portion of South Dakota west of the Missouri River and on and north of U.S. Highway 14.

(b) Between points in Wyoming, on the one hand, and, on the other, points in Utah, Colorado, Montana and points in that part of North Dakota on and west of a line beginning at the International Boundary Line between the United States and Canada and extending along North Dakota Highway 30 through St. John, York and Medina to Lehr, thence along unnumbered highway (formerly North Dakota Highway 30) to Ashley and thence along North Dakota Highway 3 to the North Dakota-South Dakota state line and those points in that portion of South Dakota west of the Missouri River and on and north of U.S. Highway 14; and (c) between points in Colorado and Utah, on the one hand, and, on the other, points in that part of Montana on and east of a line beginning at the Montana-Wyoming state line at or near Alada, and extending along U.S. Highway 212 to Miles City, thence along Montana Highway 22 to Jordan, thence northwesterly in a straight line to Malta, and thence along unnumbered highway (formerly Montana Highway 19) to the International Boundary Line between the United States and Canada, for 180 days. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 1006 Federal Bldg., & Post Office, 100 East "B" St., Casper, Wyo. 82601. The purpose of this republication is to amend the territorial description.

No. MC 110420 (Sub-No. 761TA), filed September 8, 1976. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53518. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, in bulk, in tank vehicles, from Cairo, Ill., to points in Alabama, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee and Wisconsin, for 180 days. Supporting shipper: Bunge Corporation, 300 Southwest Blvd., Kansas City, Kans. 66103. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 111302 (Sub-No. 95TA), filed September 7, 1976. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the plantsite of the Rohm & Haas Company, in Louisville, Ky., to points in Illinois, Indiana, Iowa, Ohio, Michigan, Minnesota and Wisconsin, restricted to shipments stopping in transit to complete loading at the plantsite of Rohm & Haas in Louisville and destined to the above-named states, for 180 days. Supporting shipper: Rohm & Haas Company, Independence Mall West, Philadelphia, Pa. 19105. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37219.

No. MC 117119 (Sub-No. 589 TA), filed September 8, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food, food products and food ingredients*, in mechanically refrigerated equipment (except commodities in bulk), from the plant and warehouse facilities of Archer Daniels Midland Company, located in Decatur, Ill., to points in Arkansas, Louisiana, Texas, Oklahoma and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118535 (Sub-No. 90TA), filed September 7, 1976. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Jim Tiona, Jr., (same addres as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, in bulk, in tank vehicles, from Dallas, Tex., to St. Joseph and Kansas City, Mo., Baton Rouge and Shreveport, La., Leavenworth, Kans., and Manchester, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: NL Industries, Inc., 16th & Cleveland Blvd., Granite City, Ill. 62040. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 118831 (Sub-No. 139TA), filed September 3, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 2608, High Point, N.C. 27261. Applicant's representative: Richard E. Shaw, P.O. Box 7007, High Point, N.C. 27261. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil and vegetable oil products*, in bulk, from Charlotte, N.C.,

to points in New York, New Jersey, Alabama and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. & T. Refinery, Inc., 2000 W. Broad St., Richmond, Va. 23220. Send protests to: District Supervisor Andrews, Interstate Commerce Commission, 624 Federal Bldg., 310 New Bern Ave., P.O. Box 26896, Raleigh, N.C. 27611.

No. 119988 (Sub-No. 100TA), filed August 17, 1976. Applicant GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Highway 103 East Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils,* in packages, from the plantsite and warehouses of Mobile Oil Corporation, located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico and Oklahoma; and (2) *Empty containers,* from points in Arkansas, Louisiana, New Mexico and Oklahoma, to Port Arthur, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522, Dallas, Tex. 75206. Send protests to: District Supervisor Mensing, Interstate Commerce Commission, 515 Rusk, Room 8610, Houston, Tex. 77002.

No. MC 123255 (Sub-No. 83TA), filed September 8, 1976. Applicant: B. & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from South Volney, N.Y., to points in Illinois, Indiana, Kentucky and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brewing Company, 4000 West State St., Milwaukee, Wis. 53208. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., & U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 123274 (Sub-No. 5TA), filed September 8, 1976. Applicant: MARSHALL SERVICE, INC., Pearl St., Newfield, N.J. 08344. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Gasoline,* in bulk, from DFSP, Jacksonville and Port Reading, N.J., to New Cumberland and Annville, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DFSC–RA, Bldg., 19–01, McGuire AFB, N.J. 08641. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 123454 (Sub-No. 4TA), filed September 8, 1976. Applicant: LLOYD LEMMENES, doing business as LLOYD LEMMENES TRUCKING, Route 1, Box 128, Burnett, Wis. 53922. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural gypsum, agricultural magnesium sulfate and agricultural specialized fertilizer products,* from Whittemore and Midland, Mich., to points in Wisconsin and from Mayville, Burnett, and Eldorado, Wis., to points in Michigan, under a continuing contract with Farmers Plant Food Co. of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Plant Food Co. of America, 482 Commissioners Road East, London, Ontario. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 135779 (Sub-No. 2TA) (Correction), filed August 3, 1976, published in the FEDERAL REGISTER issue of August 18, 1976, and republished as corrected this issue. Applicant: BALDWIN TRUCKING, INC., 1740 Timothy Drive, San Leandro, Calif. 94577. Applicant's representative: E. H. Griffiths, 1182 Market St., Suite 207, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Palletized empty tin cans,* over irregular routes, from the facilities of Del Monte Corporation, located at Sacramento and Oakland, Calif., to the facilities of Del Monte Corporation, located at Medford and Salem, Oreg., and Vancouver, Toppenish, and Yakima, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Corporation, 1 Market Plaza, Room 316, P.O. Box 3575, San Francisco, Calif. 94119. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102. The purpose of this republication is to correct the territorial description

No. MC 138415 (Sub-No. 13TA), filed September 8, 1976. Applicant: TRAILER EXPRESS, INC., Box 327, Topeka, Ind. 46571. Applicant's representative: Michael M. Yoder, Box 321, Topeka, Ind. 46571. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Camping trailers,* from the plantsite of The Coleman Company, Inc., in Somerset, Pa., to points in the United States (except Alaska and Hawaii), under a continuing contract with The Coleman Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Coleman Company, Inc., 250 North St. Francis, Wichita, Kans. 67201. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 138512 (Sub-No. 16TA), filed September 7, 1976. Applicant: ROLANDS' TRANSPORTATION SERVICE, INC., doing business as, WISCONSIN PROVISIONS EXPRESS, 3383 E. Layton Ave., Cudahy, Wis. 53110. Applicant's representative: Allan J. Morrison (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cheese and cheese products, and equipment, materials and supplies* used in the manufacture and display of cheese and cheese products (except commodities in bulk), (1) between Logan, Utah and Carthage and Monett, Mo.; and (2) between Logan, Utah and points in Iowa and Wisconsin, under a continuing contract with L. D. Schreiber Cheese Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Schreiber Cheese Co., Inc., 1607 Main St., P.O. Box 610, Green Bay, Wis. 54305. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 139938 (Sub-No. 3TA), filed September 8, 1976. Applicant: GLENN R. DUSENBERRY, 1414 Grandview Ave., Muscatine, Iowa 52761. Applicant's representative: Kenneth F. Dudley, P. O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates (except hides and commodities in bulk), from Columbus Junction and Waterloo, Iowa, to points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Rath Packing Company, P. O. Box 330, Waterloo, Iowa 50704. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142082 (Sub-No. 1TA), filed September 9, 1976. Applicant: OLIVER BROWN TRUCKING CO., INC., 1031 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Robert B. Pepper, The Forrest Park Bldg., 168 Woodbridge Ave., Highland Park, N.J. 08940. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Polyurethane foam* (except in bulk), from the facilities of Reeves Brothers, Inc., Curon Division-Metro Plant, Irvington, N.J., to New York, N.Y., Middletown and Spring Valley, N.Y., and points in Nassau County, N.Y.; and (2) *Materials and supplies* used in the manufacturing of Polyur-

ethane foam (except commodities in bulk) from points in Nassau County, N.Y., Spring Valley, Middletown and New York, N.Y., to the facilities of Reeves Brothers, Inc., Curon Division-Metro Plant, Irvington, N.J., under a continuing contract with Reeves Brothers, Inc., Curon Division-Metro Plant of Irvington, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reeves Brothers Inc., 517 Lyons Ave., Irvington, N.J. 07111. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Room 618, Newark, N.J. 07102.

No. MC 142287 (Sub-No. 1 TA) (Correction) filed August 18, 1976, published in the FEDERAL REGISTER issue of August 30, 1976, and republished as corrected this issue. Applicant: TOM YOUNKIN, doing business as TOM YOUNKIN, INC., 821 Sandusky St., Ashland, Ohio 44805. Applicant's representative: Tom Younkin (same address as applicant) Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Liquid latex and liquid plastic* (except in bulk, in tank vehicles) between Ashland, Ohio on the one hand, and, on the other, Dalton, Ga., Wichita, Kans., St. Louis, Mo., Trenton, N.J., Charlotte N.C., points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan (Lower Peninsula) New York, Pennsylvania, Rhode Island, Virginia, West Virginia and Wisconsin, under a continuing contract with General Latex & Chemical Corporation of Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Latex & Chemical Corporation of Ohio, Cleveland Road, Ashland, Ohio 44805. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199. The purpose of this republication is to correct the territorial description.

No. MC 142289 (Sub-No. 1 TA) (Correction) filed August 6, 1976, published in the FEDERAL REGISTER issue of August 18, 1976, and republished as corrected this issue. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Rita Tripodi (same address as applicant) Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: Uncrated: *Glass, prefab woodwork, formica panels, architectural trim, plastic and wooden trim, prefab shutters, plastic shutters, prehung doors and prehung windows, hardware, and materials and supplies* used in connection therewith, uncreated, returned, and rejected material, from Lakewood, N.J., to warehouse site of Level Line, Inc., at or near Allentown, Pa., and returned and rejected material to Lakewood, N.J., under a continuing contract with The Level Line, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Level Line, Inc., James St., Lakewood, N.J. 08701. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608. The purpose of this republication is to correct the commodity description.

No. MC 142360 (Sub-No. 1 TA) filed September 8, 1976. Applicant: SPECIALIZED SERVICE, INC., 320 Hegenberger Road, Suite 31, Oakland, Calif. 94612. Applicant's representative: Daniel W Baker, 100 Pine St., Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Steel shelving and bins, unassembled pallet racks, storage racks, screw cases, storage cabinets and related items,* for the account of Frick-Gallagher Manufacturing Co., from Wellston, Ohio, to points in Arizona, California, Colorado, Oregon, Utah, Washington, Idaho, New Mexico, Texas, Montana, Nevada and Wyoming, under a continuing contract with Frick-Gallagher Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frick-Gallagher Manufacturing Co., 201 S. Michigan Ave., Wellston, Ohio 45692. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 211 Main St., Suite 500, San Francisco, Calif. 94105.

PASSENGER APPLICATION

No. MC 142089 (Sub-No. 1 TA) filed September 8, 1976. Applicant: GOOD NEWS TAXI SERVICE, INC., 64 Ransier Drive, West Seneca, N.Y. 14224. Applicant's representative: James M. Lanzerio, 261 North Seine Drive, Cheektowaga, N.Y. 14227. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Train crews, their baggage and equipment,* between Erie County, N.Y., on the one hand, and, on the other, Altoona, Bradford, Erie, Renova and Sayre, Pa., and Cleveland, Ashtabula and Akron, Ohio, and the United States-Canada International Boundary at Buffalo, N.Y., limited to the transportation of not more than 5 passengers in any one vehicle, not including the driver thereof, under a continuing contract with Consolidated Rail Corporation, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Consolidated Rail Corporation, 495 Paderewski Drive, Buffalo, N.Y. 14212. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-27388 Filed 9-16-76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

HEALTH MAINTENANCE ORGANIZATIONS

Procedures For Continued Regulation and For Reconsideration and Hearings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 110]

HEALTH MAINTENANCE ORGANIZATIONS

Proposed Procedures for Continued Regulation and for Reconsideration and Hearings

The Health Maintenance Organization Act of 1973, Public Law 93-222, added a new Title XIII to the Public Health Service Act, entitled "Health Maintenance Organizations" (HMOs). Regulations under such Title XIII are codified at 42 CFR Part 110, also entitled "Health Maintenance Organizations". Notice is hereby given that the Assistant Secretary of Health, with the approval of the Secretary, proposes to amend Part 110 by adding thereto a new Subpart I, "Continued Regulation of Health Maintenance Organizations and Other Entities", by adding a new Subpart J, "Reconsiderations and Hearings", and by amending the existing Subpart F ("Qualification of Health Maintenance Organizations") to conform to the proposed Subpart J.

The new Subpart I would provide for procedures whereby the Secretary, on the basis of reports submitted, complaints received, or other information available to him, would investigate and determine whether an entity which has received financial assistance under Title XIII or which has been determined to be a qualified HMO has violated the provisions of Title XIII, the regulations issued thereunder, or any assurances which it provided pursuant to such regulations. The proposed regulations then provide that if the Secretary determines that there has been such a violation, he may take certain remedial actions after the applicable appeal and hearing procedures of Subpart J have been exhausted (§ 110.904(d)). Among the remedies available to the Secretary in the case of a qualified HMO are the suspension or revocation of the entity's qualification; the effects of these actions are set forth at proposed §§ 110.905 and 110.906, respectively. Proposed procedures for reinstatement of qualification are set forth at § 110.907, and the proposed bases for release by the Secretary of an entity from compliance with assurances which it provided under Part 110 are set forth at § 110.908.

Proposed Subpart I also requires that entities subject thereto submit, in addition to reports otherwise required by Part 110, such reports as the Secretary may require by Notices published in the FEDERAL REGISTER (§ 110.903(b)). It is anticipated that such a Notice will soon be published.

The proposed Subpart J provides that certain determinations of the Secretary under Part 110 are subject to further administrative action. Thus, an entity whose application for qualification under Subpart F has been denied and an entity which the Secretary has determined under Subpart I has failed to comply with applicable law, regulations, or assurances, would be permitted to request that the Secretary reconsider such determination. Should the reconsidered determination be adverse to the entity, the entity would be permitted to request a hearing thereon. (Subpart F is also proposed to be amended to provide that in the case of a denial of qualification, the entity be notified of its rights under the proposed Subpart J.) Proposed Subpart J also sets forth the procedures for requesting reconsiderations and hearings and the procedures to be used in conducting reconsiderations and hearings.

The new regulations policies of the Department issued July 25, 1976, require that this Notice of Proposed Rulemaking (NPRM) have an implementation plan prepared prior to its issuance. In compliance with these requirements, an implementation plan was forwarded to the Secretary and he has authorized the issuance of this NPRM without the use of a Notice of Intent (NOI) which would otherwise be required by the new policies because:

1. There is an urgent requirement for these regulations.

2. Over an extended period of time there has been significant interaction between the Department and organizations and individuals in the development of this NPRM which has satisfied the spirit and intent of the NOI. Representatives of the Department gave speeches and participated in panel discussions regarding the issues presented on over 30 separate occasions, and otherwise consulted with the HMO industry, employers, and trade associations.

Interested persons are invited to submit written comments, suggestions, or objections with respect to the proposed regulations to the Administrator, Health Services Administration, Parklawn Building, Room 14-05, 5600 Fishers Lane, Rockville, Md. 20852. Comments received on or before November 1, 1976 will be considered in the preparation of final regulations and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

It is hereby proposed to amend 42 CFR Part 110 in the manner set forth below.

(Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1315, 87 Stat. 914-933 (42 U.S.C. 300e-300e-14))

Dated: August 2, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved September 8, 1976.

DAVID MATHEWS,
Secretary.

1. 42 CFR Part 110, Subpart F, "Qualification of Health Maintenance Organizations", is amended by deleting paragraphs (d), (e), and (f) of § 110.605, by redesignating paragraphs (a), (b), and (c) of such section as paragraphs (b), (c), and (d), respectively, and by adding new paragraph (a) and (e) as follows:

§ 110.605 Evaluation and determination of qualification.

(a) The Secretary will publish in the FEDERAL REGISTER a list of the names and addresses of the organizations that have applied for qualification during the preceding month. The notice will indicate for each applicant the proposed service area, waivers sought, proposed organizational form, and the type of qualification sought. Written comments will be invited from any interested party, and all written comments received by the Secretary within 30 days following such publication will be considered by the Secretary in processing the application for qualification.

* * * * *

(e) Upon denial of an application for qualification under this subpart, the Secretary will, in writing, so notify the entity making such application and will advise the entity of its right under Subpart J of this Part to request a reconsideration and a hearing with respect to such denial.

1a. Section 110.606 is added as follows:

§ 110.606 Submission of materials.

(a) All submissions, including applications, supplemental materials, petitions, answers, comments, and other documents, shall be in quadruplicate.

(b) Unless previously submitted to the Secretary, any data and information referred to in any way or relied upon in any submissions must be included in full and may not be incorporated by reference.

(c) All submissions to the Secretary shall be considered as submitted on the date actually received by the Secretary.

2. 42 CFR Part 110 is amended by adding thereto a new Subpart I, to read as follows:

Subpart I—Continued Regulation of Health Maintenance Organizations and Other Entities

Sec.
110.901 Applicability.
110.902 Requirement of continued compliance.
110.903 Reporting requirements.
110.904 Enforcement procedures.
110.905 Effect of suspension of qualification.
110.906 Effect of revocation of qualification.
110.907 Reinstatement of qualification.
110.908 Waiver of assurances.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301-1315, 87 Stat. 914-933 (42 U.S.C. 300e-300e-14).

Subpart I—Continued Regulation of Health Maintenance Organizations and Other Entities

§ 110.901 Applicability.

This subpart applies to any entity which was determined by the Secretary to be a qualified health maintenance organization under Subpart F of this Part, or which provided written assurances to the Secretary in the process of receiving financial assistance under Subparts C, D, or E of this Part.

§ 110.902 Requirement of continued compliance.

Any entity subject to this subpart shall comply with the assurances the entity provided to the Secretary, except as provided under § 110.908.

§ 110.903 Reporting requirements.

Entities subject to this subpart shall submit the following reports:

(a) The appropriate required reports under this Part; i.e., reports developed under the procedures required by § 110.108(o) or required by § 110.205, and,

(b) Such additional reports as the Secretary may require from time to time by Notices to be published in the FEDERAL REGISTER. Such Notices will be published at least 90 days prior to the effective date of the new reporting requirement.

§ 110.904 Enforcement procedures.

(a) *Complaints.* Any person, group, association, corporation, or other entity may file a written complaint with the Secretary regarding the compliance of any entity subject to this subpart with Title XIII of the Act, regulations of this Part, or the assurances given by the entity to the Secretary pursuant to this Part. Such complainant shall demonstrate that all grievance and appeals procedures established by the entity and available to the complainant have been exhausted.

(b) *Investigations.* The Secretary may initiate investigations where, upon the basis of reports which he has received pursuant to this Part, a complaint filed in accordance with paragraph (a) of this section, or any other information available to him, he has reason to believe that an entity subject to this subpart is not in compliance with Title XIII of the Act, or with the regulations of this Part, or with the assurances given by the entity to the Secretary pursuant to this Part. The Secretary will, in writing, notify such entity of the fact that an investigation has been initiated and will provide a brief statement of the matters being investigated. Such written notification shall include an opportunity for the entity being investigated to submit a written report to the Secretary within 30 days of the date of the Secretary's written notification under this paragraph. In his investigation, the Secretary will obtain such information as he may require, employing site visits, public hearings, or any other procedures he deems appropriate.

(c) *Determinations.* On the basis of his investigation, the Secretary will determine whether the entity has failed to comply with Title XIII of the Act, the regulations of this Part, or any assurances given by the entity to the Secretary pursuant to this Part. The Secretary will send a written notification of his determination to the entity and to the complainants, if any, and will advise the entity of its right under Subpart J of this Part to request a reconsideration and a hearing with respect to such determination.

(d) *Remedies.* When the Secretary has determined that an entity has failed to comply with Title XIII of the Act, the regulations of this Part, or any assurances given by the entity to the Secretary under this Part and after the entity has exhausted its right to a reconsideration and a hearing under Subpart J of this Part or the applicable time limit for requesting such a reconsideration or hearing has expired, he may, in addition to any other remedies available to him:

(1) Notify appropriate 314(a) and 314(b) agencies, health systems agencies, State health planning and development agencies, and any other State agencies having jurisdiction over the operation of the entity, of his determination respecting the entity;

(2) Suspend the qualification of the entity, if it is a qualified health maintenance organization: *Provided,* That the Secretary may suspend the entity's qualification before the applicable procedures of Subpart J of this Part have been undertaken where he determines that such an immediate suspension would be in the public interest;

(3) Where the Secretary determines that a suspended health maintenance organization has failed to take the necessary corrective action in accordance with § 110.905(c) or that a qualified health maintenance organization cannot or will not take such appropriate corrective action, revoke the qualification of the health maintenance organization; and

(4) In the case of an entity which received a grant, loan, or loan guarantee under this Part, as a qualified health maintenance organization or was included in a health benefits plan offered to employees pursuant to Subpart H of this Part, initiate a civil action in the United States District Court for the district in which the entity is located to enforce its compliance with any assurances which such entity furnished the Secretary respecting the provision of basic and supplemental health services or its organization and operation.

(e) In the event the Secretary suspends or revokes the qualification of a health maintenance organization, he will publish a notice to such effect in the FEDERAL REGISTER.

§ 110.905 Effect of suspension of qualification.

When a health maintenance organization's qualification is suspended, during the period of such suspension:

(a) The suspended health maintenance organization may not seek inclusion in employees' health benefits plans under Subpart H of this Part;

(b) With respect to employers then including the suspended health maintenance organization in the health benefits plans offered their employees, the suspended health maintenance organization is a qualified health maintenance organization for purposes of Subpart H of this Part.

(c) The suspended health maintenance organization shall take necessary action to correct the deficiencies causing the suspension in accordance with a plan approved by the Secretary, report its progress in taking such action at such times and in such manner as the Secretary may require, and otherwise cooperate with the Secretary in taking such action;

(d) The suspended health maintenance organization is a qualified health maintenance organization for purposes of the financial assistance programs under Subparts C, D, and E of this Part.

§ 110.906 Effect of revocation of qualification.

When a health maintenance organization's qualification is revoked:

(a) The revoked health maintenance organization may not seek inclusion in employees' health benefits plans under Subpart H of this Part.

(b) With respect to employers then including the revoked health maintenance organization in the health benefits plan offered their employees, the revoked health maintenance organization is not a qualified health maintenance organization for purposes of Subpart H of this Part.[1]

(c) The revoked health maintenance organization shall send to all its members, including Federal employee and beneficiary programs, and to all employers with which it has contracts pursuant to Subpart H of this Part, a copy of the Secretary's determination.

(d) The revoked health maintenance organization is not a qualified health maintenance organization for purposes of the financial assistance programs under Subparts C, D, and E of this Part unless and until qualification is reinstated pursuant to § 110.907.

§ 110.907 Reinstatement of qualification.

(a) An entity whose qualification as a health maintenance organization has been suspended by the Secretary may request that the Secretary reinstate its qualification. The Secretary will reinstate such qualification if he finds that the entity meets the applicable requirements of Title XIII of the Act and the regulations of this Part and is complying with the assurances which it provided the Secretary under this Part.

(b) An entity whose qualification as a health maintenance organization has been revoked by the Secretary may reapply for a determination of qualification in accordance with the procedures specified in Subpart F of this Part.

§ 110.908 Waiver of assurances.

The Secretary may, for good cause shown, consistent with the overall interest of Title XIII, release an entity from compliance with any assurances given pursuant to this Part. The Secretary will find such good cause if:

(a) The entity files for reorganization under Federal bankruptcy provisions and such reorganization could only be approved with the waiver of the assurances;

[1] Following the date of revocation, the inclusion of the revoked health maintenance organization in an employee's health benefits plan shall be disregarded for purposes of determining whether, and to what extent, the employer of such employees is subject to Subpart H of this Part.

(b) State laws governing the entity have changed after it signed the assurances so as to prohibit the entity from being organized and operated in a manner consistent with the signed assurances, except to the extent that such changes would be superseded under the authority of section 1311 of the Act; or

(c) Qualification criteria are changed by laws of the United States.

3. 42 CFR Part 110 is amended by adding thereto a new Subpart J, to read as follows:

Subpart J—Reconsiderations and Hearings

Sec.
110.1001 Applicability.
110.1002 Initiation of reconsideration procedures.
110.1003 Form of petition for reconsideration.
110.1004 Dismissal of petition for cause.
110.1005 Reconsideration determination.
110.1006 Right to hearing; time and manner of filing request for hearing.
110.1007 Hearing officer.
110.1008 Disqualification of hearing officer.
110.1009 Time and location of hearing.
110.1010 Parties to the hearing.
110.1011 Notice of hearing.
110.1012 Conduct of hearing.
110.1013 Record of hearing.
110.1014 Hearing decision and notice.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1315, 87 Stat. 914–933 (42 U.S.C. 300e–300e–14).

Subpart J—Reconsiderations and Hearings

§ 110.1001 Applicability.

The regulations of this subpart are applicable to the following determinations made by the Secretary under this Part:

(a) The denial, under § 110.605, of an application for qualification; and

(b) A determination, under Subpart I of this Part, that an entity has failed to comply with Title XIII of the Act, the regulations of this Part, or any assurances which the entity has given the Secretary under the regulations of this Part.

§ 110.1002 Initiation of reconsideration procedures.

(a) Any entity whose application for qualification has been denied under § 110.605 may request that the Secretary reconsider such denial by filing a petition in the form specified in § 110.1003. To be effective, such petition must be in writing and must be received by the Secretary within 60 days following the date of the Secretary's notification of denial.

(b) Any entity which the Secretary has determined, under Subpart I of this Part, has failed to comply with Title XIII of the Act, the regulations of this Part, or any assurances which the entity has given the Secretary under this Part, may request that the Secretary reconsider such determination by filing a petition in the form specified in § 110.1003. To be effective, such petition must be in writing and must be received by the Secretary within 60 days following the date of the Secretary's written notification under § 110.904 of his determination of such a failure to comply.

§ 110.1003 Form of petition for reconsideration.

(a) A petition for reconsideration of a determination described in § 110.1002 shall be submitted in the following form:

1. Date.
2. Name, organizational affiliation, address, and telephone number of petitioner.
3. Determination to be reconsidered.
4. Action requested.
5. Statement of grounds. (A full statement of the factual and legal grounds upon which the petitioner relies.)
6. Signature of petitioner.

(b) Except in the case of a request for reconsideration described in § 110.1002 (a), an entity requesting reconsideration of an initial determination may not make such a request on the basis of data, information, or views not previously provided the Secretary.

§ 110.1004 Dismissal of petition for cause.

The Secretary may, on his own motion, dismiss a petition submitted under § 110.1002 under any of the following circumstances:

(a) *Failure to state a claim.* Where the request is not a request described in § 110.1002 or where the Secretary determines that the grounds stated by the petitioner do not, on their face, support the action requested.

(b) *Previous reconsideration.* Where there has been a previous reconsideration of an initial determination and a reconsidered determination has been issued.

(c) *Petition for review not timely filed.* Where an applicant or petitioner has failed to file a petition for review timely, pursuant to § 110.1002.

(d) *Death of petitioner.* Where the individual who has filed the petition dies and there is no information before the Secretary that an individual other than such individual desires to pursue the petition, the Secretary will send written notice to the original party at his last known address stating that a dismissal for this reason is possible. If within 30 days of the date of such written notice, no individual notifies the Secretary in writing that he wishes to pursue the petition, the Secretary will dismiss the petition.

§ 110.1005 Reconsidered determination.

(a) Except as provided in § 110.1004, where a petition for reconsideration has been filed in accordance with §§ 110.1002 and 110.1003, the Secretary will reconsider the initial determination which is the subject of the petition. At the discretion of the Secretary, such reconsideration may involve public hearings, site visits, or such other procedures as he deems appropriate.

(b) The Secretary will review his records pertaining to the initial determination, the petition, the answer to the petition, if any, such comments which may have been submitted with respect to the petition, and such other materials as may be available to him, and will issue a reconsidered determination which affirms, modifies, or reverses the initial determination.

(c) The Secretary will send written notice of his reconsidered determination to the individual who or entity which petitioned for reconsideration and to such other parties as the Secretary determines have a substantial interest in such reconsideration. In such written notice, the Secretary will advise the appropriate individuals and entities of their right to request a hearing under § 110.1006.

§ 110.1006 Right to hearing; time and manner of filing request for hearing.

(a) Any individual or entity described in § 110.1002 which requested a reconsideration, and with respect to which the Secretary issued an adverse reconsidered determination under § 110.1005, may request a hearing by filing a request for a hearing in accordance with paragraph (b) of this section.

(b) An individual or entity requesting a hearing specified in paragraph (a) of this section shall, within 30 days following the date of the Secretary's written notification under § 110.1005(c), file with the Secretary a written request for a hearing. Such written request shall include a full statement of the factual and legal grounds relied upon and a statement of the action or relief requested.

(c) For good cause shown, the Secretary may extend the 30-day period referred to in paragraph (b) of this section.

§ 110.1007 Hearing officer.

The Secretary will appoint a hearing officer to conduct a hearing requested under § 110.1006.

§ 110.1008 Disqualification of hearing officer.

A hearing officer shall not conduct a hearing in any case in which he is prejudiced or partial in respect to any party, or if he has an interest in the matter before him. Notice of any objection with respect to the hearing officer who will conduct the hearing shall be made by the objecting party at his earliest opportunity. The hearing officer shall consider such objection and shall at his discretion withdraw. If the hearing officer withdraws, the Secretary shall designate another hearing officer to conduct the hearing. If the hearing officer does not withdraw, the objecting party may present his objections in writing to the Secretary at any time prior to the issuance of a decision. Upon receiving such written objections, the Secretary will stay the hearing, review the request, and take appropriate action.

§ 110.1009 Time and location of hearing.

The hearing officer shall fix a time and place for the hearing. The hearing officer may, for a good and sufficient reason, fix a new time or place or both for the hearing, or may adjourn the hearing on his own motion. In such event, the hearing officer shall provide reasonable notification to the parties to the hearing.

§ 110.1010 Parties to the hearing.

(a) The parties to the hearing shall be:

(1) The individual or entity requesting the hearing;

(2) The qualified health maintenance organization and the employer, if any, which are subject to the determination with respect to which the hearing was requested;

(3) The Secretary.

(4) At the discretion of the hearing officer, any interested individual who or entity which makes a showing that its rights may be prejudiced by the decision to be rendered at the hearing; and

(5) Subject to paragraph (b) of this section, any representative of a party described above.

(b) A party may appoint as its representative at the hearing any individual except an individual disqualified or suspended from acting as a representative in proceedings before the Secretary or otherwise prohibited by law. A representative appointed by a party may accept or give on behalf of the party he represents any request or notice relative to any proceeding affecting such a party. A representative shall be entitled to present evidence and allegations as to facts and law in any such proceeding and to obtain information in respect to a request for hearing made in accordance with § 110.1006 to the same extent as the party he represents. Notice to a party of any action, determination, or decision which is sent to the representative of the party shall have the same force and effect as if it had been sent to the party represented.

§ 110.1011 Notice of hearing.

The hearing officer shall send written notice of the hearing to all parties. Such notice shall include the time and place of the hearing, information as to the specific issues to be determined, and the matters on which findings will be made and conclusions will be reached. The notice shall also contain sufficient information about the hearing procedure (including the parties' rights to representation) for effective preparation for the hearing.

§ 110.1012 Conduct of hearing.

(a) *General.* Hearings shall be opened to the parties and to such other persons as the hearing officer deems necessary and proper for the orderly and efficient conduct of the hearing. The hearing officer shall inquire fully into the matters at issue and shall accept as evidence the testimony of witnesses and any documents which are relevant and material to such matters. The parties shall be provided an opportunity to enter any objections to the inclusion of any document. The order in which evidence and allegations shall be presented and the procedure at the hearing, except as this subpart otherwise expressly provides, shall be at the discretion of the hearing officer and of such nature as to afford the parties a proper hearing.

(b) *Evidence.* Evidence may be accepted at the hearing even though inadmissible under the rules of evidence applicable to court procedures. The hearing officer shall rule on the admissibility of evidence.

(c) *Witnesses.* The hearing officer may examine the witnesses and shall allow the parties or their representatives to do so. Parties to the proceedings may also cross-examine witnesses.

§ 110.1013 Record of hearing.

At the request of a party described in § 110.1010, a complete record of the proceedings at the hearing shall be made and transcribed. It shall be made available to the parties upon request and payment of applicable fees.

§ 110.1014 Authority of hearing officer.

The hearing officer in exercising his authority shall comply with the applicable regulations of this subpart.

§ 110.1015 Hearing decision and notice.

(a) The hearing officer shall render a decision in writing based on the evidence in the record, including the administrative file on the initial and reconsidered determinations, petitions, answers, and comments submitted to the Secretary, and materials and evidence submitted in connection with the hearing. In such decision he shall cite applicable law and regulations, as well as findings on all the matters at issue at the hearing. The hearing officer shall provide a copy of the decision to all parties to the hearing.

(b) The decision of the hearing officer shall be final and binding on the parties to the hearing.

[FR Doc.76-27117 Filed 9-16-76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART III:

COUNCIL ON WAGE AND PRICE STABILITY

Employee Health Care Benefits

■

LABOR-MANAGEMENT INNOVATIONS IN CONTROLLING COST

COUNCIL ON WAGE AND PRICE STABILITY

EMPLOYEE HEALTH CARE BENEFITS

Labor and Management Sponsored Innovations in Controlling Cost

TO THE MEMBERS AND ADVISER MEMBERS OF THE COUNCIL ON WAGE AND PRICE STABILITY

This report was undertaken as a follow up to the April publication of the Council's study of "The Problem of Rising Health Care Costs" and in the wake of consultations with management and labor both during and after preparation of that study. These consultations revealed:

The growing concern on the part of union and management officials over the escalating cost of employee health care benefits;

The wide scope of innovative efforts being undertaken by management and labor to deal with the problem;

The heretofore unappreciated potential of the private sector to combat the problem and possibly exert substantial downward pressure on rising health care costs;

How little was known about various innovative measures, scattered as they are across the country, and how other corporate and union officials might profit from knowledge of what their colleagues were attempting.

The report is divided into four parts. An introduction outlines the kinds of cost controls which labor and management are adopting and gives some background information on the various methods of financing and administering health care benefits. The report's second section consists of six case studies describing in detail different innovative approaches to controlling the rising cost of employee health care benefits. The studies discuss both the potential efficacy and problems associated with each approach. These cases may serve as an introduction to the third section, a compendium of 119 individual briefly described cost control projects. Entries in the compendium are organized into nine sections by type of innovation, and alphabetized within each section under the sponsoring union or employer, as well as enumerated. Part four of the report contains two indexes. The first provides a list of contacts' names, addresses, and phone numbers for each sponsor cited on the compendium and the case studies. Sponsors are indexed by their corresponding entry or case study number. All sponsors are indexed alphabetically in the second index.

The case studies focus on the mechanics of initiating cost controls because the report is intended to serve employee benefit administrators as a resource in their search for ways to control costs. To this end, the compendium should give union and management officials a guide to what their peers are doing in this area and where to go to observe working projects.

The report makes no pretense of being the final word in this complex and controversial area. It is a first effort only, hampered by the piecemeal nature and newness of most innovative health care cost containment measures. The range of efforts are relatively new and untried, widely scattered, usually tied to a specific corporation or union, and many attempt to cut costs on the margin rather than undertake a sweeping reform of the health care system. Nevertheless, the study reveals an unacknowledged potential of the private sector to exert influence and control in the area of health care cost inflation. Hopefully, this report will trigger more comprehensive ones and spark more detailed analysis of the success or failure of the innovations mentioned in the report and other approaches initiated by the private sector.

The report is being published initially in the FEDERAL REGISTER in order to give corporate and union officials as well as other interested parties an opportunity to comment on it. The Council will revise the report in light of those comments and then publish it in final form.

The report was researched and written by Jon M. Kingsdale, a consultant to the Council, who was assisted by Zachary Y. Dyckman, senior staff economist, and Susanne J. Tierney, research assistant. It is based on interviews with benefit administrators as well as survey data, generously made available to the Council by the Social Security Department of the AFL-CIO and by the Washington Business Group on Health. We are grateful to Bert Seidman, Director, Social Security Department, and Richard Shoemaker, Assistant Director, Social Security Department, of the AFL-CIO and to Rudy Vignone, Director, Corporate-Government Relations, Goodyear Tire and Rubber Company, and Chairman of the Washington Business Group on Health, and Willis B. Goldbeck, Staff Director of the Washington Business Group on Health, as well as numerous labor and management officials for their enthusiastic and wholehearted cooperation.

WILLIAM LILLEY III,
Acting Director.

LABOR AND MANAGEMENT SPONSORED INNOVATIONS IN CONTROLLING THE COST OF EMPLOYEE HEALTH CARE BENEFITS

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LABOR AND MANAGEMENT SPONSORED INNOVATIONS IN CONTROLLING THE COST OF EMPLOYEE HEALTH CARE BENEFITS

Part One

INTRODUCTION

Purpose of the Report

National expenditures for health care have tripled since 1965, and contributions to employee health care benefit plans are rising in tandem.[1] Responding to these large and persistent increases, employers and unions are supporting a variety of approaches to control the rate of increase in the costs of employee health care. The extent of their support varies from planning and active cooperation with other sponsoring organizations to unilateral design, implementation and financing of innovative programs. These innovations run the gamut from new systems of delivering health care (Health Maintenance Organizations), to relatively minor changes in health insurance policies designed to encourage less costly outpatient care in place of more costly hospital care.

This report indexes significant and innovative approaches taken by labor and management to control health care costs. It consists of six case studies and a preliminary compendium. The compendium cost control innovations is necessarily incomplete, given the number and variety of benefit plans (tens

[1] For an analysis of rising national health care expenditures see the Council on Wage and Price Stability, The Problem of Rising Health Care Costs (April 1976); for data on contributions under employee benefit plans in the private sector see Walter W. Kolodrubetz, "Employee Benefit Plans, 1973," Social Security Bulletin (May 1975), Table H. If the trend in contributions to employee health benefit plans from 1965 to 1973 (the latest year for which data have been published) were projected forward to 1975, it would show contributions in 1975 to be over 300 percent of those in 1965.

of thousands), and the constraints on time and resources available for surveying them. Innovations included in the report appear to offer some promise of moderating cost increases, but their selection implies neither endorsement by the Council on Wage and Price Stability nor any guarantee of their efficacy in controlling costs. They are, simply, a preliminary list of approaches taken by management and labor in hopes of controlling the rise in employee health care benefit costs.

This report is intended to serve as a resource for employee health care benefit administrators and others who may be interested to learn what labor and management are doing to stem the rise in health care costs. It gives clear evidence of a recent upsurge in this area, both in scope of activities undertaken and the degree of priority given to them. Hopefully, this report will stimulate further activity in the private sector to control health care costs without diminishing the quality of, or access to, needed medical care. Perhaps, too, this report will point toward some promising types of innovation as well as a few of the issues to be considered in any evaluation of them.[2]

Structure of Employee Benefit Plans

The structure of employee health care benefit plans varies considerably by source of funding, locus of administrative responsibility, method of determining the level of benefits and contributions, and even the mechanism chosen for reimbursing providers. Administration may be the sole responsibility of management or of labor, or it may be performed jointly by both. The same is true of funding benefit plans and determining the level of contributions and health care coverage. The benefit plan may or may not entail a separate organizational entity—a health and welfare fund—and it may or may not employ an insurance company to reimburse health care providers.

These variations affect the motivation and capacity of management and labor to control employee health care costs. For instance, in the relatively few union-operated plans financed fully by workers, employers have little incentive or ability to minimize costs and maximize benefits. Generally, the party or parties that determine level of coverage, that fund the plan, and that administer it have the greatest influence.

The great majority of workers in private industry are covered under single employer plans financed and administered exclusively by the employers or under multi-employer health and welfare funds administered jointly by labor and management. In the first instance, the employer has a direct financial incentive to control costs since he pays for a specified level of benefits, no matter what they cost. Even if coverage remains unchanged, if utilization or prices of medical services rise, costs will follow. When single employer plans are collectively negotiated as part of a general wage settlement—as is common in steel, rubber, automobile and many other sectors of mass production manufacturing—unions may also feel a strong, if somewhat less direct, incentive to control escalating costs. For rising health care benefit expenditures inevitably reduce the pool of corporate revenues available to finance other items in the general wage package.

SELECTED CHARACTERISTICS OF 61,600 GROUP HEALTH INSURANCE PLANS COVERING 28,875,000 WORKERS IN PRIVATE INDUSTRY, 1974 (PRELIMINARY DATA)

Characteristic	Percentage distribution	
	Plans	Workers (1973)
All plans	100	100
Type of employer unit:		
Single employer	91	72
Multiemployer	9	27
Collective bargaining status:		
In agreement [1]	21	53
Not in agreement	74	44
Not determinable	2	1
Type of worker covered:		
Salaried and production	23	30
Production only	14	29
Salaried only	11	14
Not determinable	43	28
Type of financing:		
Employer	47	63
Jointly by employer and employee	33	25
Employee	3	1
Not determinable	18	11
Type of insurer for hospital benefits:		
Commercial insurance	67	64
Blue Cross-Blue Shield	32	30
Self-insured	1	6

[1] Part of collective bargaining agreement.

SOURCE.—U.S. Department of HEW, Social Security Administration, Office of Research and Statistics.

In multi-employer health and welfare funds the incentives are generally reversed. Of the 7.8 million workers covered by multi-employer plans in the table above, 83 percent are members of collectively bargained plans. Most collectively bargained plans are financed solely by specified employer contributions to a central fund. Since current-year employer contributions are established in advance, they are not affected by inflation. However, the employer has an indirect incentive to control escalating costs since they may necessitate future increases in employer contributions simply to maintain the current level of benefits. The union's incentive is direct and immediate. In the eyes of union rank-and-file, management of a health and welfare fund is generally the responsibility of the union leadership. Escalating costs imperil the ability of the fund to maintain the current level of benefits and may jeopardize any attempt to win more comprehensive benefits in the future. When employees also contribute to multi-employer health and welfare funds, the union's responsibility for controlling costs is especially strong.

Given the impact of funding and administrative arrangements on incentives to control costs, it is no coincidence that all four union-sponsored innovations in this report's case studies were implemented by health and welfare funds to which employers make a specified cash contribution. The three case studies of employer-initiated cost controls happen to be single employer plans administered solely by management and funded by the employer at whatever level is necessary to provide a specified package of health care services.

Preface to Case Studies and Compendium

The six case studies that follow provide detailed descriptions of many of the same kinds of innovations listed in the compendium—namely, HMOs, health planning, prospective peer review, concurrent peer review, alternative methods of reimbursing providers, "self-insurance," and claims review. Some of these approaches, such as HMOs and health planning, address systemwide patterns of health care utilization. Peer review also affects patterns of utilization, though sometimes of a specific kind of service only, such as elective surgery. Still other approaches impact specific costs: the price of prescription drugs or the unwarranted cost of individual claims. Generally, changing utilization patterns offers potentially more comprehensive solutions than controls on specific costs. However, comprehensive approaches often require a long lead time and intensive participation by supporters.

Several types of cost controls listed in the compendium are not described in the case studies. Health education, for example, refers to programs designed to help inform employees how to care for their own health and how best to utilize the existing system of professional care. Coverage of less costly care refers to changes in health care benefits designed to encourage utilization in the least costly and most appropriate setting—home care, ambulatory or outpatient care—instead of more costly inpatient hospital care. Alternative methods of provider reimbursement comprehends a variety of approaches including "self-insurance," innovative billing systems, fixed fee schedules, and blood donor programs among others. Preventive care includes physical exams and multiphasic screening for early detection of chronic illness. While the cost-effectiveness of screening is subject to considerable debate, it offers the possibility of long-term savings on costly hospitalization. As with all the other approaches listed in this

[2] The report does not deal explicitly with quality of care issues. Yet many of the innovations listed in the report do have positive implications for quality of care. To the extent that cost controls address problems of inappropriate utilization of health care resources—as many do—and to the extent that inappropriate utilization carries the risk of iatrogenic (physician induced) illness, cost controls are also quality controls. In fact, several approaches to controlling costs, particularly those involving review of one physician by another, represent explicit controls on quality as well as cost of care.

Also, the report does not address itself to cost controls implemented unilaterally by government or by the private health services sector. However, health care providers, insurers, and state and Federal governments are involved in many of the same kinds of innovations discussed in this report. Some of these approaches could be, or have been, incorporated into existing Federal and state health programs as well as future actions on national health insurance.

report, preventive care is included because management and labor have sponsored them as controls on cost and quality of care, not because they are guaranteed to succeed.

The case studies cover 7 distinct cost control projects and the compendium lists another 119 entries. They are taken from a small (and undoubtedly biased) sample of the tens of thousands of employee health benefit plans in the United States. For the most part, only those programs started in 1965 or thereafter are included. Nevertheless, these programs, covering several million workers, are indicative of certain trends in controlling the cost of health care benefits.

They suggest a quite recent upsurge in cost control efforts. Of the 93 projects that can be identified as beginning in 1965 or thereafter, 82 have been implemented since January 1, 1970. About half of all the cost control projects in the report began operation in or after 1973. The singe most frequently identified goal of these projects is to reduce hospital costs, a clear indication that the largest private consumers of health care (employers and labor unions) regard rising expenditures for hospital care as the most serious of several health care cost problems facing them. The most common mechanisms of cost containment are:

	*Number of projects**
Alternative delivery systems (HMOs)	32
Preventive care	26
Concurrent or prospective peer review	17
Alternative methods of provider reimbursement	16
Coverage of less costly care	15
Claims review	12
Health education	8
Miscellaneous	6
Health planning	5

*Some of the 126 projects in the report are counted more than once in this table because they involve more than one mechanism of cost containment.

Part Two

Case Studies

I. Prospective Review of Elective Surgery

UNITED STOREWORKERS AND AFSCME DISTRICT COUNCIL 37 SECURITY PLANS

A young sales clerk, a member of the United Storeworkers Union, called her health plan to say she was going into the hospital for a hysterectomy. A general surgeon from the local clinic was putting her into Wadsworth Hospital—a small proprietary facility then under investigation by the Health Department for multiple sanitary and safety violations.

She would first have to get a second medical opinion, the health plan administrator told her, and got her an appointment with a gynecologist at New York Hospital. Instead of removing her uterus, the consultant recommended dilation and curettage—a less costly and less drastic procedure—and recommended a qualified specialist as well.

Across town at District Council 37 of the American Federation of State, County and Municipal Employees (AFSCME)—one of New York City's largest labor organizations—a young man employed by the health plan casually mentioned to his boss that he would be out for the coming week to have a knee operation. Had he gotten a second opinion, asked his supervisor (Mr. Nat Lindenthal)?

"No! He was working right here," recalls Lindenthal with astonishment, "and hadn't even thought to use our program. He was all set to hop onto an operating table on the say-so of some GP. We sent him off to a specialist, who told him he didn't need the operation."

These are not isolated examples. Physicians often have wide latitude in deciding when to hospitalize, when to operate, and whether to treat a patient medically or surgically or not at all. In elective surgery—tonsillectomy, hysterectomy, mastectomy and many other non-emergency procedures—the individual physician's discretion is especially important. There are no precise guidelines and there is considerable disagreement on the necessity of some operations.

There is, too, a growing body of research pointing to the high rate of "unnecessary" surgery in the U.S.—as high as 25% to 50% in the medical judgment of some researchers in some studies.[3] A Congressional report has estimated the number of unnecessary surgical procedures in the U.S. in 1974 at 2.38 million; costing $3.92 billion, or nearly 4% of total U.S. health care expenditures.[4] Serious and informed medical opinion has questioned the magnitude of these estimates, but many experts contend that the problem is real and very costly.

A growing number of unions and employers are grappling with the issue of unnecessary surgery by means of pre-surgical review. For the high cost of unnecessary surgery is borne, in part, by employee health plans, usually in the form of higher insurance premiums based on the actual medical cost experience of the group. Pre-Surgical review encourages or even requires employees to obtain a second medical opinion on the necessity of elective surgery before going ahead with it. The goal of these second opinion programs is to reduce unnecessary surgery. Setting up a second opinion service involves these steps:

Establish agreements with individual physicians to give beneficiaries a second surgical opinion on their illness for a set fee, which the health plan pays.

Make health plan aware of the program and how it can help them.

Make the office appointments for members with the appropriate surgical specialist who will render a second opinion.

The second opinion project pioneered by the Storeworkers Union and AFSCME District Council 37 in the New York City area has subsequently enrolled Local 32B of the Building Service Workers (40,000 members); the District Council of Carpenters Welfare Fund (24,000 members); Locals 560, 617, 641, and 660 of the Teamsters Union (15,000 members); the Typo-League Benefit Fund (7,500 members); and the Textile Processors Insurance Fund (6,000 members). Also, Blue Cross and Blue Shield Associations in Massachusetts, Michigan, New Hampshire, Pennsylvania, New York City, and Albany, N.Y. offer second opinion programs to a variety of employee benefit plans. New York City offers second opinions to all its employees and their dependents—some 800,000 people—and the New York legislature recently mandated pre-surgical review for Medicaid patients.

The two programs under study here, the Storeworkers' and District Council 37's, were both organized in 1972 by Eugene McCarthy, M.D. The programs differ in two respects. First, the Storeworkers Security Plan with about 11,000 working members is considerably smaller than DC 37's, which has about 110,000 working members. Second, the Storeworkers' program is mandatory; DC 37's is voluntary, a free second opinion available to any member of the Health and Security Plan who wishes it.

The mandatory program does not require union members to accept the advice of the second surgeon. The decision on whether or not to undergo surgery is left to the patient. (In fact, the Storeworkers' "mandatory" program is more flexible than it sounds: members who have difficulty getting to a consultant's office or who, for other reasons, wish to be excused from the requirement of a second opinion are sometimes granted a waiver. These cases are reviewed individually by the program administrator. The proportion of members excused is about 16%.)

Prospective surgical review—"Cutting them off at the pass,"—is not a new way to deliver or finance health care. Nor is it a radical alteration of the existing fee-for-service delivery system. Rather, it is the formal organization of a traditional medical practice—consultation with another physician. But there is a crucial difference: the consumer, not the provider, initiates it. The consumer uses second opinion service as an aid in evaluating information and performance provided by the first physician.

Pre-surgical review can be remarkably simple and inexpensive. The program requires no front-end investment or overhead costs. Variable costs are minimal: staff and office expenses for handling phone calls and correspondence, the consultant's fees, and any extra diagnostic tests they order. The key resource is personnel: a grid of surgical specialists geographically distributed to cover a dispersed population of employ-

[3] One major problem involved in assessing volume of "unnecessary" surgery is that objective criteria of necessity are difficult to establish. All such studies of elective surgical procedures are based on medical opinions over which reasonable and knowledgeable experts may disagree. For a short review of the literature on unnecessary surgery, see Larry Frederick's "How Much Unnecessary Surgery?" in Medical World News (May 3, 1976) pages 50–66.

[4] Cost and Quality of Health Care: Unnecessary Surgery, Report by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Ninety-Fourth Congress, January 1976.

ees, and "intake workers" to plug union members into the grid.

Intake workers are secretarial or administrative personnel of the Security Plans (one at Storeworkers, two at DC 37), who handle member requests for second opinions. They are lay people without special training who serve to link union members and health professionals.

The surgeons in the grid are board-certified specialists. That is, they have passed rigorous specialty exams administered by professional associations. Since pre-surgical review requires one physician to pass upon the professional decision of another, the choice of consultants is a critical one. Because of the judicial role of consultants, Dr. McCarthy decided that board-certification should be a minimal qualification for making such judgments.

The choice of consultants has sparked considerable controversy among physicians, and will likely crop up again in future projects. Some physicians, argue that limiting the panel of consultants to board-certified specialists is discriminatory: for the convenience of patients and in fairness to all surgeons, the panel of consultants should be open to any specialist. At the heart of this controversy lies a critical question about second opinion service: what makes the second opinion any better than the first? In practice, the answer is left to the patient who must judge between them if they differ.

How does pre-surgical review work? When DC 37 and Storeworkers Security Plan members are advised by a doctor to enter the hospital for non-emergency surgery, they telephone intake workers at the union health plan for an appointment with a consulting specialist. The intake worker collects some basic information from the member, including the first physician's name, member's name, diagnosis, surgical procedure recommended, and place(s) and time(s) convenient for the member to visit a consultant.

The intake worker makes an appointment with an available consultant and informs the member of the time and place. (Members usually do not have to wait more than a week or two to see the consultant.) The member is responsible for bringing to the consultant copies of diagnostic test results obtained from the first physician. The consultant gives his medical opinion to the patient and sends it on a form to the Security Plan as well. This form serves as a research and billing device: it triggers payment to the consultant—currently $40 plus the cost of extra diagnostic tests—and is prerequisite to payment for the member's operation if the program is mandatory.

Of the 2,373 voluntary cases—cases from DC 37 and other participating health funds—reviewed from February 1972 through January 1976, a high number of non-confirmations appeared for certain procedures: hysterectomy (44% not confirmed), dilation and curettage (40%), surgery of the knee (40%), prostate (39%), and varicose veins (38%).[5]

When the second opinion does not confirm the first, the program will pay for a third opinion if the member wants one—which is rare. Usually members follow the advice of the board-certified consultant over the first opinion.

If the second opinion confirms the need for surgery, patients had been allowed to ask the consultant to perform the operation. In the fall of 1975, this policy was altered because allowing the consultant to operate, it was argued, gave him an incentive to confirm and may smack of patient stealing in the eyes of some first physicians. Therefore, the consultant is no longer allowed to perform the surgery in question, though the consultant may refer the patient to any other physician for surgery. (The employee health plans accepted this change with great reluctance because one of the project's advantages had been the opportunity it offered for "comparative shopping": members were exposed to competent physicians who, as a prerequisite to joining the second opinion panel, had agreed to accept the union fee schedule. The new prohibition, health plan personnel argue, interferes with the patient's free choice of physicians.)

Labor and academic involvement in researching unnecessary surgery dates back to the late 1950's, to a study of medical and hospital care for New York City Teamsters families. In the mid-60's, Dr. McCarthy became involved in that research, and—not much later—Storeworkers President, William Michelson, began looking for ways to reduce unnecessary surgery on his own members.

Not until McCarthy and Michelson found each other, though, did either find a way of sponsoring pre-surgical second opinion.[6] Michelson supplied funding, staff, and—most important—the enthusiastic leadership of an employee organization. McCarthy supplied the consultants and handled relations with physician groups.

"I spent four years knocking on hospital doors to get second opinion," recalls Michelson.

Then, in 1971, Michelson approached the Cornell School of Industrial and Labor Relations for assistance in developing his union's health policies. The request was passed on to the New York Hospital-Cornell University Medical College, and eventually to Dr. McCarthy.

"I was teaching a course at the Labor School," Michelson says, "and someone there introduced me to McCarthy. Six months later we had the project in operation. It was McCarthy who got us the nuts and bolts—the docs."

As Dr. McCarthy describes his initial contribution, it was "to develop functional relationships on a group basis, tying together a grid of health dispensing institutions. I went and talked with various chiefs of the major teaching services who in turn informally gave me names of men who had belonged at one time or another to a teaching program."

Relying initially on practicing physicians with academic affiliations, he enlisted about 100 surgical specialists at teaching and community hospitals. Since then, the number of consultants has grown to about 500.

In January 1972, the Storeworkers Security Plan began to alert its membership to the new project. William Michelson sent out an announcement beginning, "This may be the most important letter you have ever received from the Security Plan." Plan Administrator, Eleanor Tilson, wrote articles for the union's weekly newspaper, and shop meetings were held to explain the new procedure.

It was presented as an added benefit—albeit a mandatory one. The Storeworkers' second opinion service is a financial benefit as well as a medical one. Employers — Bloomingdale's, Gimbel's and Stern's—contribute 6% of wages to the Plan and this money is apportioned among different benefits as far as it will stretch. Whatever savings second opinion generates on surgical and hospital costs is that much more available for optical, drug or other new benefit programs.[7]

The employers were easily persuaded, but not local medical societies. Their concern focused on an unsubstantiated claim in the letter Michelson sent his union membership. "Many of you," he had written, "have undergone operations that were not necessary." The Nassau County (Long Island) Medical Society reproduced the letter for its own 2,200 members and sent in a deputation to speak with Michelson.

At this point, Dr. McCarthy was called in to handle his peers. "The letter jolted the program considerably," says McCarthy. "We had a very difficult time weathering it."

[5] Eugene McCarthy, "Mandatory and Voluntary Second Opinion Programs in the Greater New York Area with National Implications," Dorothy R. Eisenberg lecture, Harvard Medical School, June 12, 1976.

[6] Pre-dating the Storeworkers second opinion program by a year was a similar program in New York City started in 1971 by District 65, a local affiliate of the Distributor Workers of America. Storeworkers had been part of District 65 up until 1969. The first pre-surgical review program in the U.S. was established by the United Mine Workers of America Health and Retirement Funds in the 1950's. It resulted in an immediate and significant drop in the number of surgeries performed.

[7] Another money-saving innovation sponsored by Storeworkers is disability review by a grid of surgeons and internists. Three to five weeks after onset of disability, the employee is required to see a physician. The program is experiencing an average of 35 to 40 days of disability versus 60 to 70 experienced by state employees who do not have disability review. One recently added benefit, which also promises long-term savings, is job-site hypertension screening and intensive therapy—at a cost of $120 per capita. The goal is to maintain asymptomatic hypertensives on long-term treatment through continual reminder and peer-reinforcement.

"There was an interesting fallout, though. It altered everyone in the medical community and that in itself is very important because I think that one of the major impacts of the program will be what I describe as the sentinel effect. The program's very existence will have an impact on repetitive and multiple judgments by physicians."

Dr. McCarthy says that he expected much more opposition from physicians than the program actually encountered. In fact, organized opposition subsided after this initial incident. Recently, the American College of Surgeons began supplying consultants to Dr. McCarthy's and other programs, and is now at work developing guidelines for second opinion service.

However, other second opinion programs have also encountered initial opposition from physicians. The American Medical Association has yet to announce a formal position, but individual officers have criticized various aspects of the program. Max H. Parrott, M.D., AMA President in 1975–1976, has expressed concern about the possibility of a future, formalized requirement of a second opinion. In his opinion, such a requirement would increase costs and lead to rigidity in the medical care system. The Medical Society of the State of New York reacted as follows to a proposal in the State Senate requiring that insurance coverage of in-hospital surgical care also include coverage for a second surgical opinion:

Objection was made to the claim that second opinions would adjudge one-fifth of such surgery unnecessary.

The Medical Society opposes mandatory second opinion.

Insurance carriers should pay for all voluntary second consultations, not just those covering in-hospital surgical care.

Insurance carriers should cover first opinions as well.

While Dr. McCarthy was working with his colleagues, Michelson was spreading the word among his own peers. DC 37 Executive Director, Victor Gotbaum, a friend of Michelson's, decided to try it as an experiment beginning July 1972.

Again meetings, letters and newspaper articles announced the project's start. But getting word out to 110,000 DC 37 members, working at many different locations, and varying in socio-economic status from blue collar to professional, dwarfed the task that had confronted William Michelson.

The fact that DC 37 Health and Security Plan members received basic coverage through one of three different insurance carriers put the Plan at a further disadvantage. Since most members of the Storeworkers are insured by their own Fund, they normally notify the Fund before entering a hospital. If they have neglected to obtain pre-surgical review, the Fund's Hospitalization Department refers them to the second opinion intake worker. About 25 percent of her calls come through the Hospitalization Department in this way. By contrast, DC 37 members are covered by the City through three insurance carriers. DC 37 Health and Security Plan administrators have no idea which members will soon enter the hospital.

The most effective means of reaching DC 37 members seems to have been through union literature and by word-of-mouth at meetings and informally between workers. Project coordinator, Anne Ricks and Dr. McCarthly addressed scores of meetings on the subject, and word gradually spread. Voluntary utilization of second opinion rose about 25 percent between the program's first and second years. In the second year, about 15 percent of DC 37 members and their dependents who were expected to undergo elective surgery obtained a second opinion; about 84 percent of Storeworkers members and dependents scheduled for elective surgery used their (mandatory) second opinion program. (This comparison is not standardized to eliminate sex and age differences between the two groups.)

What are the costs and benefits of pre-surgical review? Dr. McCarthy calculates that consultants fees plus charges for diagnostic tests from February 1972 through March 31, 1976, averaged $55 per consultation for the 3,721 patients who obtained a second opinion. (On July 1, 1976, fees alone rose from $25 per consultation to $40.) The total cost of operating the program through March 31, 1976, is estimated at $300,000.

Of the 3,721 second opinions, 1,099 surgical procedures did not confirm the need for surgery. These 1,099 surgical procedures would have cost an estimated $2.4 million. Compared to $300,000, that represents a potential return of 8 to 1 for every dollar spent.[8]

Why *potential?* Because non-confirmation of the first opinion does not necessarily mean *no* surgery, even if the patient accepts the second opinion over the first. Non-confirmation may mean that the first diagnosis was judged to be incorrect by the consultant and that there is no problem needing surgery; it may confirm the first diagnosis, but indicate other treatment; or it may only postpone surgery.

"Our hypothesis is that some of those [patients with non-confirmations] will ignore the consultant's advice or have surgery later if their symptoms persist," says Dr. McCarthy. The preliminary results of a follow-up study indicate that 84 percent of the non-confirmations in the voluntary program and 70 percent in the mandatory program did not go in for surgery within one to three years.[9]

Assuming that 84 percent of the voluntary not-confirmed cases will not need surgery later for the same problem and that the cost of treating them non-surgically is minimal, what might a union offering voluntary second opinion service hope to save?[10] Voluntary utilization of Dr. McCarthy's program by DC 37 Plan members is currently running at about 15 percent of those expected to undergo elective surgery. Thirty-five percent of this 15 percent can expect a non-confirmation from the consultant.[11] Perhaps as many as 84 percent of the not-confirmed cases will decide against surgery and will find that they do not need it later.

$$15\% \times 35\% \times 84\% = 4.4\%$$

This represents a 4.4 percent reduction in elective surgery and considerable savings on a significant health care cost—surgical and related charges often reach into the thousands of dollars per operation—not to mention lost work time and distability payments. Mandatory second opinion, as we shall see, promises even larger savings.

Second opinion offers other advantages, too. Saving patients the pain and risk of surgery is an obvious one. Consumer education is a second: sending workers to board-certified specialists exposes some to quality care for the first time. Both Storeworker and DC 37 personnel commented that a significant number of members who used the second opinion program dropped their original physician in favor of the consultant. And Dr. McCarthy reports that "In a number of cases, discussions between the consultant and the patient's physician * * * alerted the patient's physician to a disorder yet undetected."[12]

Another possible advantage is the "sentinel effect." The fact that physicians know their recommendations for surgery may be reviewed by peers, perhaps by a teaching physician, may well influence their medical judgments. McCarthy reports a 9 percent decline since 1972–1973 in the percentage of Storeworkers members receiving a first opinion recommending elective surgery (where-

[8] Eugene G. McCarthy, "Mandatory and Voluntary Second Opinion Programs in Greater New York Area and National Implications," Dorothy R. Eisenberg lecture, Harvard Medical School, June 12, 1976.

[9] *Ibid.* Whereas 70% of the non-confirmations in the mandatory program did not go on for surgery within the one to three years covered by the preliminary follow-up study, only 9% of those cases receiving a confirmation for elective surgery did not have the surgery in this time span. A surprisingly high number of confirmations in the voluntary program, 29%, did not undergo the confirmed surgical procedure. This recent-finding may significantly qualify the results of Dr. McCarthy's research. He is currently analyzing in greater detail the data on confirmed cases that did not undergo surgery.

[10] In fact, well over half of the not-confirmed cases that did not have surgery also did not need medical treatment. Usually medical treatment is far less expensive than surgery. However, in some cases, the cost of prolonged medical treatment instead of surgery can be substantial. Moreover, in cases where surgery is only deferred, total cost may exceed the cost of immediate surgery.

[11] Thirty-five percent is the non-confirmation rate for *all voluntary* second opinions rendered in Dr. McCarthy's program during its first four years. It is also the non-confirmation rate for the first two years of the voluntary program—before other health plans joined DC 37 in Dr. McCarthy's voluntary program.

[12] Eugene G. McCarthy and Geraldine W. Widmer, "Effects of Screening by Consultants on Recommended Elective Surgical Procedures," *The New England Journal of Medicine* (December 19, 1974) page 1334.

as the national rate of surgery per capita increased in those same years).[13]

A mandatory program, of course, offers the potential for even greater savings. In fact, DC 37's second opinion service became mandatory, as of July 1976, for elective operations costing over $500. This represents a particularly strong endorsement of second opinion, and not only because DC 37 is such a large group. Since the greatest share of its hospital/surgical costs are paid directly by the City (through insurance carriers), most of the savings will accure to the City, not the DC 37 Fund which buys only supplemental hospital/health benefits for its members.

So why go mandatory? "Because that's the best way to serve our membership," says Plan Administrator, Nat Lindenthal, with characteristic brevity. The issue is not quite that simple.

Mandatory per-surgical review *may well* save more money than voluntary review, because it reaches more patients. But if a mandatory project reaches X times the number of patients that a voluntary project reaches, it will not necessarily return X times the number of non-confirmations.

In fact, comparing the voluntary DC 37 project with the mandatory Storeworkers project, McCarthy found that the mandatory program reached almost six times the percentage of union members expected to undergo elective surgery as did the voluntary program, 84 percent and 15 percent respectively. However, the percentage of mandatory second opinions that did not confirm the need for surgery was just under half the non-confirmation rate in the voluntary project, 16 percent and 35 percent respectively.[14] About 70 percent of the mandatory non-confirmations have not yet undergone the surgery in question (versus 84 percent in the voluntary program). Therefore, DC 37's switch from voluntary to mandatory-second opinion has the potential of doubling the number of members who receive non-confirmations and who do not go on for surgery.

Voluntary: 15%×35%×84%=4.4%.

Mandatory: 84%×16%×70%=9.4%.

Mandatory pre-surgical review offers a second advantage. Some patients fear insulting their physician by initiating a consultation. Returning to the personal physician with a decision not to have the operation is particularly difficult. "Are you going to tell my doctor?" is the question union members most often ask project administrators at DC 37. But Storeworkers members, though sometimes bothered by the same problem, have much less anxiety on this point: they can lay the blame on the union, which requires a second opinion.

On the other hand, the size of a local, its structure and the method of insuring health benefits may complicate the task of mandating a second opinion. Of course, the higher volume in a mandatory project will require more intake workers and consultants. And if union members are widely dispersed and the project is mandatory, the consultant grid *must* cover a larger region.

The method of enforcing pre-surgical review is important, too. Self-insurance, as in the Storeworkers case, gives employee benefit administrators timely access to information on members scheduled for surgery. About 25 percent of those Storeworkers Fund members who call the second opinion intake worker do so only after being reminded of the program when they call the Fund's Hospitalization Department. There is no comparable reporting system for members of DC 37's Health and Security Plan, who choose one of three insurance carriers offered by the City. It remains to be seen how DC 37 Fund members will respond to a mandatory project. Surely, if many forget and undergo elective surgery without a second opinion, retroactive enforcement—denial of payment—will cause dissatisfaction.

More important, some union members do not want to see a second physician or be confronted with a choice between two different medical opinions. (For some patients, even visiting the family doctor is an emotional strain.) The point of making a program mandatory is the union's threat to withhold payment unless its members do obtain a second opinion. In essence, the union is forcing a change in the process by which members decide about their own medical treatment.

"The big problem for a union or employer with mandatory pre-surgical review," says William Michelson, "is sufficient courage to assume medical responsibility for others. The membership is likely to resent it."

Not that commitment is unimportant in a voluntary program: indeed, leadership makes a crucial difference in both kinds of pre-surgical review. Utilization varies considerably among the many locals offering a voluntary second opinion benefit. "It varies directly with the enthusiasm of union and management leadership in promoting the idea," says McCarthy.

Sponsorship is another key variable in voluntary and mandatory pre-surgical review. "Our members like the program," says Nat Lindenthal, "because they figure 'this is a union doctor you're sending me to.'" By contrast, other New York City employees have responded very poorly to a second opinion program sponsored by the City itself.

The feeling that this is a *union* program is reinforced by intake workers at DC 37 and Storeworkers who often become intimately involved in their members' problems. In some cases, the intake worker makes as few as two calls—one to the consultant for an appointment and then one to inform the member. In other cases, the intake workers make as many as ten or fifteen calls. Members ask them for advice on whether or not a second opinion is needed, or even, after the second opinion, advice on what to do. Their role extends far beyond clerical work to that of patient counselor. Their advice converts a referral mechanism into a real health service.

II. Prospective Review of Dental Care

Predetermination and Alternate Course of Treatment for the United Federation of Teachers Welfare Fund

Cost controls pioneered by the United Federation of Teachers (UFT) Welfare Fund in New York City—and spreading rapidly to national employee benefit agreements—have reduced premiums for dental insurance as much as 4.8 percent. Implementation of these innovations requires a willingness on the part of unions or employers to intervene in the dental care of employees, to give the payer a voice in what is done. For this reason, the UFT program met with initial opposition from dental societies, fearful of unreasonable interference with the patient-dentist relationship. But when implemented with care and proper regard for professional standards such problems appear to be resolvable.

Employee dental benefits are mushrooming. Dental care coverage is probably the fastest growing field of private health insurance, up from an estimated 3 million beneficiaries in 1965 to 33 million in 1974.[15] By 1980 that number may double. Of the 5 to 8 million beneficiaries added in 1975 alone, the largest part is traceable to new benefits won through collective bargaining.[16]

Just as the introduction of Medicare, Medicaid and, before that, private health insurance profoundly affected hospital and medical expenditures, it does not seem unreasonable to assume that recent and future growth in dental insurance will significantly alter fees and patterns of utilization in this area, too. Of course, dentistry presents its own peculiar, though not entirely unique, problems and possibilities for cost control. Increasingly, labor, management, and insurance companies are scrutinizing two areas of dental cost in particular.

First, there is the area of so-called "cosmetics." Though often inextricably entwined with "necessary" dentistry, dental work designed primarily to enhance personal appearance is fairly common and expensive. For instance, placing crowns on sound teeth only to improve appearance is a "cosmetic" cost

[13] Eugene G. McCarthy, "Mandatory and Voluntary Second Opinion Programs in the Greater New York Area with National Implications": Dorothy R. Eisenberg lecture, Harvard Medical School, June 12, 1976.

[14] The higher non-confirmation rate in the voluntary project seems to result from self-selection of patients who are very anxious or uncertain about their particular medical problem. "Mandatory and Voluntary Presurgical Screening Programs: An Analysis of Their Implications," presented by Dr. Eugene G. McCarthy at the annual meeting of the American Federation of Clinical Research, May 2, 1976.

[15] Marjorie S. Mueller and Paula A. Piro, "Private Health Insurance in 1974: A Review of Coverage, Enrollment, and Financial Experience," Social Security Bulletin (March 1976) Table VII.

[16] Journal of the American Dental Association, Volume 92 (January 1976) page 18. JADA estimates the number of persons covered by dental insurance in 1975 at 30 million.

which most unions and employers wish to minimize in order to contain costs and concentrate expenditures on "necessary" procedures. However, in some cases—such as adding crowns to restore badly broken teeth—this would be judged "necessary." Making that judgment is a problem for benefit administrators: certain procedures they cannot simply write out of insurance plans as being purely "cosmetic" because such procedures may be "cosmetic" in one case and "necessary" in another.

Second, restorative dentistry often can be done in a number of different ways, each carrying a different price tag. The dentist's choice of materials—gold, silver amalgam or composite—is an obvious example. Another significant area of professional discretion is the choice between full and partial dentures: in some cases the dentist can save decaying teeth and avoid full dentures by doing root canal and other restorative work. But this can cost thousands of dollars and still fail.

Thus, the problem with respect to dentistry covered under employee benefits is to determine the course of treatment that is least costly but still meets professional standards of quality.

To solve that problem the Welfare Fund of the United Federation of Teachers in New York City pioneered in Predetermination of dental work including so-called Alternate Course of Treatment (for dental work costing $100 or more over a period of three months or less). This is a two-part method of prospective claims review. First, in Predetermination, the Fund's insurance carrier reviews the proposed treatment for necessity and appropriateness. Second, if treatment is necessary, dental consultants consider alternatives to the plan of work submitted by the Fund member's personal dentist. Where appropriate, consultants will suggest a less costly Alternate Course of Treatment (ACT) and the insurance carrier pays accordingly. Thus, Predetermination and ACT let the dentist and the patient know in advance what the benefits will be so they can decide how to proceed.

This program currently reduces dental claims against the UFT Welfare Fund, which covers some 250,000 teachers and dependents, by approximately $1 million a year. It is the model for similar programs negotiated recently for automobile, steel, and railway workers.

The UFT Welfare Fund, born of negotiations with New York City in 1965, administers City contributions to buy supplemental benefits for teachers. The City pays directly for insurance to cover a set range of medical, hospital and surgical services; for supplemental benefits it makes a per capita contribution to the Fund. Since the Fund receives a specified cash contribution for supplemental benefits rather than a blank check for whatever these services cost, it has a direct incentive to maximize savings. Whatever the Fund saves in one area leaves that much more money available to buy additional benefits. And dental benefits is its largest area of expense, accounting for $13.8 million of the Fund's $30 million outlay in 1975.

From the start, Fund Director Raymond Lizza insisted on Predetermination. The Fund's insurance carrier, Aetna Life Insurance Company, soon became convinced of its practicality—Predetermination in one form or another has since become standard in many group dental plans. However, a 100 percent jump in the Fund's dental costs between 1969 and 1971 convinced Lizza and UFT President, Albert Shanker, of the need for further controls. Aetna and the Fund decided to implement Alternate Course of Treatment (ACT) as a logical extension of Predetermination. (Predetermination certifies that a specific dental problem needs treatment which is covered under the benefit agreement; ACT represents a professionally adequate but generally less costly method of treatment for that problem.) [17]

Letters announcing the new program were sent out to the membership in 1971 and, with this announcement, Albert Shanker called upon the members to help curtail needless waste. His message has since been toned down, but even in revised form it is quite blunt: [18]

> * * * adverse dental claims experience * * * was due in large measure to unnecessary and ill-advised dental procedures and treatment. We found that sometimes a course of treatment was prescribed which resulted in exorbitant charges. These charges were not always warranted * * *

State and local dental societies reacted swiftly: delegations called on Lizza and Aetna to protest this criticism and the proposed "interference" with the patient-dentist relationship. "That first year was very trying," recalls Arthur Kulick, D.D.S., Aetna's in-house consultant on the UFT program.

As a result of these meetings, Aetna and the Fund agreed to modify their program by submitting contested cases to peer review by local dental societies. Since then, organized opposition from dentists in New York has diminished. New York State Dental Society Director, Seymour Nash, D.D.S., now urges programs like UFT's to use professional standards for determining adequate dental care. However, similar programs in Texas are encountering great difficulty because many dentists there refuse to submit proposed work plans to insurance carriers for Predetermination and ACT.

"Things are running very smoothly now in our program," says consultant Kulick, a practicing dentist for 47 years and Chief of Clinics at Mount Sinai Hospital. (The participation of a respected health professional enhanced the program's acceptance among dentists and helped in recruiting most of the program's 22 outside examining consultants—in this case, academics and other highly regarded dentists.)

The UFT Fund receives a total of about 3,000 dental claims a week which it checks for proper identification and then forwards to Aetna. As the program now operates, Fund members and their dentists are required to send the Fund an identification form, x-rays, and a chart of the dentist's plan of work for any treatment that will cost more than $100 within the course of three months or less. These are reviewed by claims processors and then by analysts—more experienced processors—who pass on those that seem questionable (about 400 a week) to the in-house consultant. Only he can disallow or propose benefits based upon an alternate treatment—usually after discussing the case with the patient's original dentist. The whole process takes about two weeks. In March 1976, the latest month for which figures are available, 250 claims reductions saved $73,000, or about $290 per reduction.

If Dr. Kulick cannot make a decision without an examination of the patient, a letter is sent to the UFT Fund member—and his dentist—requesting that the member make an appointment for an examination with one of Aetna's 22 outside dental consultants. For the ten to fifteen patients a week who are asked to see an outside consultant, the total time for claims review can stretch from a couple of weeks to a couple of months, depending on how far the process goes. If there is strong disagreement between Aetna and either the patent or the original dentist, the matter is then referred to the peer review mechanism of the local dental society. About one or two cases a month go this far.

Dental work plans submitted to the UFT Fund but not reimbursed because of Predetermination and Alternate Course of Treatment (ACT) would have cost the Fund an additional $1.04 million in dental benefits. This represents a savings equal to nearly 8 percent of its dental premiums and some $200,000 more than the cost of Aetna's entire dental claims administration for UFT. The addition of Predetermination and ACT increases the expense of claims settlement, but in the final analysis, it produces a significant net savings: for Aetna's most common type of group contract, premiums are reduced by 4.8 percent for employees and 3.5 percent for their dependents when these programs are added.

More than two-thirds of that net savings is ascribed to ACT. Exact figures for the cost of ACT alone are not available but an analysis by Aetna of data from across the country places the cost of consultant's fees and salary for ACT at $4.87 per consultation. In New York City, this figure is $3.73 per consultation, or about $80,000 annually for the UFT Fund.

Conceptually, the Fund's dental cost controls are a hybrid of standard claims review—albeit prospective—and something resembling pre-surgical second opinion (see case study No. I). Unlike pre-surgical review, ACT is mandatory both in the sense that members must

[17] Though generally less costly than the original proposal, ACT is occasionally a more complete and more costly plan of treatment than the original dentist's proposal.

[18] Albert Shanker's "Message from the Chairman of the Board of Trustees," in the Seventh Annual Report, 1971/72, of the UFT Welfare Fund.

submit to review—those who forget to submit claims beforehand (some 5 percent of UFT dental claims) are reviewed post facto—and in the sense that patients must accept the carrier's decision in so far as UFT payment is concerned.

The union's contribution is a strong commitment to cost control, even at the risk of angering union members who may resent interference with "their" dentist. "They back us all the way," says Maurice Madden, Aetna's Group Division Manager in New York, "That's why it works."

In other words, UFT guards against the inclination to administer benefits wastefully. Fund officials have taken a strong stand on "pinching pennies," even to the extent of requiring that members write rather than telephone for information. It is noteworthy, then, that a 1971 survey by the UFT showed that of all the services associated with the union, membership, the leadership appears to be appreciation of the Welfare Fund. In this union, the leadership appears to be appreciated for its policy conserving benefit dollars, because members understand that the money saved in one area buys additional benefits in another area.

III. Consumer Leverage on Prescription Prices

The UFT Welfare Fund and the ILGWU Health Services Plan

The two programs under study here attempt to influence drug prices rather than patterns of drug utilization. Such controls can reduce retail drug prices an estimated 15 percent or more. Unlike physician, dentist or hospital service controls which often aim to reduce inappropriate utilization, the UFT and ILGWU prescription plans take advantage of the consumer power and negotiating expertise of organized labor to reduce the unit price of health services. The key ingredient is consumer leverage based on volume purchasing. As such, these programs are equally adaptable to drug benefits administered by large employers or insurance companies.[19]

The United Federation of Teachers (UFT) Welfare Fund in New York City uses a program that is now widespread among health and welfare funds in that city and growing elsewhere: contractual agreements with thousands of retail pharmacies to pay the wholesale price for prescription drugs, plus a fixed 'professional fee' for the dispensing service. The International Ladies' Garment Workers Union (ILGWU) has taken a less common approach: its nationwide Health Services Plan offers a mail-order prescription service that achieves significant economies of scale. Prescriptions are sent by members to one of four large pharmacies where they are filled in a partially automated process and then mailed back.

Thus, the UFT drug service offers its members maximum convenience and speed. They can purchase the whole range of prescription drugs at almost any pharmacy in the New York City area. Savings are achieved through control of the retail mark-up; these savings average an estimated 15 percent to 20 percent of retail market prices.[20] The dispensing costs of prescriptions ordered through the ILGWU Plan mail-order service are even lower than those in the UFT Plan. Significant savings on mail-order service result from efficiencies achieved through automation and specialization of labor as well as savings on bulk purchase of supplies directly from the manufacturer.

The UFT-type drug service, using neighborhood retail outlets on contract with the Fund, dates back several decades. This type of service is now used by hundreds of thousands of New Yorkers covered under drug programs associated with the UFT's, AFSCME's, Service Employees', and Carpenters' Funds, Medicaid, Blue Cross-Blue Shield, and other health plans. It is less common, but not unusual, in other cities and has spread to national benefit agreements covering automobile and steel workers.

The UFT Welfare Fund adopted this concept at the Fund's beginning in the mid-1960's. The Fund receives a direct per capita contribution from New York City for whatever supplemental health benefits the money will buy. Savings on one benefit are plowed into other benefits, so the Fund's incentive to economize is strong.

The UFT Fund now has contracts for its prescription service with some 3,000 pharmacies in the area, about 85 percent of the total. These contracts are standardized agreements that the Fund will pay the published wholesale (Red Book) price of any prescribed drug plus a $2 'professional fee' on each order and each refill.

How does the service work? The 250,000 members of the UFT Fund—teachers and their dependents—receive an identification card and drug order forms from the Fund. A form for each order is completed by the prescribing physician and presented by the Fund member along with an identification card to any participating pharmacy. The order is filled without charge to the member and the pharmacist forwards one copy of the form to the Fund for reimbursement. (Fund members who pay for prescription drugs because they forgot their identification card, used a local non-participating pharmacist, purchased drugs out-of-state, etc., are reimbursed directly for that portion of the price that would be covered under the pharmacy contracts.)

In 1975, the UFT Fund expended some $24 million on supplemental health benefits, of which $4.4 million paid for 754,125 drug claims, or $5.81 per prescription order filled. An additional estimated 10 percent represents the cost of administration and drug claims review, bringing the total average cost per prescription to $6.39. Unfortunately, current figures for the cost of drugs purchased directly by New Yorkers on the open market are not readily available. However, studies done in the early 1970's found that the UFT Fund and comparable programs were paying an average of 20 percent less than retail market price.[21] That 20 percent figure may have changed in the interval because of a significant rise in both wholesale and retail drug prices in the past two years. But the 15 percent to 20 percent range is still considered a reasonable estimate by UFT Fund consultant and Martin E. Segal Company Senior Vice President, Sidney Braverman. Apparently, retail pharmacists in New York City—who argue that they are being 'squeezed' by the low 'professional fee' allowed—agree that a significant price differential does exist.

The UFT Fund prescription drug service does not substantially improve the cost picture for its providers. Rather, the UFT Fund is able to lower the retail mark-up through consumer leverage in a relatively competitive retail market. (The thousands of retail pharmacists with whom the UFT contracts are prohibited by law from combining for purposes of negotiation.)

Not surprisingly, area pharmacists resent this inequality in bargaining positions. Executives of both the New York State and City retail pharmacy associations have attempted to change state laws so as to allow combination for purposes of such negotiations. One association has considered a law suit against benefit funds on the grounds of unfair practices in restraint of trade.

The adversary relationship between the UFT fund and some three thousand New York City pharmacists may have implications for quality and cost of daily service. It raises the need for, and cost of, a claims review system. The UFT drug benefit carries high (10 percent) administrative costs because the Fund does conduct detailed claims review. It employs eleven full-time-equivalent pharmacists at a cost of several hundred thousand dollars per year in salaries alone. (By contrast, in the ILGWU Plan, only one administrator has pharmaceutical experience. The rest of his staff consists of an office supervisor, four clerks and legal, accounting and secretarial support. Claims review is handled in the mail-order pharmacies—which the ILGWU Fund audits and verifies with electronic data processing controls and contact with ILGWU Plan users.)

The UFT Fund's extensive claims review is directed largely at attempts to cheat, on the part of members or pharmacies. Forms of cheating include ordering non-prescription drugs, ordering drugs for a friend or relative not covered

[19] Some prescription drug plans do attempt to influence utilization patterns through physician education and other means. Paid Prescriptions, a benefit administrator for many employee health plans, is one of a number of such organizations that tries to reduce "irrational" prescribing patterns and convince physicians to write prescriptions for generic drugs—which are often less expensive than name brand drugs—whenever practical.

[20] Martin E. Segal Company compared cost per prescription to the UFT Fund and similar programs with a sampling of uncontrolled retail prices and a sampling of prices paid by UFT Fund members who purchased drugs directly without UFT identification cards and then requested reimbursement from the Fund.

[21] Ibid.

under the Plan, shorting on the part of pharmacists, charging for higher priced drugs than those ordered, and fee splitting between pharmacists and Plan members.

Not only are these methods of cheating possible in the UFT Fund program, but the pharmacists may feel justified or even pressured into them by an adversary relationship with the payer. In fact, the UFT Fund has terminated contracts with several hundred pharmacies for extensive cheating in the last decade. In other words, unfortunately some part of the savings from Fund leverage on retail pharmacies is siphoned into detailed claims review.

The ILGWU Health Services Plan provides a national mail-order prescription program. In consideration of the limited funds available to service a widely dispersed population, the trustees designed a program for providing maintenance drugs required for long-term therapy. This, say the Plan administrators, was a conscious decision made at the sacrifice of providing emergency prescriptions.

The ILGWU Health Services Plan is an employer-union administered Taft-Hartley trust fund which covers all ILGWU members and is financed by a percentage of payroll contribution from employers. Like the UFT Fund, it has an incentive to maximize savings in order to maximize benefits from limited funding. The mail-order prescription service began operation in March 1969 for ILGWU active members and dependents (an estimated 1,125,000 persons in 1975). It was extended to retirees and their dependents (estimated at 125,000 in 1975) in September 1971. To obtain the benefit, a Plan member mails an identification card with the prescription(s) and one dollar copayment for each drug ordered to the designated pharmacy serving his or her region of the country. The member receives the drug(s) in the mail, usually within 3–6 days.

Unlike the UFT Fund, the ILGWU Plan pays one flat contract price for every prescription filled. That price, which is negotiated separately with each pharmacy annually, includes a built-in "professional fee" of 45¢ to 85¢. In addition, the Plan pays the pharmacies a monthly supplemental adjustment to the contract price, based on variations in wholesale drug costs. This elminates the detail work involved in pricing hundreds of thousands of prescriptions of varying drug costs and quantities.

The ILGWU Plan's "professional fee" is so low—less than half the UFT Fund's $2 fee—because mail-order pharmacies consistently realize significant savings on both the acquisition price they pay for wholesale supplies and the cost of dispensing drugs. Also, the high volume of mail-order pharmacy sales allows them to make a reasonable profit on relatively low unit margin.

In other words, the ILGWU Plan has adopted the principle of organized consumer leverage—employed by the UFT Fund to influence prices in thousands of retail pharmacies—and extended it back one step in the prescription drug distribution chain. Whereas a large neighborhood pharmacy may fill a total of several hundred orders a day, the mail-order pharmacies fill a daily average of 6,300 ILGWU orders alone. As a wholesale purchaser, a mail-order pharmacy filling hundreds of thousands of orders a year can cut acquisition costs significantly more than many individual retail pharmacies can. As a volume processor of prescription orders, it can achieve significant economies of scale.

Critics of mail-order drug service claim that it achieves economies of scale at the cost of disrupting the physician-patient-pharmacist relationship. Various state boards of pharmacy have proposed regulations prohibiting mail-order pharmacy because of the presumed disruption of this tripartite relationship. Kenneth Griswald, Chairman of the Judicial Board of the American Pharmaceutical Association, stated in the *American Druggist* (April 17, 1972): "It is usually impossible for a pharmacist in a mail-order pharmacy to render each patient the full measure of his professional ability and to exercise proper professional judgments and skill. He has no personal knowledge of the patient or the prescribing physician on which to base his judgments * * *"

On the other hand, it is apparent that typical practice in many of today's walk-in retail pharmacies does not provide for a substantive personal relationship between pharmacist, physician and patient. Moreover, ILGWU mail-order pharmacies maintain patient profiles and a WATS telephone line for calling the prescribing physician when a question arises.[23]

The four pharmacies participating in the ILGWU Plan are located in Massachusetts, New Jersey, Pennsylvania and Florida. Florida services all members located in the Southeast and west of the Mississippi. Three to six days is the time range for a roundtrip prescription mail order, though service to the West Coast may be seven or eight days. The pharmacies must fill and mail orders within 24 hours of receipt.

Incoming mail orders are opened by clerical personnel who remove the $1 copayment and pass the prescription on to professional pharmacists. A pharmacist screens the prescription, deciphers hand writing, flags orders which can be purchased over the counter (and therefore are not covered by the benefit), and communicates with the prescribing physician if other problems necessitate it. The prescription is then fed to a computer which produces appropriate mailing and labeling forms; checked against known allergies and other data from the patient's computerized medical history; and then filled by hand or machine—depending on the nature of the prescription—in the pharmacist-staffed dispensing section. The prescription is transported by conveyer belt to the quality control department for final inspection by another pharmacist, and then on to packaging and mailing.

Division of labor, automation, bulk purchase of supplies and production controls at the pharmacy result in significant savings to ILGWU's Health Services Plan. In 1975, the Plan paid $8,259,348 for 1,859,708 mail orders, or $4.44 per drug ordered (including mailing costs which averaged 24¢ per order). The members' $1 copayment brings the total to $5.44. The ILGWU Plan's administrative expenses averaged only 18¢ a claim in 1975, or 3.3 percent of prescription prices (versus 10 percent for the UFT Fund). This brings the total average expenditure of the ILGWU Plan and its members to $5.62 per prescription (versus $6.39 for the UFT Fund).

Clearly, service provided by the UFT Fund and the ILGWU Plan drug benefit programs are not comparable. Mail order lends itself to maintenance therapy—prescriptions for chronic (long-term) or recurring episodes—but not to treatment of acute illness. For example, a patient in need of penicillin for treatment of a venereal disease would not wait three to six days for a mail order; yet a woman ordering birth control pills can anticipate need and conveniently schedule delivery. While the UFT Fund provides the convenience of a broad range of prescription drugs available at any neighborhood pharmacy, utilization of the ILGWU Plan tends to concentrate on drugs for maintenance therapy.

The basic difference between the two programs has two important implications for a comparative evaluation of them. First, this effects differences between the two programs in dosage and type of drugs prescribed, so that a comparison of average cost per prescription does not measure costs for comparable products. However, the "professional fee" paid by the two funds does not vary with dosage and type of drug prescribed, and therefore represents a *rough* measure of the relative cost savings of the two programs. The difference between the $2 fee paid on every prescription by the UFT Fund and the 45¢ to 85¢ fee paid by the ILGWU Plan gives some indication of the cost

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[23] Another issue often raised in the context of general debate over the value and advisability of having mail-order pharmacies is the problem of fraud. Drugs have been purchased illegally by mail with the use of bogus prescriptions. However, an investigation by the U.S. Bureau of Narcotics and Dangerous Drugs found that mail-order pharmacies are *not* a major source of such abuse and fraud. John Ingersoll, Director of the Bureau, stated at the annual meeting of the National Association of Retail Druggists in 1972: "On the contrary, the level of compliance (of mail-order pharmacies) with the Drug Abuse Control Amendments of 1965 compares reasonably well with the general run of prescription pharmacies * * * Generally, it would appear that drug abusers are more likely to select a retail pharmacy rather than a mail-order pharmacy to attempt to pass a forged prescription * * *" Quoted in Albert I. Wertheimer and James E. Knoben, "The Mail Order Prescription Drug Industry," *Health Services Reports* (November 1973), p. 856.

efficiency of mail-order versus neighborhood retail dispensing.[23]

Second, drug benefits under the ILGWU Plan are limited in comparison to the UFT Fund's. Mail-order service is simply not practical for many episodes of acute illness. Utilization figures bear out this generalization: In 1975, active UFT Fund members and their dependents averaged three prescriptions each; active ILGWU Plan members and dependents mail-ordered an average of only one prescription each. By comparison, the average annual utilization in the U.S., 1964–65, was four prescriptions per person aged 65 or under.[24] Of the 375,000 active ILGWU members in 1975, only 27.7% of these workers (and/or their dependents) used the drug service. (A comparable figure for the UFT Plan is unavailable.)

Conversely, mail order is relatively useful for the elderly who tend to have more chronic illness. Of the 75,000 ILGWU retirees, 64.5% of these members (and/or their dependents) used the plan. (The National Retired Teachers Association and the Association of Retired Persons have one of the largest mail-order drug programs in the country.)

Thus, the ILGWU Plan drug benefits are less costly, but also less extensive than the UFT Fund's. In other words, bypassing the local pharmacist offers more savings than trying to control his prices. However, this eliminates the convenience of a local dispensary, restricts the availability of benefits, and eliminates the *person* of the pharmacist so far as the patient is concerned.

The trade-off on both sides is significant, though several points merit note. First, both plans appear to achieve significant cost savings.

Second, considerations other than the trade-off between greater savings through mail-order and more convenient access to a broader range of prescriptions through the UFT Fund are also important in evaluating these two programs. For instance, the socio-economic status of beneficiaries is likely to affect their willingness to wait three to six days in order to receive free (or virtually free) prescription drugs. It is plausible that middle-class teachers, who can readily afford $50 or $60 a year for drugs, might consider the inconvenience and impersonal character of mail-order service to be a prohibitive disadvantage. Another consideration is the willingness of neighborhood pharmacists to contract with a benefit fund for a fixed "professional fee" and the difficulties of establishing contracts with neighborhood pharmacies to serve beneficiaries in many different communities.

Third, it should be noted that limiting one benefit is not necessarily a loss for plan members. If the savings from a limited drug benefit are available to the membership in the form of other benefits, there may in fact be a net gain in satisfaction depending upon how much members value various benefits. With the savings realized in the ILGWU Plan's first two years of operation, the benefit was extended to cover retirees and their dependents. One consideration of relevance here is the opinion—voiced by UFT Fund officials among others—that the prescription drug benefit is not a number one health care priority, since the cost of drugs is not usually prohibitive when paid for out-of-pocket. Only for the chronically-ill worker or for retirees living on a fixed budget might drug costs be prohibitive. Of course, these are precisely the members who are most likely to utilize mail-order prescription service.

And last, the two programs are not necessarily mutually exclusive. The complementary advantages of each might be realized by combining them and offering beneficiaries their choice. Prescriptions for chronic (or other) conditions could be ordered through the mails without a copayment or with a relatively small copayment; prescriptions for emergency and acute conditions could be serviced by local pharmacists with beneficiaries paying a higher copayment. The differential copayment would serve as a financial inducement to order through the mails when that is practical; when impractical or simply less convenient, the beneficiary can choose a neighborhood pharmacist.

IV. Claims Review and Information Management at Rockwell International

Review of health care claims by third party payers in order to detect unwarranted charges is common practice. However, detailed review can be a hit or miss operation when applied to a large volume of claims. To give focus, direction and incentive to its program of claims review, Rockwell International initiated an information management system, the Quarterly Trend Report, in 1972. Company executives believe that the Report and the actions it triggers are responsible for significant cost savings, though accurate measurement of costs not incurred is of course difficult.

The Report is a streamlined instrument of communications, particularly well-suited to the needs of large multidivisional corporations. Health care costs vary considerably between plants in a large company and can significantly affect total production costs. Yet detailed data on the cost of employee benefits are easily lost sight of in the flow of other information to corporate headquarters. So Rockwell designed the Quarterly Trend Report to quantify the cost of employee benefits at each of the company's hundreds of plants and to identify priorities for reviewing claims. The Report does this by breaking down claims experience into its component parts—surgical, hospital, drug charges, etc.—for each plant and comparing actual costs with actuarially expected costs. Plants with excessive claims experience are then readily identifiable and can be targeted for detailed review.

Claims review is the retrospective determination of whether fees charged were reasonable, whether the treatment was medically appropriate, and the extent to which payment is obligated under the employee benefit agreement. Payment on claims found to be unwarranted may be denied or benefit administrators may resort to "jawboning" (with medical providers or employees) aimed at reducing unwarranted charges in the future.

Unlike prospective review, prepaid group practice, or health planning, claims review and control does not entail extensive systemwide intervention in the delivery of health care. Rather, it focuses on individual unwarranted claims or particular individuals who repeatedly abuse the benefit plan. Conceptually and administratively, it resembles the kind of oversight that corporate management is familiar with in other areas of purchasing. This is one reason that it has widespread appeal and is commonly used to control excessive health care costs.

Unusually high claims experience for a particular plant may result from any number of factors: Unreasonable fees, unnecessary hospitalization, inappropriate treatment, epidemics, high average age of employees, and so forth. Some of these factors can be detected by clerical review of health care claims; some require a high degree of medical knowledge on the part of the reviewer; others can be discovered only by a site visit to collect additional information from patients or providers.

However, neither review of individual claims by a medical expert nor frequent site visits is practical for every plant in a corporation, particularly one the size of Rockwell International. The company manufactures automotive, aerospace, electronic, industrial and consumer products in hundreds of plants, has hundreds of different benefit plans, and employs over 100,000 workers. Its Automotive Operations alone has 38 plants.

Therefore the most effective method of claims review is to gear the intensity of review to the magnitude of each plant's cost control problems. But plant and top management in many large corporations have only a vague idea of where, whether, and to what extent they may be encountering unreasonable charges, unnecessary hospitalization, inappropriate medical treatment, or other

[23] The "professional fee" is paid on each and every order, regardless of the drug or dosage prescribed. It is not directly influenced by wholesale drug prices. Therefore, the difference in fees paid by the two programs is a "better" measurement of the cost efficiencies—regardless of type of drug prescribed—of the two approaches than is difference in total prescription price.

However, the fee is still not a "pure" measure of the cost of comparable service. The "professional fee" is influenced indirectly by prescribing patterns. For example, in 1973 when the UFT Fund increased the allowable dosage it would reimburse—in order to reduce the number of refills—it raised the fee paid from $1.80 to $2.00. Also, the fee is affected by prescribing patterns insofar as the time and cost of actually filling orders—wholesale supply prices aside—may vary somewhat with the class and quantity of drug prescribed.

[24] The Task Force on Prescription Drugs, *The Drug Users*, Office of the Secretary, DHEW (December 1968), Table XXII, page 22.

problems that merit legitimate cost control actions.

To provide relatively precise measures indicating in which plants and to what extent such problems might exist, Rockwell introduced Quarterly Trend Reports on employee benefit claims.

Having made the commitment to emphasize claims control, corporate executives in personnel began a dialogue in the late 1960's with division and plant managers about what was needed. These discussions gave the managers an idea of the sorts of inappropriate charges that claims review is designed to detect and the kinds of remedial action that might be taken. Says one company executive, "Many of us in the field had no idea what they meant by claims control. Before they explained it, I thought they were talking about cutting benefits."

Coverage	I Manual premium	II Paid claims	III Claim rate (2)/(1) (percent)	IV Claim rate preceding policy year (percent)	V % increase over claim rate of preceding year [(3)-(4)]/(4) (percent)	VI % increase actuarially expected for general trend (percent)	VII Claims control indicator (5)-(6) (percent)
CURRENT QUARTER VS. SIMILAR QUARTER PRECEDING POLICY YEAR							
A & S	2,736.91	2,310:12	84.4	99.6	- 15.3	0	a - 15.3
Surgical	2,003.11	2,728.50	135.9	58.0	134.3	10.0	b 124.3
Hosp.	9,635.43	6,716.60	69.7	106.7	- 34.7	18.8	c - 53.5
Maj. Med.	5,003.78	1,798.09	35.9	154.9	- 76.8	15.0	d - 91.8
Surg-Dep	5,402.95	6,199:06	113.1	32.6	246.9	10.0	e 236.9
Hosp-Dep	18,501.83	20,439.88	110.5	77.6	42.4	18.8	f 23.6
Maj. Med-Dep	3,566.92	5,338.71	149.7	161.6	- 7.4	15.0	g - 22.4
Grand total	46,935.93	45,530.96	97.0	92.4	5.0	12.5	h - 7.5

Out of these discussions emerged the need for a Trend Report measuring performance in claims control. The Report tabulate claims data separately for each factory—one page of the Report for each plant—enabling comparisons among plants. The information is also aggregated for each division and for all divisions covered in the Report. The data are taken from claims forms, tabulated and published by one of Rockwell's insurance carriers, Metropolitan Life Insurance Company, and then distributed to plant, division and corporate management.

The Report now covers some 12,000 claims a year from some 37,000 Rockwell workers (plus dependents) employed at 84 plants. The sample Report for one plant reproduced on the next page represents a breakdown by the following benefits: Accident and Sickness, Surgical, Hospital and Major Medical for employees first and then below that for their dependents.[25]

Column 1 on the sample page displays the actuarially "expected" cost of these claim items (including administrative costs), or the Manual Premium, for the current quarter. It is calculated separately for each plant and represents an actuary's estimate of what any similary plant should experience in terms of claims. Thus, taking into consideration certain characteristics of the plant's benefit plan, its employees, and its geographical location, the Manual Premium sets a benchmark of "expected" claims costs.[26]

Moving across the sample page, Column II gives the dollar claims actually paid in the current quarter for employees of that plant. Column III represents a comparison of I and II; that is, actual claims costs as a percentage of "expected" claims costs. Thus, the Claim Rate (III) measures how much "better" or "worse" that Rockwell unit did than actuaries expected any similar unit would do. If the entry in Column III is below 100 percent, costs were less than expected; if the entry is greater than 100 percent, costs were more than expected. Column IV displays the same comparison for the same quarter in the preceding year.

Column V represents a comparison between III and IV, or a measure of the change in cost control performance during the interval between the current quarter (III) and a year ago (IV). That is, V compares the Claim Rates—the gap between expected and actual claim costs—for the two quarters. This comparison is expressed as a percentage: the difference between the current Claim Rate and the Claim Rate a year ago, taken as a percentage of the Claim Rate a year ago. A negative entry indicates improvement in the current Claim Rate over the previous one; a positive entry indicates a rise in the Claim Rate.

Column VI is the General Trend in Claim Rates over the year long interval between the two quarters (III and IV). It represents an actuary's prediction of what should appear in Column V. VI is subtracted from V to give VII.

Column VII, the Claims Control Indicator, is the bottom line so to speak. It is supposed to represent a measure of the change in Claim Rates between the two quarters as against the expected change in Claim Rates over that year long interval. A negative entry in Column VII indicates that the Claim Rate for the current quarter increased less or decreased more than was anticipated by the General Trend. A positive entry indicates that claims control performance was worse than expected.

What does the Claims Control Indicator signify? What it does not indicate is a specific "problem." The Report does not indicate, for instance, that an epidemic has occurred somewhere or that a particular hospital is overcharging. It does indicate to corporate, division, and plant management where a problem may exist; that is, which group of employees are generating higher than expected claims expenses for surgery or hospitalization or drugs, etc.

For example, the excerpt from the December 1975 Quarterly Report reproduced above indicated to Herbert Baynon, Metropolitan's Group Claims Consultant assigned full-time to the Rockwell account, that a problem might exist at this particular plant. Baynon noted that the Claims Control Indicator for surgical charges (entries b and e, Column VII) is very high. But no corresponding increase in hospital charges (entries c and f, Column VII) is evident.

[25] The Sample Report page is reproduced only in part. Each full page in the Report makes three sets of comparisons: Data for the current quarter compared with the full preceding policy year; data for the current policy year to date compared with the full preceding policy year; and the portion reproduced here, "Current Quarter vs. Similar Quarter Preceding Policy Year." Although the three sets of comparisons in the full Report differ from each other in terms of time spans compared, all three are based on the same concepts. Also, some pages of the Report list other types of claims, such as drug claims, depending on what is covered by benefit agreement for each plant.

[26] The actuarial estimate uses data from different sources adjusted for these particulars of the plant in question: The specific benefits covered under the plant's health plant; the percentage of female employees; marital status of employees; employee income; age distribution of employees; customary and usual charges by physicians in the plant's region; and the composite average area hospital charge.

Baynon decided to investigate. He visited the plant where the individual claim forms were kept and reviewed each of the hundred claims submitted in the quarter. He discovered that one-third of them were for the same surgical procedure performed on more than thirty patients by one doctor—a general practitioner who owns a small proprietary hospital. Yet the surgical procedure, bronchoscopy, generally is not a very common one. Something seemed amiss. The thirty-odd bronchoscopies performed by this one physician in three months cost Rockwell $75 each in surgical fees, plus charges for ancillary services. They also entailed a certain degree of risk, discomfort and expense to Rockwell employees.

Baynon visited the physician at his hospital and convinced him to perform bronchoscopies in the future only when absolutely necessary. Baynon continued to review claims on this physician's services and observed an abrupt decline in the number of bronchoscopies—but noted an equally marked increase in other services performed by the same doctor. A second visit by Baynon sufficed to reduce the number of these other procedures, too.

It should be noted that the Trend Report indicates only a potential problem. At another plant, the Quarterly Report was skewed by a single claim for $47,000. Again, Baynon made a visit. This time he concluded that the charge (for treatment of severe burns) was completely justified.

When a situation is investigated and a problem discovered, Rockwell and Herbert Baynon have a number of options. In case of fraud, one alternative is legal action. Another is to notify local management. Normally a visit from Baynon, sometimes accompanied by the plant manager and/or an employee representative, is sufficient. "I explain that this is a competitive operation," says Baynon, "and that if costs at one location go too high, Rockwell must review the profit factor in any consideration affecting future planning. That can have a real effect."

The Quarterly Trend Report has an effect, too, on plant and division management. Says Rockwell Staff Vice President, Edwin McManus, "So much emphasis is placed on other costs that some plant managers might not focus on health claims costs without the report. Just putting out the numbers and letting them know someone is keeping score is very important."

Conceptually, then, the Quarterly Trend Report is a method of entering health care costs into corporate thinking. Performance in this area is measured in the same way as production performance: in a decentralized structure where the production unit has primary responsibility and is evaluated by division and corporate management.

The Quarterly Report has three advantages. It quantifies health care costs, emphasizes their significance, and measures performance against expectations in a competitive setting where each unit can be compared with every other. This is particularly useful in large multi-divisional corporations where health care costs are significant, but tend to get lost in the flood of information on production and marketing. The Quarterly Trend Report involves all three levels of management: sometimes a plant manager will see problems in his report and request assistance, or division management may intervene, or corporate headquarters or Herbert Baynon will initiate action.

One problem with the Report is that it requires a time lapse of at least one year after initiation before meaningful comparisons with past performance can be extracted. This problem is not necessarily a one-time occurrence. It is exacerbated by the fact that multi-divisional corporations like Rockwell frequently add, divest, and merge production units, even entire divisions. Frequent adjustments for changes in corporate structure have to be made and the year-long time lag repeated.

A change in one part of the company does not necessarily affect the accuracy of the Report for other plants and divisions, but it does temporarily affect the Report's usefulness for the plants directly involved in the change as well as the accuracy of aggregate figures for the company. (For this reason the trend in total premiums paid by Rockwell since 1972 does not necessarily reflect cost control performance. Because it reflects several variables, it cannot be used alone to measure the effectiveness of Quarterly Trend Reporting.)

As an example, Column III of the December 1975 Quarterly Trend Report for hourly workers at Rockwell's Battle Creek, Michigan automotive parts plant shows that claims for all medical services were only 33.5 percent of the plant's Manual Premium. Because the plant was not in existence in 1974, no comparison of current and past Claim Rates can be made, and therefore no Claims Control Indicator is shown for this plant. Moreover, because the plant's workers are new employees they have not yet generated a "normal" level of medical claims. So even the Claim Rate for the current quarter is of doubtful utility.

Labor relations is another area of concern. Improving the cost picture, as in the bronchoscopy example, often means improving quality. However, if claims control were misapplied or misinterpreted, employee representatives might object to it and to the Trend Report. Rockwell claims that it has encountered no such objections to the Report and that it does not use the Report or subsequent intervention to deny legitimate benefits. The reaction of its employee unions reportedly varies from neutral to favorable. Indeed, benefit administrators at one of its unions, the United Automobile Workers, says that the union is considering asking automobile manufacturers to institute such a reporting system, too.

The cost of collecting, computing and publishing data in the Trend Report is not precisely known, though it does not appear prohibitive. It is included in Metropolitan's administrative fee for the Rockwell account, currently about four percent of total premium. But initiating the Report involved considerable expenditure of time and effort. For this (and other) reasons it was instituted experimentally for less than one-third of Rockwell employees.

While the cost of reporting is well under four percent of premiums, "Cost Avoidance" for the portion of employee claims covered by the 1975 Report was estimated at 23 percent. Because of changes in Rockwell's production units this figure is only a very rough indicator of savings. Moreover, it is based on actuarial estimates of expected claim costs, which are also subject to considerable variation.[*] So a precise measure of the Report's effectiveness is as impossible to gauge as is its exact cost.

However, it is noteworthy as a measure of the company's satisfaction with the Report, that Rockwell plans to extend it to more plants and to cover other types of employee benefits.

V. Self-Insurance, Peer Review and Resource Planning—Reforming The System

"You have to affect changes in the general pattern of delivering health care in a community to achieve real savings," says Richard Martin, Goodyear Tire & Rubber Company's Manager for Health Service Industry Relations.

As a major purchaser of medical care—Goodyear paid $61 million in medical claims for some 250,000 employees and dependents in 1975—the company's benefit expenses are directly affected by the efficiency of the existing system of delivering care. Therefore, in order to reduce its own costs, Goodyear management works directly with medical providers to reform the system, to reduce unnecessary costs that have been built into it. To that end, Richard Martin is in daily contact with physicians, hospitals, other providers and planning agencies. The object of his efforts is to find ways of matching services provided with real needs and reducing unnecessary or inappropriate utilization.

For example, excess hospital bed capacity drains community health resources because of the high maintenance and staff costs associated with empty beds. Costs may be further increased in the event that patients are unnecessarily hospitalized in order to fill these otherwise empty beds. In either case, these expenses are borne by local benefit plans in the form of higher charges per bed-day or more bed-days. So rather than contest individual benefit claims for unnecessary hospitalization or unreasonable charges, Goodyear executives on the board of Akron-area hospitals and planning agencies are trying to control the number of beds in Akron hospitals.

How much these efforts can save consumers is impossible to quantify. How-

[*] Metropolitan is presently considering a modification of the Report in order to refine the way actual costs are measured against general trend data.

ever, it can be said that Goodyear's general approach to controlling costs is shared by major employers in Detroit, Mich., Pittsburgh, Pa., Minneapolis, Minn., Wausau, Wisc., and elsewhere.[28] They are actively participating in health facilities planning and/or sponsorship of peer review in order to rationalize delivery of medical care. Unions, too, are stepping up their involvement with regional health care planning boards.

Goodyear also pays its medical bills directly, rather than buying health care insurance (except for prescription drug benefits). Aside from the administrative savings that flow from this arrangement, it probably carries a certain psychological impact: direct participation in planning the health care system would seem to be a legitimate role for an organization that actually pays the bills generated by that system. "Self-insurance" also gives Goodyear direct and immediate access to claims data, which can be helpful in the planning process, as well as sole responsibility for individual claims review (see case study No. 4).

Goodyear's approach, then, is holistic in a double sense. First, the company is involved in every aspect of controlling costs—the costs of benefits administration, of unwarranted individual claims, of system-wide patterns of inappropriate utilization and of building health care facilities. Second, Goodyear focuses on the system, not particular practioners, hospitals or medical procedures. The company's emphasis is on altering general patterns of health care delivery rather than reducing individual claims that may not be fully warranted.

'Self-insurance' is a misnomer meaning simply that Goodyear does not insure. Rather, for the past twenty years the company has paid claims directly to providers rather than premiums to an intermediary. The customary function of insurance—pooling risk—is not necessary for a work force as large as Goodyear's.

Direct payment of employer benefit claims gives Goodyear an equally direct and legitimate responsibility for reforming the health care delivery system. The company wants to exercise that responsibility rather than delegate it to an insurer. Goodyear executives on health planning boards have the interests of Goodyear in mind rather than a range of insurance clients.

'Self-insurance' can also achieve tangible savings. Goodyear executives state that cost evaluations performed by the company have shown self-administration of claims payment to be less expensive than administration and payment by a third party—though precise comparative figures are not available. Goodyear also claims to realize savings on cash flow because it does not contribute to the reserve fund of an insurance company and because it pays claims as they come in rather than paying a premium in advance. Lastly, the state premium taxes (in the range of a few percentage points) that insurance companies pay do not apply to 'self-insured' benefits.

On the other hand, insurance companies and their larger clients have developed means of reducing some of these extra costs substantially. And for many clients, smaller ones especially, health insurance itself performs vital functions: risk pooling, prospective budgeting of benefit costs, and expert handling of health care claims. For small and large clients alike, the start-up costs and organizational demands of 'self-insurance' are substantial. These demands are particularly onerous for an employer that would prefer not to get involved in employee health care—an employer that prefers to have an insurance company act as buffer between itself and its employees. However, this is precisely the most important advantage of 'self-insurance' to Goodyear—direct company involvement.

In addition to the potential savings on administrative fees, taxes, and cash flow, 'self-insurance' also gives the employer direct and immediate access to claims information. Goodyear does its own claims review in-house and from these claim forms compiles monthly reports on claim costs at each plant. Of course, direct access to claims and summary data reports can be had when an employer uses an insurance company, but many companies prefer not to get involved, relying instead on the carrier to monitor claims.

At Goodyear, all medical claims are forwarded to corporate headquarters (Akron, Ohio) for review and payment. Clerical personnel screen them for unreasonable charges, services not covered under the employee benefit agreement, or inappropriate care. Claims that are questionable for any of these reasons are forwarded to the company medical department where physicians on staff or retainer will communicate directly with the provider involved or the appropriate local medical society to try to resolve the problem.

This kind of claims review is done on an ad hoc basis and is designed to catch only fairly obvious problems. This process could be systematized and intensified by using monthly reports to focus detailed review on "problem" areas, as Rockwell does (see case study No. IV). But Goodyear management does not emphasize the report as a tool of claims review.[29]

"We investigate specific providers and claims very rarely," says Martin. "We could have ten people out on the road doing that sort of thing full time. We don't because I choose to work on the system."

Instead of using the reports to identify providers or specific plants that seem to merit detailed claims review (as Rockwell does), Goodyear uses them primarily as one of several data sources indicating how the health care delivery system works and what parts of it are most in need of change. Armed with data from monthly reports and representing a major payor of medical bills, Goodyear is able to exercise some influence in reforming the existing delivery system.

For example, Goodyear is financing concurrent peer review at the large (700 bed) Akron City Hospital. This is one of several hospitals around the state where a pilot peer review program has been instituted to systematically assess the quality and the appropriateness of cost of medical care. Using computerized criteria of proper hospital admissions, course of treatment, and length of stay, the reviewers are able to systematically flag cases of substandard and/or unnecessarily expensive care.

Goodyear's involvement began in 1973 when Richard Martin approached Robert Clark, M.D.—then President of the Summit County Medical Society—with data showing that the average length of hospital stay for Goodyear employees in Akron was two days higher than the national average and two days higher than length of stay for company employees elsewhere. At an average daily charge of over $100 this was costing Goodyear hundreds of thousands of dollars a year. Why was length of stay so high in Akron and what could be done about it, asked Martin. Dr. Clark, who was also President of Medical Advances Institute, replied that the Institute's concurrent peer review program could answer the first question and suggest solutions to the second. Goodyear agreed to pay Medical Advances Institute $800 per admission to review each company employee or dependent hospitalized at Akron City Hospital—some 3,000 individuals a year.

The Institute is a free standing corporation established by the Ohio State Medical Association in 1971 to develop a peer review system for quality assessment of hospital patients. It has evolved a sophisticated, computer-adaptable program that compares quality of care being rendered against pre-established criteria. The review is concurrent and looks at such items as justification for admission, proper utilization of services, proper care patterns, length of stay and analysis of outcomes. If an item falls outside the criteria, which have been developed for 266 diagnosis or problems, then it is referred to a physician for professional judgment. The system is a screening mechanism to identify problems in the treatment of an individual case. Once this data is captured, and verified by physician judgment, then it can be utilized by the medical staff to find solutions to the problem areas. It is by these corrections that the pattern of medical care is altered to the benefit of the patient and Goodyear alike.

"For instance," says project director, Dr. Clark, "we found that six physicians out of the 300 at Akron City Hospital were causing 52 percent of the hospital's recorded, unjustified overstays. We've always suspected these six, but now we have hard data," Armed with this data,

[28] See survey entries No. 90, 91, 16, 17.

[29] One possible use of the reports is under consideration but has not as yet been implemented. The reports could be made more detailed and, in combination with peer review data, used to compile a list of non-approved providers who consistently overcharge or render inappropriate care.

the Department Chairman can now move confidently to remedy the problem. (One of the six has since lost his privileges at the hospital and three others have dropped off the "offenders" list.)

"Goodyear isn't doing this," says Martin, "the physicians are. I don't think we should be in the business of medical audits. Let the doctors do that. We're helping to set up mechanisms for them to do it." Of course, control therefore rests with local physicians, who set the criteria of proper care and perform review functions. The program's effectiveness depends entirely on their commitment to self-discipline.

How much is the Medical Advances Institute saving Goodyear? The project is too new for an answer, but potential savings are there. If it can cut just one day off the average length of stay, that would save the company some $350,000. (This is net of the review cost of $8 per admission, or $24,000.) The first year's results of a similar program covering Goodyear employees in Springfield, Illinois, since March 1974, show a drop in average length of stay of about 12 percent. This reduced charges by $30,000 on just 600 hospital admissions.

Goodyear has also contracted with hospitals in Cumberland, Md., for concurrent review and is in the process of negotiating review in Gadsden, Alabama. In communities where Goodyear is a major source of hospital revenues the company can negotiate such agreements on a quid pro quo basis—in return for Goodyear's continued financial support of necessary hospital fund raising campaigns and immediate direct payment of charges to aid the hospitals' cash flow position.

Concurrent review offers several potential advantages in terms of cost and quality control. It provides health professionals the opportunity to intervene directly and immediately to correct an in appropriate course of treatment. There is a "sentinel effect," too: knowing that they are being watched by their peers, physicians may become more cost conscious. Also, records kept over time can be used to focus professional attention on individual physicians or problem areas of care that merit remedial action. For instance, in 1975 the average length of stay at Akron City Hospital decreased for all types of Goodyear patients except spouses. The reason for this exception was found to be the very long average length of stay for maternity care. Thus, peer review identified a specific utilization pattern having significant and undesirable cost implications.

Perhaps the most important long-term effect of concurrent review will be educational. Physicians can identify areas of professional expertise on which continuing education courses should concentrate. Payers, too, can identify specific causes of unnecessary costs and pass this information on to employees or design benefit packages so as to minimize such costs. For example, having discovered that patients are sometimes hospitalized on a Friday only to spend the weekend waiting for a diagnostic laboratory or the operating room to open on Monday, Goodyear now advises employees to ask their doctors to schedule admissions for non-emergencies between Monday and Thursday.

Health planning is a second method of affecting the delivery system. As such it is an integral part of Goodyear's holistic approach to cost controls. Facilities planning affects costs in three ways. First, one-time capital investments in facilities are partially absorbed by higher charges. Second, the operating cost of facilities is significant even on days when they are not being used: the labor costs of staffing empty hospital beds or underused radiotherapy equipment can rise well above 50 percent of the total cost of actual operation. Third, existing facilities affect patterns of utilization: empty beds tend to get filled in order to generate the revenues needed to pay for them.

In other words, reducing inappropriate utilization will have limited impact on benefit expenses if facilities left unsued as a result are still generating substantial costs. Moreover, the very existence of unused facilities may generate unnecessary utilization and thus impede attempts to reduce inappropriate care. So hand-in-hand with sponsorship of peer review goes Goodyear's participation in health planning.

Much of this participation involves various individual corporate officers. In 1972 Goodyear set up a health care cost committee, comprised of corporate executives and responsible for deciding company policy on relevant issues. The committee is a structure which can be used to educate management on problems of the health care delivery system and to coordinate activities and resources within Goodyear as they relate to health care costs.

This committee made the decision to participate in peer review at Akron City Hospital. Also, its individual members participate in community planning as members of hospital boards and Akron's health planning agency (the Summit-Portage County Health Systems Agency). Six Goodyear managers sit on committees of this agency, including Richard Martin who is its president. They represent an informed and coordinated voice in the planning process.

Their participation in area health planning can reduce costs to Goodyear in numerous ways. For instance, on the basis of data from Akron hospitals and studies using Goodyear's own monthly reports, Richard Martin has proposed a ten year moratorium on adding beds for maternity care in Akron. His goal is to reduce the cost of maintaining empty beds and the incentive that such idle facilities provide for unnecessarily long maternity stays. Given the influence of Goodyear executives on the planning agency, his proposal cannot be taken lightly.

Complementing management involvement in area-wide planning is the participation of company executives on the boards of individual hospitals. "Many of the rubber companies are represented on the board of trustees for Akron City Hospital," says that hospital's Executive Director, Albert Gilbert. "But the key ingredient here is the individual officers' involvement. I'm on the phone at least three times a week with Dick Martin."

Gilbert kept Martin informed during the planning phase for remodeling the 700-bed hospital. The modernization was planned so as to reduce the need for nursing and support personnel and so that buildings would be converted rather than abandoned. This cooperation should save the third-party payer benefit dollars in the long-run, for as Albert Gilbert says, "Goodyear pays approximately 12 percent of the cost of running City Hospital and they should know what is going on and have appropriate input into the hospital's planning."

Goodyear is involved in almost every aspect of the health care system, from 'self-insurance' through facilities planning. 'Self-insurance' may have a psychological impact on providers: as a direct consumer the company can claim a legitimate and major role in health planning. Claims monitoring and reporting also provide needed information for intelligent and credible participation in planning.

However, detailed administration of claims payment is not in any sense a prerequisite to planning. If anything, 'haggling' with providers over specific charges is likely to lead to resentment on their part and impede attempts by the company to work cooperatively with them. Perhaps this explains Goodyear's relative disinterest in detailed claims review. Says Martin: "If we're going to change the system we have to work with providers."

One characteristic of the company does significantly affect its ability to change the system: its size and concentration. Goodyear pays many of the health bills for some 250,000 people. Of course, the company is a major presence in the Akron region in other respects as well. In a word, that gives it clout. By contrast, Rockwell International's large work force is not concentrated in a single city. Its influence therefore is fragmented and its benefit costs are affected by delivery systems in over 100 communities. Attempts on the part of Rockwell corporate headquarters to alter the way care is delivered in all these localities might prove prohibitively expensive.

Size, geographic concentration, and corporate commitment then are important elements. This applies to union and health and welfare funds as well. Even a benefit plan much smaller than Goodyear's may be a sizeable payor of medical bills in one locality, or may be able to act cooperatively with others, and thus increase its own leverage on the system. However, institutional change is a time consuming effort. The pay-off may be many years down the road. Where planning is a relatively open process and providers are cooperative, organization and individual commitment to change may be the most critical in-

gredient for small as well as large employee benefit plans.

VI. INDUSTRY SUPPORT OF GENESEE VALLEY GROUP HEALTH ASSOCIATION

The skyrocketing cost of employee health benefits under customary fee-for-service doctoring is prompting employers to consider alternative methods of health care delivery. One alternative that major businesses in cities such as Rochester, N.Y., Winston-Salem, N.C., Albuquerque N.M., and Minneapolis-St. Paul are encouraging is prepaid group practice.[30] These group practices are sizable organizations in the business of providing health care. As such, they require substantial financial resources and marketing efforts. Large employers can help meet both these needs. In fact, the nation's largest multi-community prepaid group practice, the Kaiser Foundation serving 3 million members, originated in the early 1940's as a health plan for Kaiser's own employees.

A prepaid group practice brings together into a single organization a comprehensive range of medical services delivered both in hospital and outpatient settings. The patient is assured convenient access to all services and the group practice can choose the most cost-effective and appropriate means of treatment. Also, prepaid group practitioners provide needed services for a fixed capitation fee. Budgeting is prospective and physicians are salaried. Thus, the provider's financial incentive is made to correspond with the professional ethic of preventive care: as the President said in 1971, "the provider's income grows not with the number of days a person is sick but with the number of days he is well."[31]

In theory, then, prepayment provides the incentive to emphasize preventive care and minimize costly hospitalization; group practice makes possible efficiencies of scale and extensive use of (lower salaried) allied health professionals.

Most significant is the claim that prepaid group practice reduces hospitalization, which accounts for about half the total cost of employee health care benefits in the U.S.[32] Hospital utilization is a complex issue affected by patients, hospitals and physicians alike, and it is not the purpose of this study to delve into that issue in detail. However, there is impressive documentation for the assertion that prepaid group practice members use hospitals less than populations served by more traditional indemnity plans even when age-sex differences are taken into account.[33] Members of the prepaid group practice selected for this case study, Genesee Valley Group Health Association (GVGHA), experienced a 7 percent reduction in medical-surgical inpatient days in 1974 (versus a 5 percent increase for beneficiaries who retained traditional indemnity plan coverage).[34]

GVGHA typifies prepaid group practice in a second respect: it is a costly venture aimed at serving a large market. GVGHA's health center alone cost $3.2 million to build. It is designed to serve 35,000 to 40,000 members and has substantial mortgage and operating costs which cannot efficiently be sustained without near-capacity enrollment.

Because the fixed capital investment and start-up costs are very high, a prepaid group practice must penetrate the local market quickly or be crushed under the weight of heavy overhead costs. "Really, you shouldn't open your doors without ten to twelve thousand members," says Ernest Saward, M.D., a consultant to GVGHA and a 25-year veteran of Kaiser Permanente (the nation's largest chain of prepaid group practices).

But building up a prepaid practice often means taking patients away from individual practitioners. Organized prepaid practitioners compete with local fee-for-service physicians and conflicts between the two groups are sometimes heated. Thus, prepaid group practice offers the cost advantage of reduced hospitalization, the disadvantage of high start-up and overhead expenses, and the potential of competition with established practitioners. Naturally, employer support of one side in this competition—prepaid group practice—implies significant risks and opportunities for both the project and its backers. The implications of that support are the focus of this case study.

Rochester and environs is home to Eastman Kodak, much of Xerox Corporation, Sybron—a conglomerate of seven tool-making companies—two General Motors plants and some 750,000 people. The city has a tradition of progressive business leadership in health planning and on the boards of Blue Cross and Blue Shield. In fact, Rochester business leaders played a key role in establishing one of the nation's first Blue Cross Plans in the middle 1930's.

Rochester is fertile ground for a prepaid group practice. The community is large enough to support more than one delivery system. The presence of a large medical school and a 'progressive' county medical society encourages experimentation. (That and a large supply of physicians saved GVGHA from having to reach outside the community to recruit medical staff.) And the dominance of a progressive pair of BC/BS Plans, which insure about 80 percent of Rochester's population, greatly eases planning and operation of new projects.

The industrial structure of Rochester is fortuitous, also. The prominence of a few large corporations underpins the tradition of business leadership and cooperation that led to the creation of GVGHA. And the existence of large employee groups—Kodak, Sybron and GM workers alone comprise 30 percent of GVGHA contracts—greatly simplifies the task of marketing a prepaid group practice.

Partly as a consequence of business leadership, Rochester's health insurance premiums are significantly lower than those in most other industrial cities. But they are rising and have been for some time.

To try to stem that rise, executives from Eastman Kodak, Xerox, Sybron and other companies supported the creation of GVGHA, after the initial ground work had been dug by Blue Cross and the local health planning agency. Major executives from the large corporations paying the premiums felt that Blue Cross and Blue Shield of Rochester represented the best mechanism to organize and underwrite GVGHA's substantial financial risk. To date, GVGHA has enrolled over 25,000 members and borrowed $3.6 million from BC/BS.[35] It is a multi-

[30] See entries Nos. 13, 14, 16 in the compendium.

[31] "National Health Strategy," The President's Message to the Congress Proposing a Comprehensive Health Policy for the '70's, February 18, 1971.

[32] Walter W. Kolodrubitz, "Employee Benefit Plans, 1973," *Social Security Bulletin* (May, 1975), Table H.

[33] See for example H. E. Klarman, *Analysis of the HMO Proposal—Its Assumptions, Implications and Prospects* (University of Chicago Center for Health Administration Studies, 1971); G. J. Perrott, *Federal Employees Health Benefits Program Utilization Study* (U.S. Public Health Service, 1975; M. T. Roemer and W. Shonick, "HMO Performance: The Recent Evidence," Milbank Memorial Fund Quarterly, *Health and Society* (1973, p. 277).

[34] These figures represent a re-analysis of data from a paper written by Klaus J. Roghmann for presentation of the Medical Care Section of the American Public Health Association Convention in October, 1976. Dr. Roghmann's paper is a cohort study of beneficiaries enrolled in the basic Blue Cross and Blue Shield Plan in 1972 and those same beneficiaries in 1974—the first full calendar year of operation for several new health plans. When inpatient surgical-medical days per 1,000 plan members in 1974 are age-standardized and compared with 1972, the three groups studies show a divergence of trends: those who retained basic BC/BS coverage in 1974 experienced 5% *higher* utilization rates than they had in 1972; those who selected GVGHA experienced 7% *lower* rates in 1974 than they had under BC/BS in 1972; and those who enrolled in a foundation-type HMO (named Health Watch) experienced 16% *lower* utilization rates in 1974 than they had in 1972.

Thus, Health Watch proved most successful in lowering surgical-medical hospital utilization—a finding that contradicts earlier studies of the three plans. However, Health Watch had more to work with in the sense that when it began in 1972 its membership had extremely high hospital utilization rates. Even after the 16% reduction, Health Watch members still experienced the highest inpatient utilization rate of any of the three plans. GVGHA, by contrast, enrolled members who on the average had had the lowest utilization rates in 1972. Still, GVGHA managed to reduce this originally low rate by 7% in 1974. GVGHA's 1975 performance was even better in this respect than 1974's.

[35] To ease the burden of start-up costs the Federal government makes grants for feasibility studies and panning, and loans for initial operations available to Health Maintenance Organizations. GVGHA received an initial federal grant for a half million dollars before the HMO program began and another third of a million dollar grant from the HMO program. It recently qualified for federal HMO loans.

speciality practice located in a single health center housing doctors, nurses, a laboratory, pharmacy, X-ray facilities and a room for minor surgery.

Despite the advantages that Rochester offers a prepaid group practice, GVGHA's marketing floundered badly at first. In this respect it is not atypical. Under-enrollment is a major problem for new HMO's, concludes a report by the General Accounting Office.[25] All five of the report's recommendations to HEW for improving its HMO program deal with marketing problems. Though GVGHA is one of three HMO's described in that report as "promising," it, too, encountered marketing difficulties—due in part to a compromise worked out by industry executives and others in Rochester, and described in the following section.

The initial spark for Genesee Valley Group Health Association came from Rochester's Industrial Management Council, a non-profit service group composed of companies that employ about 90 percent of the area's manufacturing work force.[27] In 1968, the Council's newly-installed General Manager, John Hostutler, galvanized concern over rising health care costs by focusing attention on the BC/BS 10-year premium projections for local industries: Kodak's hospital bill, for example, would jump from $5 million to $15 million without any change in benefits. The Council asked Hostutler to look into the problem further.

His exploration of the problem and the deliberations of BC/BS officials, health planners and industry executives led to the formation of a broad based committee-including labor, business, Blue Cross, Blue Shield, hospital and physician representatives—to promote alternative delivery systems. This broad base conferred legitimacy, but not consensus: whereas industry and Blue Cross representatives envisioned a prepaid group practice, the physicians offered instead a medical foundation plan for comprehensive coverage on a fee-for-service basis, named Health Watch, which the Monroe County Medical Society was then actively studying. Industry representatives agreed to it in exchange for Medical Society endorsement of a prepaid group practice (GVGHA). BC/BS was persuaded to go along with this accommodation over the objections of Donald Robertson, Executive Director of Blue Shield.

Disagreements between organized medicine and organizers of prepaid group practice are common. In this case, business leaders—divided among themselves as to how this conflict of beliefs and interests should be handled—decided on a compromise in which they endorsed competition to their own plan. "The big battle in 1970," recalls Gerald Glaser, M.D. one of the Medical Society representatives, "was just to get committee approval of Health Watch."

However, BC/BS had not agreed to underwrite Health Watch, nor had BC/BS been asked to do so. That would create competition to its wholly owned subsidiary, GVGHA. But Health Watch eventually opted for BC/BS underwriting. Meanwhile, a third plan, Rochester Health Network (RHN), came on the scene.[28] After considerable debate, the Industrial Management Council voted to have BC/BS handle all three options regardless of the risk. BC/BS insisted that all three competing plans wait until each was ready so that they could be marketed simultaneously to employee groups. This would cause the least disruption to industry.

Thus the original accommodation was extended to a third plan and the financing and marketing function placed in a single agent. Industry leaders acceded to various community pressures to the extent of endorsing two competitors to their own plan. Then to equalize the competition, all three plans were effectively bridled: Health Watch was delayed a year and both Health Watch and GVGHA dropped their individual marketing plans.

As presented to various employee groups in the summer of 1973, the three plans offered virtually complete health coverage: the same inpatient medical and surgical services included in basic BC/BS coverage, *plus* expanded psychiatric and full maternity and ambulatory care. The most significant departure from the customary BC/BS benefit package was coverage of physician and psychiatric office visits, home visits, physical exams, well-baby care, immunizations, injections, laboratory tests and full coverage for obstetrics.

Monthly premiums for a family were:

RHN	$56.54
Health Watch	60.-10
GVGHA	69.68
BC/BS Basic	34.56

Most employers paid the equivalent of the BC/BS Basic cost toward any of the four plans. However, employers who pay the bulk of BC/BS premiums in Rochester, indirectly subsidized GVGHA. BC/BS financed GVGHA's $3.2 million Joseph Wilson Health Center—named for the founder of Xerox—and lent GVGHA another $3.6 million in operating subsidies over the first three years. This subsidy permitted GVGHA to set premiums as if its operating costs were distributed over a near-capacity enrollment of 35,000 members.

TABLE I: COMPARISON OF THREE NEW COMPREHENSIVE HEALTH PLANS

Plan	Type	Sponsorship	Amount of risk	1973-74 monthly premium family
A. Health Watch	Foundation-type plan.	Medical Society County of Monroe.	No services	[1] $60
B. Genesee Valley Group Health Association (group health) [2].	Centralized multi-specialty group practice (single health center).	Rochester Blue Cross and Blue Shield.	All services including hospital.	[3] 49
C. Rochester Health Network (RHN)[4].	Decentralized group practice (7 delivery sites).	Former OEO neighborhood health centers 314e Federal funds.	Physician services rendered in centers.	56

[1] There is $2 copayment per doctor visit in health watch.
[2] Physicians are mostly full time on fixed salary.
[3] There is a $2 copayment per day for all services received at group health.
[4] Depending on delivery site, physicians are full time on fixed salary or partial salary.

The first marketing effort was directed at Eastman Kodak's 47,000 employees—but not by the 3 plans or by BC/BS. Kodak, an early supporter of GVGHA, insisted on handling the marketing but did not advocate any of the new options. Several weeks before the first day of enrollment, June 18, 1973, "Management Letters" were sent to plant and company officers; meetings of supervisors were held; articles appeared in the company newspaper; and explanatory literature was distributed to employees. GVGHA alone expected to enroll 10,000 members (including employees' dependents).

Surprisingly, less than one percent of Kodak's 47,000 workers chose any of the three new plans. The disappointing enrollment has been ascribed to confusion on the part of employees faced with a choice of three new plans; absence of management endorsement of any new plan; and the fact that Kodak employees were not required to make a positive choice—they would retain customary coverage by simply not responding to the enrollment drive.

Another six months and some 150 companies later, GVGHA had still only managed to enroll 2,184 members. Meanwhile, its new health center and medical staff were sitting virtually idle. The need for a radically different marketing approach was inescapable.

Soon after the Kodak debacle, GVGHA Executive Director, John Nelson, and Associate Executive Director, Raymond Savage, submitted a position paper to the GVGHA board urging advocacy marketing by GVGHA itself as the only solution. In fact, argued Nelson and Savage, there really had been no effective marketing under impartial BC/BS and Kodak stewardship of all three plans. (Both Health Watch and GVGHA had selected marketing specialists, which were then jettisoned after BC/BS reluctantly acceded to pressure from business executives and agreed to market all three plans impartially.)

GVGHA's board approved the marketing proposal in September 1973, and sales people were hired immediately. Savage set a target of 12,000 members for the end of 1974, up more than 500% from December 1973.

The measure of the marketing challenge he faced was to distinguish GVGHA from the pack. In the confusion

[25] Report to the Congress by the Comptroller General of the United States, Effectiveness of Grant Programs Aimed at Developing Health Maintenance Organizations and Community Health Networks (November, 1975)

[27] See Seymour Lusterman, Industry Roles in Health Care (The Conference Board, 1974) pages 90–95.

[28] RHN is a mutliple-center prepaid group practice that originated out of an OEO neighborhood health clinic.

bred by tripartite marketing, the appeal of the known entity—either customary BC/BS coverage or the family physician participating in Health Watch—was very strong. On the other hand, the formal organization of group practice can be a major marketing asset. For new residents trying to find a family physician—not to mention any number of specialists—group practice provides immediate access to comprehensive care. In fact, a disproportionately high percentage of the nearly three thousand Kodak workers and their dependents that GVGHA has enrolled since 1973 were new employees trying to enter Rochester's medical delivery system.

Perhaps the biggest help GVGHA can expect from a company says Managing Director of Blue Cross, David Stewart, "is a friendly, informal referral from the personnel office when new employees ask about health benefits and finding a doctor."

One industry did show exceptional cooperation. General Motors and the representatives of its 9,000 local workers—the United Automobile Workers (UAW) and the International Union of Electrical, Radio and Machine Workers (IUE)—cooperated fully when approach by all three plans in February 1974. Health insurance premiums paid by GM in Rochester, which are based on a national agreement negotiated through collective bargaining, were then higher than the premiums charged by any of the three new plans. So the company readily agreed to pick up the full tab for workers enrolled in any of the three new plans.

GVGHA pursued its own aggressive marketing strategy at GM. To kick off the spring enrollment campaign both the UAW and IUE held large membership meetings, where GVGHA's John Nelson and Ray Savage together with Dr. Harold Gardner, Medical Director of GVGHA, explained their plan. Special Sunday afternoon meetings were held at GVGHA's Wilson Health Center; literature was distributed to employees; and union and company officials made themselves available all day long for two weeks in order to answer workers' questions about the new plans.

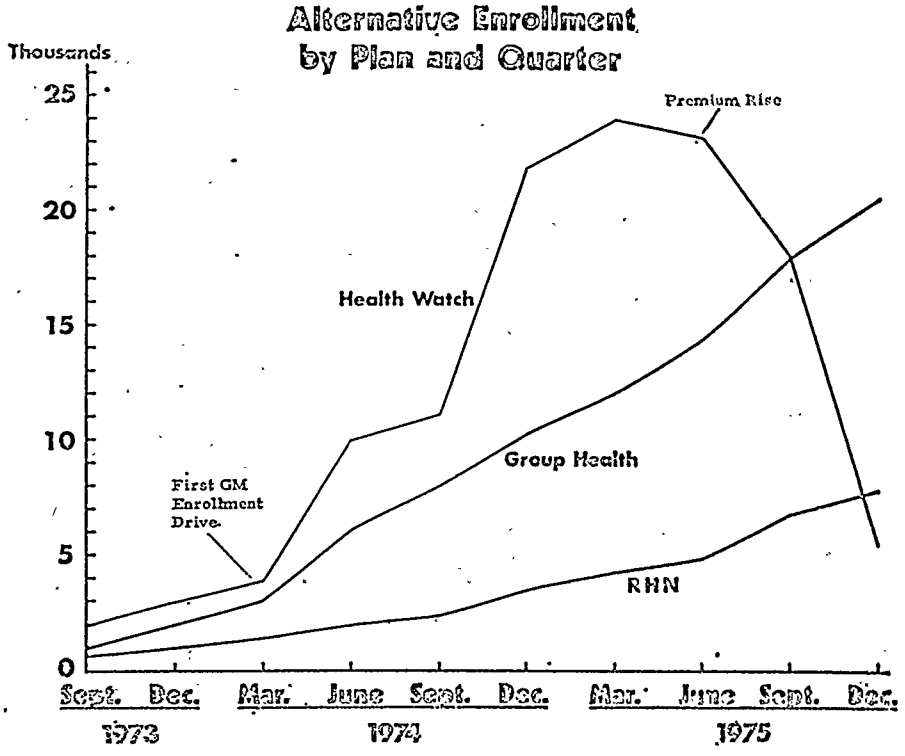
"Just to show the membership where I stood on this," recalls local UAW official, William Reddy, "I joined one of the plans myself, GVGHA."

By June, GVGHA had signed up 3,000 workers and members. (Health Watch recruited twice that number.) By the end of 1974, Savage and his growing sales team had come to within 1,516 of their 12,000-member target. Since then, total enrollment has climbed above 25,000 (as of July 1, 1976).

GVGHA is projected to cross the break-even line with 36,500 members in March, 1977. Enrollment growth is on target, and the organization recently received official federal HMO qualification. That means most local employers will be required to offer GVGHA to their employees under dual choice. It also means $1 million in federal loans for 1976 and another $1.5 million to follow.

TABLE II: MONTHLY PREMIUM BY TYPE OF COVERAGE AND PLAN

PLAN	PREMIUMS FOR GROUP ENROLLMENT UNDER AGE 65			
	JULY 1, 1973		JULY 1, 1974	
	SINGLE	FAMILY	SINGLE	FAMILY
BASIC BLUE CROSS/BLUE SHIELD	$13.84	$34.56	$16.38	$40.93
GROUP HEALTH (GVGHA)	17.42	49.63	20.01	57.14
HEALTH WATCH	20.02	60.10	30.80	97.00
ROCHESTER HEALTH NETWORK	19.47	56.54	21.95	66.09
Basic BC/BS premium rates are expected to rise 12% on September 1, 1976				



GVGHA has succeeded, too, in controlling costs. The percentage rise since 1973 in its family premiums is lowest of all four BC/BS affiliated plans. Its inpatient hospital utilization was quite low in 1974 and lower still in 1975.[39] In short, the prognosis looks hopeful. (Health Watch, by contrast, experienced runaway costs, due in large measure to adverse self-selection of its patient population. After 60% premium hike in July 1975, its enrollment plummeted and on June 30, 1976, it was dissolved.

Nevertheless, the initial marketing failure cost GVGHA dearly. "GVGHA's big problem now" says Ernest Saward, M.D., a consultant to GVGHA and former board member of Health Watch, "is amortizing its huge start-up costs, $3.6 million. At least $1.2 million of that indebtedness was due to having to deal with Health Watch."

Broad business backing convinced BC/BS to sponsor GVGHA and finance its huge initial debt; corporate executives helped get it off the ground; and these same men played key roles in smoothing development of the competing plans—but at a significant cost.

First, introducing three new plans simultaneously bred confusion. "The cafeteria approach was a fiasco," admits John Hostutler, General Manager of the Industrial Management Council. "It was an accommodation we felt forced to make."

[39] Richard P. Wersinger, The Analysis of Three Prepaid Health Care Plans in Monroe County, New York Part III (October, 1975), Part V (May, 1976).

Second, having made the initial compromise with the Medical Society back in 1970, industry found itself arbitrating the conflicting demands of the three plans—and its own interests. To guarantee an equal start for all three and minimal disruption in their plants, the businessmen further bound the arms of GVGHA by insisting on impartial BC/BS marketing.

"If we had it to do all over again," says William vonBerg, President of Sybron Corporation and past President of Blue Cross and of GVGHA, "We would insist that GVGHA have its own marketing agency."

Despite the advantages Rochester offered a fledging prepaid group practice, the introduction of an alternative to the established medical care delivery system required substantial financial and leadership commitments. Clearly, industry leaders played a key role in both respects. Financial support, through the Blues, enjoyed multi-employer backing. These same industrial supporters provided leadership in the initial planning stages and advice thereafter.

However, the very breadth of business involvement with GVGHA was disadvantageous in one respect: faced with competition to GVGHA, the business community itself became divided. "We made a mistake all right," says Donald McConville, Director of Personnel Relations for Eastman Kodak and member of the board of GVGHA. "Three executives in particular felt we should go along with the Medical Society on this one." In the end, cooperation between the competing plans proved unworkable.

One of the advantages of prepaid group practice in a pluralistic economy is that it represents a competing alternative to fee-for-service. It stimulates competition in a market that is traditionally not competitive in terms of costs and prices. Rochester industrial executives tried to introduce just such an alternative; ironically, they then tried to moderate the competition between the prepaid and fee-for-service approaches. This attempt at cooperation with the Medical Society cost GVGHA enrollment and, in the opinion of one expert, at least $1.2 million.

Part Three

Compendium

This compendium of innovative approaches to controlling the cost of employee health care benefits is the product of a survey of over 200 major employers and unions undertaken cooperatively with the AFL–CIO and the Washington Business Group on Health. The employers and unions cited below were selected by these organizations as those likely to have initiated health care cost control programs and were sent questionnaires about their health benefits program.

The purpose of the compendium is to make available information on various innovative cost control approaches to those with a responsibility for any aspect of providing health care to employees and their dependents. This includes persons involved with financing, insuring, administering, or negotiating for health care benefit programs as well as those more directly involved in the organization and delivery of health care. Hopefully, the compendium will point interested parties toward some promising cost controls as well as stimulate further cost consciousness and innovative efforts to provide for the health care needs of American workers and their families.

Entries in the compendium are organized into eight major cost control categories with a ninth for miscellaneous entries. Sponsors are grouped into a union, employer or a joint employer-union section and then alphabetized within section by the sponsoring group. Each generic category begins with a brief introduction to the type of cost control innovation referred to in the entries. Contacts' names, phone numbers, and addresses for each program entered appear in Index I in Part Four. Numbers in this index correspond to compendium entry numbers.

I. ALTERNATIVE DELIVERY SYSTEMS (HMOS)

The 31 entries below briefly describe employer and union participation in Health Maintenance Organizations. Most of these HMOs are prepaid group practices. A prepaid group practice brings together a wide range of medical services and personnel into a single organization. Practitioners provide needed services for a fixed capitation fee rather than on a fee-for-service basis. In theory, group practice results in economies of scale; capitation payment provides the incentive to emphasize preventive care and to minimize costly hospitalization. The comprehensive coverage of medical services offered by an HMO also minimizes out-of-pocket patient expenditures.

A second type of HMO is the medical foundation model which provides comprehensive care through many solo and group practitioners in a community. Payment varies from plan to plan. It is either by capitation, fee-for-service, or a combination of the two. Such plans are generally associated with the community medical society. While they allow physicians to remain in solo practice and do not necessitate large start-up costs—as do prepaid group practices—their ability to minimize costly hospitalization is still debated.

Employer and union involvement with HMOs is divided into two types below. First are listed efforts initiated by employers or unions to organize HMOs. Second are listed dual choice option; that is when employers give employees the option of joining an HMO and receiving comprehensive medical benefits or of retaining benefit coverage which is customarily less comprehensive, but allows the employee to choose any individual physician in the community. (Federal Dual Choice regulations now require that under certain circumstances firms offer an HMO option to their employees.)

Employees who choose HMOs often—though not always—have to pay a higher contribution toward their medical plan (in return for more comprehensive benefits) than do employees who retain customary coverage. In a few instances the employer, not the employee, pays the difference in cost between a comprehensive HMO plan and other benefit plans.

A. *Health Maintenance Organizations. Labor Unions.*—1. The United Automobile Workers organized the Community Health Association, a multiple-center prepaid group practice, in Detroit in the early 1960's. UAW member health benefits are negotiated nationwide and are generally administered by an insurance carrier.

In 1970 Blue Cross-Blue Shield of Michigan took over the Community Health Association, renamed it Metro Health Plan, and offered it as an option to all Blue Cross-Blue Shield members. Since then it has been offered by employers other than the auto makers as an option for their workers, and by the auto makers to white collar workers. Enrollment is currently about 80,000.

2. The Amalgamated Clothing Workers of America (now the Amalgamated Clothing and Textile Workers Union) initiated feasibility studies of six HMOs in 1975 for some 65,000 employees in six different cities. The project was initiated jointly with management. (Health benefits are negotiated both locally and nationally. Ninety percent are administered jointly and are self-insured.)

One of the sites has been dropped and the project is now moving into the planning stage in Chicago, Philadelphia, Baltimore, Rochester, N.Y., and Allentown, Pa. The union believes that delivery of health benefits through Health Maintenance Organizations lowers hospital utilization and makes more health benefits available.

3. The Hotel and Restaurant Employees and Bartenders International Union's health plan offers prepaid group dental care to its members in Los Angeles. The Los Angeles union operates its own dental clinic with salaried dentists providing comprehensive care. Studies suggest that this clinic renders high quality service at moderate costs.

4. In 1948, the International Longshoremen's Association established its first medical center to provide health care to members of all ILA locals in the ports of New York and New Jersey. Three more health centers were added in 1960. They furnish full dental, optical, drug, diagnostic and X-ray services.

Members have a choice of hospital-surgical-major medical benefits with copayments by the member or an HMO-type Comprehensive Health Plan inaugurated through the health centers. In the Comprehensive Plan there is no copayment if members utilize the four centers and only those doctors and hospitals with which the Plan has contracts.

The NYSA–ILA Welfare Fund self-insures—at considerable savings on taxes and broker fees, according to Fund officials—and self-administers benefits.

5. Local No. 26 of the International Longshoremen's and Warehousemen's Union (ILWU), the Retail Clerks International Association in Los Angeles, locals of the Teamsters Union, and other labor groups on the West Coast receive

dental care through prepaid group dental practices. The earliest such group, headed by Drs. Maxwell Schoen and Roger Samuel, began in 1957 under contract to the Longshoremen and Warehousemen. About 1,000 ILWU members now use the group.

Such arrangements allow the union to set priorities and standards for treatment of its members and gives the provider an incentive to minimize unnecessarily expensive dental work when a less expensive professionally adequate alternative is available.

6. The International Brotherhood of Electrical Workers System Council U–10, representing several Pittsburgh area IBEW locals, actively participated in the planning of Penn Group Health, a prepaid group practice. Planning and IBEW participation predated the federal HMO program. The HMO opened its doors in June 1975 and has since enrolled some 230 IBEW members (plus dependents).

7. The International Brotherhood of Electrical Workers local No. 1116 in Tucson, Arizona, actively participated in the planning of Blue Cross and Blue Shield Pima Care, formerly Group Health of Arizona. Local No. 1116 became involved in the fall of 1971. The prepaid group practice began operation in January 1974 and now has enrolled some 230 of local No. 1116's 920 members.

8. The Health Services Association of Burlington Northern, Inc. initiated Share Inc., a prepaid group practice in St. Paul, Minnesota. The Association grew out of several mutual benefit organizations of railroad employees that had acquired hospitals and hired physicians back in the early 1900's. A few years ago the St. Paul members decided to convert these facilities into a formal prepaid group practice and broaden the membership. Now, 50 percent of the enrollees are Teamsters Union members.

9. The Rhode Island AFL–CIO initiated the Rhode Island Group Health Association in 1968. RIGHA had 8,000 prepaid members in June 1976 and has received official HMO designation from HEW. It originated out of a resolution approved by the State AFL–CIO in 1963 to study the feasibility of establishing a prepaid group practice. Chartered by the State of Rhode Island in 1968, RIGHA opened its doors in 1971. The current president of RIGHA is also president of the State AFL–CIO and an officer of the United Steelworkers of America. Other active unions are the American Federation of State, County, and Municipal Employees and the International Association of Machinists.

10. The American Federation of State, County and Municipal Employees (AFSCME) District Council 37 Health and Security Plan in New York City is planning to establish an HMO-like health center for some 6,500 Plan members. This is the first of two centers envisioned and is expected to open in 1977. Generally, basic health coverage is offered by the city with supplementary coverage through the union Health and Security Plan. The new project represents an alternative, Plan-administered option for comprehensive coverage. It will utilize primary care physicians on a prepaid basis at the health center and specialists on the staff of teaching hospitals affiliated with the center.

Employer and Labor Union (Jointly).—11. The St. Louis Employer-Textile Workers Union of America Benefit Program established a "mini-HMO" in 1973 for 3,000 to 4,000 TWUA members and dependents in the St. Louis area. Benefits are negotiated locally and administered jointly by management and labor through Blue Cross and Blue Shield.

In 1967, TWUA's regional representative in St. Louis started work on a mini-HMO, a prepaid group practice considerably smaller than most others. About one-third of TWUA area members are now enrolled in this plan which is underwritten by Blue Cross and Blue Shield. Housed in TWUA's own building and serving TWUA people exclusively, the mini-prepaid group practice plan carries the same premium as the regular Blue Cross-Blue Shield plan, but coverage is significantly more comprehensive in the former.

12. The Chicago Health Alliance of Labor and Employers, Inc. is planning a multiple-center HMO. CHALE was organized in 1974 by the Veterans Administration in Chicago and locals of the Textile Workers Union of America (now the Amalgamated Clothing and Textile Workers Union), the Amalgamated Meat Cutters and Butcher Workmen of North America, the United Automobile Workers, the International Longshoremen's Association, American Postal Workers and General Service Employees. The HMO is being designed to serve at least 20,000 members at several health centers. It is currently in the last stage of a feasibility study.

Employers.—13. R. J. Reynolds Industries is organizing Winston-Salem Health Care Plan, Inc., a prepaid group practice for all its Winston-Salem, North Carolina employees. The project's scheduled starting date of operation is July 1, 1976.

R. J. Reynolds is building its own health care center—at a cost of over $2 million—and establishing a prepaid group practice for its own employees only, though the plan may eventually be made available to others. The project is being carried out unilaterally without participation or aid from other area employers or the federal HMO program. Reynolds is also paying the full cost for its employees of joining the prepaid group practice. Since the alternative employee health plan is not comprehensive, the company expects to encounter little difficulty in "marketing" the prepaid group practice to its own workers. R. J. Reynolds excepts some 15,000 employees to enroll.

14. Sandia Laboratories, a Western Electric subsidiary, helped the Lovelace-Bataan Health Program (HMO) get off the drawing board. Sandia helped the program plan its benefit structure for maximum marketability and accelerated implementation of the new HMO. Sandia was also Lovelace-Bataan's first marketing target. (The HMO is now defunct).

15. Scott Paper Company will sponsor an HMO for all employees (3,000) at its headquarters and two plants in Delaware County, Pennsylvania. The project is being co-sponsored by several areas companies—Boeing, Sun Oil, etc.—and is still in the formative stage.

Several area companies provided seed money and direction to (1) survey area medical facilities and demographics, (2) contact hospitals, doctors, the county medical society, unions, etc., (3) establish a legal entity, and (4) apply for federal funding. They are now working on marketing and administrative capability and expect to be ready to enroll members and provide medical service late in 1976.

16. The Twin Cities Health Care Development Project was established in 1972 by Honeywell, Inc., Pillsbury Company, Hoernes-Waldorf, Cargill, Inc., Control Data Corporation, Dayton-Hudson Foundation, General Mills, Minnesota Mining and Manufacturing (3M), Northern States Power Company, Northwestern National Bank of Minneapolis, First National Bank of Minneapolis and and numerous insurance companies in the Minneapolis-St. Paul area. This is an independent and professionally staffed organization for planning and general support services for the burgeoning HMO movement in Minneapolis-St. Paul.

The organization played a role in stimulating HMO development (a half dozen or more) in the area, convincing the Minnesota Legislature to end uncertainty about the legality of HMOs in that state, and educating both physicians and corporate executives on HMOs.

The organization recently evolved into a national association to provide information and educational services to member corporations to facilitate effective compliance with the federal HMO Act of 1973.

17. Uniroyal, Inc. (and Employers Insurance of Wausau) sponsor the Eau Claire Health Protection Plan for all employees and retirees living in the area of Eau Claire, Wisconsin. The project is cosponsored by United Rubber Workers and the Eau Claire Medical Society and began operation in November 1974.

The purpose of the plan is to obtain the cooperation of the doctors of the community in reducing medical costs. A charge per covered individual is set up monthly in a physicians fund. If there is a surplus at the end of the year, the physicians and Uniroyal each receive 50 percent. If there is a deficit, Uniroyal also shares in it. In addition to this risk sharing plan, there is provision for peer review of hospital admissions and inpatient care.

Uniroyal claims that the project, which covers some 3,000 employees, reduces company premiums, employee out-of-pocket expenses, and hospital utilization. Uniroyal's net savings were $24,000 from the risk sharing fund in the first year. A much greater amount was saved because the arrangement reduced the average length of hospital stay for Uniroyal employees in Wausau from 8 to 5 days and reduced overall hospital utilization by 44 percent.

Employers Insurance of Wausau has worked with business, labor and medical societies to set up these Individual Practice Association-type HMOs in three other Wisconsin cities starting with Wausau, Wisconsin in 1972. There, Wausau's own 3,500 employees were the first enrollees in the program.

B. *Dual Choice Option. Labor Unions.*—18. The Communications Workers of America negotiated a nationwide HMO dual choice option (in 1971) for all 480,000 CWA employees of the Bell System. The project was initiated jointly with the employer, which administers health benefits and the dual choice on its own. Twenty-three prepaid group practices across the country are offered under dual choice. The employer contributes the same amount that it would otherwise pay for coverage under the Basic Medical Expense Plan and employees make up the difference. The project went into operation in January 1972 and has since enrolled some 32,000 employees.

19. The International Union of Electrical, Radio and Machine Workers negotiated nationwide HMO dual choice options with both General Motors (1973) and General Electric (1970). This gives members the right to choose an HMO over the standard health benefit plan where HMOs exist. Extra premium costs are borne by employees. These are nationwide benefit agreements administered jointly by management and labor.

In addition to the dual choice option, IUE locals in Albany and Buffalo, New York actively participated in the planning and design of HMOs serving their area.

20. The International Longshoremen's and Warehousemen's Union and the Retail Clerks International Association on the West Coast encourages members to choose HMO-type health plans by clarifying the HMO concept for workers. The ILWU encourages HMO membership by allowing benefit increases under alternative (non-HMO) insured plans to lapse. Workers have a choice of comprehensive (HMO) benefits or limited basic coverage. Two-thirds of ILWU members choose Kaiser Foundation or other prepaid group practice plans.

Employers.—21. Bechtel Corporation sponsors an option to join Kaiser Foundation Health Plan for employees in Northern California. The project began operation in January 1976. The company offers the dual choice on an experimental basis and contributes the same dollar amount toward the prepaid plan as it does to its standard insured health plan. However, the new option required a change in the established system of employee contributions deducted weekly from the payroll.

22. Continental Bank offered its employees starting in 1974 a dual choice option. In mid-1976 the company reported that 11 percent of its employees were enrolled in the HMO.

23. Beginning February 1, 1976, Crocker National Bank offered Kaiser Health Plan to all employees in California who reside within a 30-mile radius of a Kaiser facility.

24. The Equitable Life Assurance Society of the United States sponsors HMOs for salaried employees, agents and managers in two regions. Equitable Life and the Nassau Medical Services Foundation cosponsored the Nassau Health Care Plan Option beginning in March 1975. Equitable also offered the Harvard Community Health Plan to its Boston employees who elected the plan before December 24, 1975.

25. General Electric Company decided in 1970, before the federal HMO Act was passed, that employees should be given a choice between participating in a group practice arrangement or the regular Comprehensive Medical Expensive Insurance plan. Since 1970, very few employees have shown interest in participating in HMOs.—about 1,000 out of 300,000 eligibles.

26. International Business Machines (IBM) offers HMO dual choice to all employees in California and Washington, D.C. The project is cosponsored by Kaiser Foundation and Group Health Association of Washington, D.C., and began operation in December 1975. IBM expects 1,500 employees to enroll in 1976.

Company benefit administrators state that adding HMO-type diagnostic and preventive services to IBM's reimbursement plans would increase costs by at least 15 percent-20 percent. However, the HMO approach may significantly reduce the need to expand the company's insurance/reimbursement plans and may in the long run hold down its costs.

27. Monsanto Company offers the Medical Care Group of Washington University to salaried employees only at the company's general offices in St. Louis, Missouri. The project is cosponsored by Metropolitan Life Insurance Company and began operation March 1, 1970. Monsanto claims that the project, which has enrolled some 150 employees, has not reduced costs.

28. Prudential Insurance Company of America offers HMO coverage in lieu of regular major medical to all its employees in Los Angeles, San Diego, Houston, Minneapolis, Boston and Providence. The project began operation in June 1970, before the HMO Act passed Congress.

Prudential claims that the project, which has enrolled some 2,300 employees (plus dependents), improves quality of medical care and reduces hospital utilization.

29. Republic Steel Corporation offers Kaiser Community Health Foundation to all employees at all Cleveland area plants and offices. The project is cosponsored by United States Steel Company, J & L Steel and the United Steelworkers of America and began operation in November 1969.

Problems encountered have been to provide periodic enrollment openings, descriptive materials and monitor for payroll deductions if cost of the alternative exceeds the cost of customary coverage. The project covers 415 of Republic Steel's approximately 10,000 employees.

30. Shell Oil Company offers Kaiser Foundation Health Plan to certain employee groups in California and Oregon. The project is cosponsored by the Oil, Chemical and Atomic Workers Union and has been in effect for many years. Some 3,000 employees are enrolled in Kaiser.

31. Since 1974, Standard Oil of California has offered Kaiser Health Plan as an alternative to its Medical Plan.

II. ALTERNATIVE METHODS OF PROVIDER REIMBURSEMENT

This classification comprehends a variety of approaches listed below under the following sub-headings: fee schedules, self-insurance, prospective hospital reimbursement and others. Fee schedules are akin to voluntary controls or controls on a part of the price. For example, wholesale drug prices may vary, but the pharmacists' fee remains fixed under a voluntary agreement between the pharmacist and the benefit plan.

Self-insurance is a misnomer which actually means that the benefit plan does not pay premiums to an insurance company for health coverage, but, pays providers directly. This can save administrative costs, taxes—which an insurance company must pay but a benefit plan need not—and other relatively small costs. It also gives benefit plan administrators direct control of health care provider reimbursement and thus puts administrators in position to work with providers on controlling costs.

Prospective hospital reimbursement forces hospitals to budget their costs in advance and keep actual costs close to projections (or face the prospect of a deficit). This contrasts with cost-plus reimbursement schemes which tend to merely pass on excessive costs to insurers, patients, etc.

A. *Fee Schedules. Employers and Labor Union (Jointly).*—32. General Motors, Ford, Chrysler and the United Automobile Workers negotiated a prescription drug benefit in 1967. The program reimburses pharmacists on a cost-plus basis: the wholesale cost of the drug and a dispensing fee for the pharmacist. Employees pay a $2 copayment.

Labor Unions.—33. The Pennsylvania Public Employees Health & Welfare Fund initiated prescription drug and vision services for some 73,000 employees, mostly members of the American Federation of State, County and Municipal Employees. The drug program is administered by Paid Prescriptions and the optical program by Vision Service Associates of Pennsylvania.

The Pennsylvania Public Employees Health & Welfare Fund pays Paid Prescriptions a 40¢ administration charge and pays participating pharmacists a "professional fee" of $1.85—including the $1 copayment by Fund members directly to the pharmacists—for each prescription, plus the wholesale price of the drugs.

The vision benefit operates in a similar way: some seven hundred participating opticians, optometrists and ophthalmolo-

gists are reimbursed for the published wholesale cost of materials, plus an established fee for eye examinations and optical fittings.

34. Several locals of the Retail Clerks International Association have drug and/or vision benefits employing cost-plus provider reimbursement mechanisms.

35. The American Federation of State, County and Municipal Employees District Council 37 Health and Security Plan contracts with pharmacists on a cost-plus basis.

36. The United Storeworkers Union Security Plan maintains a panel of physicians who agree in advance to accept the Plan's schedule of fees for various procedures as payment in full. The list of such physicians is available to members. Members can use any physician they choose, but if they use a panel physician members are assured that the Plan will pay for all covered charges. Otherwise, members run the risk of being billed by a physician for the difference between the fee he charges and the maximum fee allowed under the Plan.

37. The United Federation of Teachers Welfare Fund initiated contracts with some 350 retail opticians in New York City in 1966 for some 80,000 New York City teachers. The benefit is self-administered and self-insured.

Like its drug service (see case study No. III), the UFT Fund's optical benefit is provided through retail outlets on contract with the fund. The Fund pays the total cost of lenses plus a specified frame and fitting fee, currently $13.75. This covers the entire cost of simple, basic frames. Members have the option of selecting fancier frames, but the Fund's contribution is limited: Members must pay the difference between $13.75 and the price of more expensive types of frames.

The optical benefit is relatively small—less than one percent of Fund benefit expenditures in 1975. Members are allowed one new pair of glasses every two years under the benefit. Such arrangements are fairly common among New York City health and welfare funds, though most funds deal with only a few mass merchandising optical outlets rather than the several hundred on contract to the UFT Fund.

B. *Self-Insurance. Employers.*—38. Firestone Tire & Rubber Company changed underwriting from insured to trusteed for all employees at the home office. Self-insurance was instituted in 1968. See also: Alternative Delivery Systems: HMO: International Longshoremen's Association.

C. *Prospective Reimbursement of Hospitals. Employers.*—39. General Motors reports that work is continuing on prospective reimbursement of hospitals: "Presently 12 hospitals are participating in the project. The project is voluntary and requires the negotiation of the rate of payment for the forthcoming fiscal year."

"Established a procedure for reviewing hardship relief requests from hospitals. Childrens Hospital was the first appeal and was denied nearly $1 million in requested relief."

Blue Cross-Blue Shield of Michigan is in the process of implementing a short-term cost containment program of ceilings on hospital charge increases a freeze on physician fees and intensive claims monitoring.

Labor Union.—40. The United Mine Workers of America Health and Retirement Funds initiated a series of innovations beginning in 1974. The UMWA negotiates health benefits nationally which are self-insured and administered jointly by labor and management. The UMWA Funds expend about $270 million a year on health benefits. The innovations listed in the text are in addition to relatively long-standing programs to sponsor prepaid group practices, contract with individual physicians on a retainer basis, and provide mail order drugs. (See also: Claims Review; Health Education; Miscellaneous).

The United Mine Workers of America Health and Retirement Funds are in the process of standardizing their method of reimbursing hospitals. Reimbursement will be on a prospective per diem basis.

D. *Other. Employer.*—41. The Budd Company sponsors a blood donor program for all employees in the Detroit, Michigan area. The project is cosponsored by the Red Cross and began operation in the mid-1950's. Red Cross furnishes equipment and personnel for annual operation of the project. Participation has been good and results make blood available without charge to all employees and their families.

Although not determinable, cost containment is considerable when measured against hospital charges of $40.00 and upwards for one pint of blood. Budd claims that the project, which covers some 3,000 employees, reduces company premiums, employee out-of-pocket expenses and medical fees.

42. DuPont helped initiate a bank-draft system for reimbursing pharmacists in Delaware. The project is cosponsored by Blue Cross-Blue Shield of Delaware and began operation in 1972.

Bank draft reimbursement of pharmacists by BC/BS was developed along the lines of DuPont's shipping, reimbursement system for truckers. Pharmacists complete a bank-draft claim form upon presentation of a prescription by an eligible Blue Cross member. The form is deposited in the pharmacists local bank; he is reimbursed immediately.

Considerable paperwork is eliminated and instant post-audit of claims is made possible. Review of 90-day computer printouts disclosed a number of abuses such as use of higher priced brand name drugs, frequent renewal of a small prescription order when one larger order would have saved time and expense, and duplication of prescriptions for one patient by several doctors. Progress in eliminating these abuses was made even in the programs first six months. The project covers some 1,500 prescriptions a day and costs 14 cents per transaction versus 87 cents the old way.

43. Uniroyal, Inc. sponsors a mail order prescription drug plan for hourly employees only at its Philadelphia plants and retirees of these plants. By using a mail order pharmacy, the employees are able to save a $1.00 co-payment and the company is able to save on administrative costs and pharmacists' fees. Estimated savings are $1.56 per prescription as against total administrative costs of $200 to date.

Labor Unions.—44. United Mine Workers of America clinics in Bellaire, Ohio and Madisonville, Kentucky have begun a risk-sharing scheme for inpatient utilization. Thus, the clinics share in the cost of excessive hospitalization. The Funds are also experimenting with a similar concept for individual physicians on retainer in McDowell, Kentucky.

III. CLAIMS REVIEW

Claims review is the retrospective determination of whether fees charged were reasonable; whether the treatment was medically appropriate; and the extent to which payment is obligated under the employee benefit agreement. Payment on claims found to be unwarranted may be denied or benefit administrators may resort to "jawboning" (with medical providers or employees) aimed at reducing unwarranted claims in the future. Claims review and control does not entail extensive systemwide intervention in the delivery of health care. Rather, it focuses on individual claims.

Labor Unions.—45. United Mine Workers of America Funds recently initiated and are still experimenting with a new data system including automatic fee audits designed to give Fund administrators an estimate of what each provider charges for a broad range of procedures. The goal is to allow Fund administrators to identify and control future rises in provider fees for a broad range of services.

Employers.—46. AMF. Inc. audited the regional claims offices of its insurance carrier, Equtable Life, four times in 1975. This was done to trace trends in high fees or overutilization associated with individual physicians; and to insure that employees who are out sick or injured for exceptionally long periods are given medical examinations to verify their conditions. In fact, extended work leaves were identified and exams called for, but the review process is time-consuming. AMF claims that the project, which covers some 20,000 employees, has resulted in net savings of $6,115.00 (after four audits in 1975).

47. Burlington Industries, Inc. flags charges considered above reasonable and customary. A peer review board determines whether and how much payment is proper. In areas that do not have peer review boards, Burlington is working with its carriers to encourage formation of such boards. One insurance carrier has several staff people (at the request of Burlington) to regularly review and visit physicians and hospital administrators to discuss questionable charges and practices.

48. Continental Can Company, Inc. sponsors claims control for all its em-

ployees. The project, covering 50,000 employees is cosponsored by Metropolitan Life Insurance Company and began operation January 1, 1973.

The purpose of this program is to reduce hospital overutilization, maintain physician's charges within each doctor's "reasonable and customary" profile and to reduce employee malingering. This has required follow-ups on suspected malingering and close review and checking of "suspect" claims for hospital and medical care costs. The precise amount of tangible savings is difficult to measure but the company employee benefit director believes that such saving do definitely exist. Net savings are reportedly $400,000 (estimated).

49. Northern Natural Gas Co. pays claims on the basis of reasonable and customary fees. Charges above that are renegotiated with the physician or submitted to peer review. Employees are told about individual doctors that charge above the reasonable and customary level and are told the company will pay only up to that level on future bills.

50. Reynolds Metals Company sponsors claims controls for all employees in Richmond, Virginia. The project, which covers some 34,000 employees, is cosponsored by Metropolitan Life Insurance Company and began operation in 1970.

A Metropolitan Life employee works fulltime on Reynolds claims at all Reynolds locations—making calls on doctors, dentists, hospitals and clinics, to discuss fess, room rates, return to work dates, overutilization, etc.

51. SCM sponsors claims control and claims administration for all employee claims. The project is cosponsored by Connecticut General, Prudential and INA and began operation in April 1973. SCM reduces cost through constant review of claims and periodic site visits to the payment offices of its insurance carriers. SCM claims that the project, which covers some 22,000 employees, has effected net savings of about $375,000.

52. Since 1974, Standard Oil of California has contracted with its Medical Plan administrator, Equitable, to reimburse only reasonable customary and necessary expenses. Contested charges are submitted to peer groups for review.

53. Since November 1971 Textron, Inc. sponsors a surgical cost claims control program for all its employees nationwide whose surgical benefits are underwritten by Aetna. Textron claims that the project cosponsored by Aetna Life & Casualty which covers some 36,000 employees, has afforded net savings of approximately $430,000 to $630,000 annually. Textron has had Aetna modify its normal cost control program as follows:

> If a doctor's fee is still considered excessive after Aetna has called the doctor * * * a series of letters is used. These explain to both the doctor and the insured that the charge is excessive and no further payment can be made. If the doctor persists in billing for the difference, provision has been made for peer review.

54. Trans World Airlines sponsors coordination of benefits and a claims cost control system for all its U.S. employees (33,000). The project is cosponsored by three TWA employee unions and Connecticut General Life. TWA has negotiated coordination of benefits clauses into all its medical plans. Coordination of benefits saves TWA money by eliminating duplication of benefit payments from two different plans. The company also has cost control procedures, including audits of individual doctors and hospitals. Net savings are reportedly several million dollars. See also: Concurrent or Prospective Review: Hospital Review: Greyhound Corp.

IV. CONCURRENT OR PROSPECTIVE PEER REVIEW

By contrast to (retrospective) claims review, prospective and concurrent review offer the reviewer and/or the patient a chance to intervene before it is too late to alter the kind of care rendered. This affords the patient and/or payer more influence over both the quality and cost of medical care received. Systematic peer review offers the potential to alter the general patterns of medical care rendered by an individual physician or even by an entire department of a hospital.

The entries below are divided into three sub-headings: hospital, surgical and dental review. Under hospital review are listed foundation projects sponsored by local medical societies to review the necessity of costly hospital admissions. Also listed under hospital are PSRO programs, which may or may not be associated with a medical society.

PSROs or Professional Standards Review Organizations are groups of health care professionals being established throughout the country under a federal program designed to control costs and quality of care. Using locally determined criteria of appropriate hospital admissions, length of stay, and course of treatment, PSROs review cases while they are in treatment in order to flag inappropriate care and unnecessary expense.

Surgical review is prospective. It encourages (or in some cases requires) employees who have been scheduled for nonemergency surgery to obtain a second medical opinion on the necessity of that surgery before it is performed. Such programs pay for the second opinion and some set up referral centers to make appointments with appropriate surgical specialists for the second opinion. The goal of presurgical review is to reduce unnecessary surgery and costly hospital utilization. However, if a second opinion does not confirm the need for surgery, patients are still free to decide to go ahead with the surgery.

Under dental review are listed programs designed to flag cosmetic or unnecessarily expensive dental procedures before they are done. The third party payer can refuse to reimburse all or part of the cost of these procedures if a less expensive and professionally adequate alternative dental procedure is available. Thus, dental review lets patients and dentists know in advance what benefits will be so they can decide how to proceed.

A. *Hospital Review. Employers.*—55. Caterpillar Tractor Company has been sponsoring development of Midstate Medical Foundation since January 1975, for all employees in Peoria, Tazewell, Woodford and McLean counties, Illinois. The project, cosponsored by the Peoria Medical Society, will cover some 37,000 employees.

Caterpillar supports development of Medical Foundation review of hospital admissions to determine the necessity and length of stay of hospital confinement. Potential net annual savings are an estimated $380,000.

56. B.F. Goodrich Company plans to contract in late 1976 with a PSRO-type program for peer review of Goodrich employees in the Akron area only. The company will pay so much per employee admitted to the hospital to have that patient's course of treatment monitored concurrently.

57. Greyhound Corporation's medical plan, begun in 1971, is administered by the Maricopa Foundation for Medical Care for all Phoenix employees by various Phoenix companies, various carriers with Phoenix clients, and Maricopa County Medical Society.

The Maricopa Foundation for Medical Care was selected as the administrator of the corporation's self-funded medical plan because of its use of peer review of claims, a Certified Hospital Admission Program, and agreement with member physicians (approximately 85 percent of all area physicians) that they accept Foundation payments as payment in full for their services. Greyhound claims that the Foundation has demonstrated cost savings for employee group medical plans. Major cost savings result from shorter average hospital confinements, denial of treatments deemed unnecessary by Foundation peer review committees, and reduction of physician charges deemed unreasonable by peer review.

58. The Proctor & Gamble Company sponsors the Mid-West Foundation for all employees at all Cincinnati locations. The project, begun January 1, 1975, is cosponsored by Blue Cross of Southwest Ohio and the Cincinnati Academy of Medicine. The Foundation, covering some 11,000 P&G employees, provides peer review, monitors hospital stays, and works with physicians toward agreement on fees.

Employers & Labor Union (Jointly).—59. The United Automobile Workers, General Motors, Ford and Chrysler, in conjunction with Michigan Blue Cross & Blue Shield have implemented a pilot project on an experimental level which is designed to control hospital admissions through prospective hospital utilization review. This involves review by nurses and physicians in the hospital of the necessity of admission and the propriety of inpatient treatment. The pilot project, conducted by the Genesee Medical Corporation, showed 20 percent reduction in length of stay over a six-month period.

B. *Surgical Review. Employer.*—60. After investigating the feasibility of a second opinion plan for four years, Blue Cross and Blue Shield of Greater New

York implemented the voluntary "Program for Elective Surgical Second Opinion" (PRESSO) on January 1, 1976. Approximately 150 experience rated groups representing some 400,000 subscribers had enrolled by early May 1976. The Plan solicited some 6,000 board certified surgeons in the area, of whom 1,722 agreed to act as consultants. They cannot perform the surgery in question or otherwise treat a "second opinion" patient for the specific condition involved. Patients wishing a second opinion are given a list of three specialists from which they select a consultant and then make an appointment.

61. Pennsylvania Blue Shield initiated a voluntary "Surgical Consultation Program" (SCP) on January 1, 1976, for some 5,000 employees (and dependents) of Pennsylvania Blue Shield and Capital Blue Cross. Consultants will be chosen by patients without the use of a formal referral mechanism. Patients can choose any licensed physician, dental surgeon, podiatrist, etc., for consultation. Though no formal "conflict of interest" limitation is imposed, consultants will be discouraged from performing the surgery. The program consists essentially of an additional benefit—coverage of consultation—without a formal mechanism of referral.

62. Chrysler Corporation has sponsored a podiatric peer review program for all employees at Highland Park, Michigan since mid-1975. The project, cosponsored by Aetna Life & Casualty, Blue Cross-Blue Shield of Michigan and the Michigan State Podiatry Association, covers some 80–100 employee cases.

Podiatric services in 1974 in Michigan cost Chrysler $2.7 million and in the first eight months of 1975 nearly $1.6 million. By "spotlighting" attention on this situation, Chrysler hopes to reduce the frequency of "serial surgery" and other types of abuses resulting in long duration disability absences due to foot surgery.

63. New York State and New York City sponsor voluntary presurgical second opinion programs for their employees. The goal is to reduce the costs and risks of surgery by encouraging employees to get a second physician's opinion on the necessity of a non-emergency operation before going ahead with it. (See case study No. I.)

Labor Unions.—64. The United Electrical Workers Union in Springfield, Vermont, implemented an experimental second opinion program on January 19, 1976, for its 4,000 members (including families). New features (in addition to regular benefits for outpatient consultations and diagnostic tests) are data collection by BC/BS for research purposes and a union organized referral center. The referral center makes the appointment with a consultant—any licensed physician who wishes to participate. There is no conflict-of-interest rule: the consulting physician may assume care of the patient.

Employer & Labor Union (Jointly).—65. After the United Automobile Workers, General Motors, Chrysler and Ford expressed interest in 1975 in a second opinion program for elective surgery, Michigan Blue Cross-Blue Shield began developing an experimental program in September 1975. Concentrated in the Detroit area, enrollment is projected at 1.5 million hourly and salaried employees of the auto companies, including their dependents and retirees.

Initially the voluntary "Program for Consulation on Elective Surgery" (PROCES), will utilize approximately 100 surgeons as second opinion consultants—preferably board-certified specialists with university of teaching hospital affiliations. Appointments with consultants will be made by a referral center administered by Blue Cross-Blue Shield. The consultant will be prohibited from performing the surgery or assuming the care of the patient, though consultants may recommend alternative care and/or another physician to provide care.

66. Local 25 of the Teamsters Union in Massachusetts developed a second opinion program which helped spark the interest of Raytheon Corporation and a Blue Cross and Blue Shield group in the same state. BC/BS decided on March 10, 1976, to establish such a program in the summer of 1976 and held discussions with Raytheon concerning enrollment of its 27,000 employees in the program. Other groups wishing to participate will be enrolled. A referral center will set up appointments for patients with consultants. Consultants cannot perform the surgery, but can recommend alternative forms of care or a different physician to render that care.

C. Dental Review. Employer & Labor Union (Jointly).—67. The United Automobile Workers and General Motors, Ford and Chrysler negotiated dental benefits administered by Michigan Blue Cross Blue Shield and by Aetna Life Insurance Company, effective October 1975. It employs Predetermination including Alternate Course of Treatment to control costs. This control mechanism requires that any course of treatment that can reasonably be expected to involve covered dental expenses of $100 or more be reviewed in advance by the dental carrier and approved in so far as payment by the carrier is concerned—after consideration has been given by the carrier to alternate courses of treatment that may be less costly.

Also, included by way of cost and quality controls are post-treatment review, audits of dentists' records, and variable copayment designed to encourage preventive care. Preventive care such as oral examinations and topical application of fluoride are covered in full; most other procedures are covered either at 85 percent or 50 percent of reasonable and customary charges. (See case study No. II.)

Labor Unions.—68., 69. The Pennsylvania Public Employees Health & Welfare Funds (AFSCME) as well as the United Steelworkers of America have also instituted dental plans within the past few years which use predetermination and alternate course of treatment to control costs.

V. COVERAGE OF LESS COSTLY CARE

The entries under this heading refer to changes in benefit plans instituted either to encourage employees and their physicians to make use of less costly forms of care or to remove disincentives to their use. Typically, this means covering the same procedure that is often done in a hospital when it is performed outside the hospital or in a hospital outpatient clinic. Thus, for instance, the incentive to hospitalize a patient for minor surgery or diagnostic tests simply because the insurance policy will only pay for it in a hospital is removed. This saves costly hospital room charges and lost work time. It also represents a more comprehensive benefit package.

Employers.—70. Since 1971 the Babcock and Wilcox Company has sponsored pre-admission testing and extended care facilities for all salaried employees.

The company's objective is to reduce inpatient hospital admissions by providing flexibility in pre- and post-hospital care. Initially, lack of facilities for extended care outside the hospital and for testing was a problem, but the company reports that facilities to alleviate the problem are being built.

Babcock and Wilcox claims that the project, which covers some 14,500 employees, has enabled net savings of about $39,000.

71. Burlington Industries, Inc. in 1974 instituted an educational program and a change in its health coverage designed to encourage (less expensive) ambulatory instead of in-hospital care whenever possible. Outpatient benefits were liberalized and employees were given a booklet and a voice/slide presentation that encouraged them to seek outpatient care, ask providers about costs and submit claims promptly.

72. Campbell Soup Company has sponsored "short procedure units" at several hospitals since the early 1970s. The project is cosponsored by Blue Cross-Blue Shield plans. Special arrangements with several major hospitals in company locations provide for speedy (one-day) and less costly surgery for 15 to 20 kinds of procedures (hemorrhoids, tonsils, vein legations, etc.) which are usually done on an inpatient basis. Instead of admitting patients to a hospital (bed) room, services are rendered in an emergency room or like facility and the patient is discharged the same day. This is similar to surgi-center care except that it is hospital based.

In the early 1970s Campbell Soup Company also arranged with various clinics and laboratories to perform diagnostic tests before patients are hospitalized. These costs, totaled up with the rest of the patients' hospital charges, are covered by insurance. This saves money on unnecessary in-hospital confinement during tests and lab workups.

73. The Columbia Gas System, Inc. revised its medical plan to encourage utilization of less costly outpatient hospital facilities for all employees (10,500). The project cosponsored by Aetna Life Insurance Company and initiated in April 1973, consisted of amendments to

the medical plan to: cover pre-admission outpatient expenses as normal hospital expenses at 100 percent and to pay hospital charges for outpatient surgery the same as for inpatient expenses (100%). Columbia sought both to broaden coverage for employees and to encourage use of less costly facilities thereby reducing ultimate plan costs. Total inpatient hospital days payable under the plan have been declining over the past four years, but it is difficult to say if this is a direct result of the plan changes mentioned above.

74. Firestone Tire & Rubber Company liberalized out-of-hospital benefits for all employees at all U.S. facilities in 1973 (50,000 employees).

Coverage of ambulatory care was liberalized in an attempt to substitute relatively less expensive outpatient care for relatively more expensive inpatient care. The company says it has not yet had sufficient experience to judge the success of the project.

75. General Foods Corporation changed its basic health insurance plan to eliminate the deductible on coverage of X-rays and diagnostic lab charges performed on an outpatient basis. The deductible had encouraged patients to enter hospitals on an inpatient basis for such tests to avoid out-of-pocket expenses. Extending coverage without a deductible to outpatient services was intended to remove this disincentive to a less costly way of getting diagnostic and X-ray services.

76. General Motors in conjunction with Michigan Blue Cross-Blue Shield strives to identify "surgical procedures which can be performed on an outpatient as well as an inpatient basis. Incentives would then be developed for encouraging patients to have these procedures performed on an outpatient basis." (Quoted from a GM report, 1975.)

77. H. J. Heinz Company provides expanded coverage for out-patient diagnostic, emergency and surgical services for all employees (8,000). The project is cosponsored by Blue Cross-Blue Shield and began operation in 1971.

78. In 1974, International Harvester extended benefit coverage for its 75,000 employees to operations performed in surgi-centers. The company adds this comment: "The only difficulty with Surgi-centers is that they will accept patients for services not otherwise requiring hospital services, i.e., minor surgeries otherwise performed in a doctor's (or dentist's) office. Thus, the benefit has to be limited to services which would otherwise be performed either outpatient or inpatient at a hospital to realize any savings".

79. Johnson & Higgins sponsors preadmission testing for all employees. The project, begun in 1971, is cosponsored by Prudential Insurance Company of America. Johnson & Higgins claims that extending insurance coverage to presurgical testing done on an outpatient basis for 2,000 employees, reduces length of hospital stay.

80. Northern Natural Gas takes advantage of the flexibility it derives from having its own claims calculating personnel, though the company insures through a carrier. Claims clerks try to educate employees (when they call to check on coverage) about the cost advantages of outpatient over inpatient care and to encourage employees to get a second opinion, which the plan will cover before major surgery. The plan also will cover less expensive forms of care such as home care instead of hospital care to be reimbursed beyond the formal wording of the contract if the alternative form saves the plan money.

81. Proctor & Gamble has extended coverage of various types of less expensive, out-of-hospital care to 34,000 hourly and salaried employees through its insurance carriers. In an effort to contain costs, it has extended coverage to outpatient hospital and doctor's office testing, licensed nursing and convalescent home care following hospitalization, and home coverage of medical services and supplies when provided by a qualified home health agency.

82. Pullman, Incorporated has sponsored pre-admission testing for some 7,000 salaried employees since 1972. The benefit extends to 100 percent reimbursement for out-of-hospital diagnostic X-ray and laboratory procedures. The goal is to reduce inpatient utilization, but the company questions whether anyone actually undergoes pre-admission testing now who would not have done so anyway—even if the company did not cover pre-admission testing.

83. Shell Oil Company has sponsored ambulatory surgical center coverage for all (24,000) employees under Shell's Hospital/Surgical/Medical plan since January 1, 1976. The company hopes to lower costly inpatient utilization by providing similar coverage for procedures performed in ambulatory surgical centers as are provided for hospital confinements. One designed difference is that there is no deductible for expenses incurred in an ambulatory surgical center whereas there is a $25 deductible for hospital expenses.

84. Standard Oil Company of California recognizes as covered expenses under its medical plan the use of surgi-centers in lieu of the more costly hospital confinement benefit.

VI. Health Education

Educational projects can reduce health care costs in several ways. First, education as to proper nutrition and exercise can help reduce the incidence of illness. So, too, can counseling services on alcoholism and emotional problem areas reduce the incidence of physiological and mental illness. Employees can also be encouraged to use professional health care services in the most cost-effective manner. These measures can reduce both utilization and lost work time.

Employers.—85. Since 1972, Borden, Inc. has sponsored "Focus on Health" programs for all employees at Borden corporated headquarters. Cosponsored by Heart, Lung, Cancer, Diabetes and other medical associations as well as the Red Cross and local police and fire departments. The program includes a blood donor project reaching 20,000 employees, diagnostic tests, and education projects on health, nutrition and exercises which have reached 5,000 employees.

86. Continental Bank has sponsored employee health education programs since 1974 for all employees in Chicago (8,000). The project, cosponsored by Heart, Lung, and Cancer associations, makes information available to staff on dangers to good health; on how to recognize certain symptoms of possible irregularities; and on good health practices (to see a physician regularly and to avoid smoking, reduce weight, good eating habits, etc.).

Continental Bank has also sponsored personnel health programs since 1973 for some 2,000 salaried employees (age 40 and above) only in Chicago, New York, Los Angeles, Houston, and overseas. The programs encourage staff to start and maintain "good health practices" utilizing a preventive health care attitude.

87. Since 1972 Firestone Tire & Rubber Company has sponsored an employee assistance program for all employees at all U.S. facilities. Firestone initiated counseling and referral services for the following problems: alcohol, family, personal, legal, drugs, and financial. The company reports an 80% recovery rate.

The project has helped some 2,340 employees over the last four years.

88. PPG Industries sponsors a variety of health evaluation and education projects for selected employees. One project in 1973, at a cost of $15,000, provided a series of films and monographs for 150 company executives, dealing with personal health habits and their effect on heart disease, cancer and emotional health. Continuing programs involving physical examinations are aimed at older executives and some 7,000 employees exposed to hazardous equipment.

Labor Unions.—89. The United Mine Workers of America sponsor educational efforts such as film strips, slide shows, literature, etc., to inform members of their health benefits and of how to conserve medical care resources.

See also: Coverage of Less Costly Care: Burlington, Industries, Inc.; Preventive Care: Mobil Oil Corp.; Miscellaneous: United Farm Workers.

VII. Health Planning

Participation in community health planning can reduce benefit costs if it can help prevent the construction of unnecessary facilities or convert existing underutilized facilities to more productive functions. Unnecessary facilities raise costs in three ways. First, one-time capital investments in facilities are partially absorbed by higher charges. Second, the operating cost of facilities is significant even on days when they are not being used: the labor costs of staffing empty hospital beds or underused radiotherapy equipment can rise well above 50 percent of the total cost of actual operation. Third, existing facilities affect patterns of utilization: empty beds tend to get filled in order to generate the revenues needed to pay for them.

Employers.—90. General Motors, Ford, and Chrysler recently urged Michigan Blue Cross-Blue Shield to implement a number of cost control ideas, which the United Automobile Workers Union has long supported. Reflecting increased concern over health care benefit costs, GM sponsored a series of seminars for its executives in 1975 and 1976 on health planning and cost issues. Material prepared for a GM conference on health care costs in October 1975 reported these steps being taken or considered by Michigan Blue Cross-Blue Shield: "Areas of overbedding have been identified and action priorities established," encouragement of ambulatory surgical centers; an attempt to prevent the purchase of expensive EMI scanners by six private radiology groups in the Tri-County area around Detroit, which would result in unnecessary costs through excessive utilization.

91. Executives from various companies in the Pittsburgh, Pennsylvania area actively participated in local health planning through the reginal Comprehensive Health Planning Organization (CHP). This is a successor organization to Pittsburgh's Health Planning Association, a voluntary group financed by Pittsburgh companies. CHP has worked toward curtailing unnecessary hospital expansion and duplication of services. It also helped institute peer review. All these actions are designed to reduce unnecessary utilization. Among the companies involved are executives from PPG Industries and the Pittsburgh National Bank.

See also: Alternative Delivery Systems: HMO: Twin Cities Health Care Development Project; Coverage of Less Costly Care: Babcock & Wilcox Co.

VIII. Preventive Care

Preventive care refers mainly to physical examinations and multiphasic diagnostic testing for early detection of chronic illness. In some cases, testing may be followed by a formal program of proper exercise, nutrition and continuous monitoring to prevent the onset of degenerative disease. Early detection and a proper follow-up program offer potential long-term savings on costly hospitalization, surgery and medical treatment as well as lost work time. However, it should be noted that the accuracy and effectiveness of multiphasic screening is subject to considerable debate.

Employers.—92. Allied Chemical Corporation has sponsored employee health examinations (physicals and diagnostic testing) since 1970 for salaried employees located at the home office of New Jersey and certain key employees at various locations throughout the United States. The project, cosponsored by Executive Health Examiners covers some 2,000 employees.

93. Aluminum Company of America has a voluntary periodic physical examination program for its employees.

94. The Babcock and Wilcox Company has sponsored an alcoholism reduction program since 1975 for 5,700 employees at Baberton, Ohio, cosponsored by Goodyear, Firestone, Goodrich, General Tire, the Akron Post Office and the Greater Akron Area Council on Alcoholism. Reduced alcoholism decreases time lost on the job and the incidence of alcohol-related illness.

95. Bechtel Corporation sponsors an employee assistance service for all its employees, cosponsored by Metropolitan Life Insurance Company. Begun operation March 1, 1974, the assistance service for alcohol, drug and emotional problems has reached six percent of its employees.

96. Carrier Corporation sponsors a number of preventive care measures for employees at its Syracuse, New York corporate headquarters. The company's medical department gives pre-employment physical examinations to employees, and physicals to executives on a periodic basis thereafter.

97. Crocker National Bank sponsored heartscans for all employees in downtown San Francisco and Los Angeles in the fall of 1975. 39 percent of eligible employees were screened for physical conditions that tend to contribute to obstructive artery disease.

98. General Mills, Inc. sponsors periodic examinations and primary care at the company medical department for 2,000 or so employees of its home office in Minneapolis.

The in-house medical examinations cover 800 employees per year and some 5,000 cases of in-house treatment. The company claims to realize substantial savings on the cost of examinations and of treatment as well as cutting down time lost by sending employees out for examinations and treatment. Net annual savings are reportedly $45,000 after administrative costs ($160,000).

99. Equitable Life Assurance Society of the United States offers all employees health screening examinations.

100. B. F. Goodrich Company sponsors annual physical examinations for its corporate executives in order to detect illness as early as possible.

101. Since 1968, IBM has sponsored voluntary health screening for all its employees (age 35 and over) to detect existing or potential chronic health problems and to alert them to conditions which could cause health problems in the future. Of 72,821 employees examined from 1968 to 1975, heart abnormalities were detected in 4,075 cases. Hypertension was eliminated in 81 percent of the cases four years after identification.

102. Mobil Oil Corporation sponsors employee health services for all employees at 19 industrial health clinics in the U.S.A. The project is cosponsored by Arthur D. Little, Inc. The clinics give pre-employment physical examinations and offer periodic reexamination and counseling services to some 37,000 domestic employees. Physicians and nurses also treat minor injuries and illnesses.

103. Shell Oil Company has sponsored voluntary periodic physical examinations for all its employees (31,000) since August 1974. The company reports: "Our objective is to provide the opportunity for all employees to obtain a comprehensive physical examination. Examinations are provided on company time and are performed by either company or company-appointed physicians at no cost to the employee. The results of the examination are discussed by the examining physician individually with each employee. Any follow-up treatment deemed advisable as a result of the examination is for the employee's individual account. Examinations may be received every three years for those under 40 years of age and every two years for those over 40. Response from employees has been overwhelmingly in favor of the program and the only 'problem' to date is conducting examinations in a timely manner for all the employees who desire them."

104. Since 1969 Southern California Edison Company has sponsored a cardiovascular fitness program for all employees with a medical need at Rosemead, California. The program, now covering 137 employees, offers coronary prevention and/or post-coronary care, including physicals with follow-up on proper exercises, diet, stress reduction, emotional health and other elements of cardiovascular care. Records are kept on blood pressure and pulse readings before and after exercise. Physicals and stress ECG's are part of programming by the fitness leader. Pertinent data are kept for physicians and the patient's yearly physical.

105. Sundstrand Corporation sponsors health evaluation programs for some 4,000 salaried and hourly (nonunion only) employees at its hydraulic, machine tool, aviation, compressor, and hydro transmission divisions in Rockford and LaSalle, Illinois; Ames, Iowa; Bristol, Virginia; and Denver, Colorado. The project is cosponsored by Health Evaluation Programs, Inc., and began operation in August 1974. The programs provide a systematic means of testing the relative health and work exposures of certain employees and instructions on health evaluation and correction.

106. Xerox Corporation began an incentive co-insurance dental plan in October 1975 for salaried employees only at Stamford, Connecticut. It is cosponsored by Prudential Insurance Company of America. The new incentive co-insurance scheme affords the employee greater benefits if preventive care is regularly undertaken.

Labor Unions.—107. The Actors' Equity Association negotiated a nationwide program of preventive health screening for its members at an estimated cost of $75 per worker screened per year. Early detection of chronic illness through screening (physical examinations and diagnostic laboratory tests) promises long-term savings on hospital and medical costs.

108. The Amalgamated Clothing Workers of America (now the Amalgamated Clothing and textile Workers Union) provides full diagnostic services for early detection of illness at its Sidney Hillman Health Centers around the country.

109. The International Brotherhood of Electrical Workers reports that many of its locals have negotiated coverage or provision of physical examinations and preventive care such as influenza shots and children's innoculations.

110. The United Farm Workers insists that pesticides be carefully regulated to protect the health of workers. The first union contracts banned DDT, Aldrin, Endrin and Dieldrin in 1970, several years before the Environmental Protection Agency restricted their use.

111. Several local affiliates of the International Union of Operating Engineers initiated preventive screening projects in cooperation with management. These locals, which mostly self-insure and administer health benefits jointly with management, represent about 28,000 workers. The international office of the union claims that the mobile and fixed screening units at the work place and/or health clinics reduce employee expenses, time lost, hospitalization, and incidence of illness.

112. The American Federation of State, County and Municipal Employees (AFSCME) District Council 37 Health and Security Plan in New York City initiated a job-site hypertension screening and treatment pilot project for some 6,000 working members. Currently about 650 workers at three locations are being treated at an approximate cost of $100 per person. The program conducted in cooperation with the Cornell University Medical College, Department of Public Health, aims to prevent future illness stemming from hypertension by treating and monitoring hypertensives monthly.

113. The United Storeworkers Union Security Plan initiated job-site hypertension screening and treatment for some 10,000 employees of Gimbel's, Stern's and Bloomingdale's in New York City Benefit contributions for this self-insured fund are negotiated locally. Some 4,000 to 5,000 Storeworker's members have been tested for hypertension. One-fifth were found to be hypertensive. A program of peer reinforcement and strong union leadership have helped to maintain 85 percent of the identified hypertensives on monthly treatment and monitoring. The cost of treatment and of screening is approximately $120 per year per member under treatment. The program is also cosponsored by the Cornell University Medical College, Department of Public Health.

See also: Health Education: Borden, Inc.; Firestone Tire and Rubber Company; PPG Industries. Concurrent or prospective review: Dental Review: UAW, General Motors, Ford, and Chrysler.

IX. Miscellaneous

Labor Unions.—114. The California Council for Health Care Alternatives was organized in 1969 by the Laborers & Hod Carriers Union, California locals of the Teamsters Union, the International Longshoremen's & Warehousemen's Union, the Retail Clerks International Association and other labor organizations. The Council staff was to advise member unions on the cost of health benefits do comparative studies of various insurance plans, and use the combined purchasing power and negotiating skill of member unions to contain health care costs.

After initial efforts at getting data from member unions and getting them to present a solid front to health providers failed, the Council turned to lobbying for national health insurance. In 1974 it disbanded.

115. The United Farm Workers of America initiated the National Farm Workers Health Group in 1970 for all union members and their dependents. The UFW has a standard nationwide health benefit program initiated and administered unilaterally by labor, and self insured through employer contributions to the RFK Medical Plan.

The Health Group operates its own clinics, two in California and one in Florida, which provided primary care to some 50,000 patients in 1975 at a reported operating expense of $65,000. The clinics train and use many volunteer community health workers to administer routine tests, help with prenatal and post-partum care, and speak to groups of workers for purposes of education in preventive care.

116. The United Mine Workers of America Health and Retirement Funds in cooperation with the U.S. Pharmacopeial Convention developed a list of maintenance drugs that it will provide for chronically ill beneficiaries. (Drugs not listed will not be provided by the Funds.) In line with the Funds' efforts to encourage physicians to prescribe generic drugs, which are often less expensive than brand name drugs, the list uses only generic drug names.

Employers.—117. In January 1976 the Aluminum Company of America embarked on a project to contain overall health care and wage replacement costs at its eleven largest locations. The program reviews corporate responsibilities with respect to financing arrangements, impact of national health insurance and management commitment. The program also reviews the locations' responsibilities with respect to claims control, hospital statistics and board representation, health planning agencies, HMOs, physician relationships, effective absentee control program, off the job safety programs, and preventive activities.

118. Eastman Kodak reinstated premium sharing for all employees at all United States facilities in April 1970. Since then Kodak has shared the increase in its basic plan premiums with employees on a 50/50 basis. This saves the company money, but represents an increase to employees.

The project, which covers some 77,000 employees, may also result in lower or more appropriate utilization of health care services due to employee participation in attendant cost of delivery. Accumulated net savings are $17.0 million. 1976 estimate: $8.2 million. (This represents savings to Kodak, but an increase to employees.)

119. J. C. Penney altered the flow of claims in order to eliminate one step in the process. Claims had gone from provider to the appropriate J. C. Penney store for verification that the employee was covered for that claim, and then claims were forwarded to the insurance carrier for review and payment. Under the new arrangement, claims flows directly from the provider to the insurance carrier. The insurance carrier then checks claims against lists, supplied monthly by J. C. Penney of covered employees (and dependents).

Part Four

Index I: Names and Addresses of Sponsors

(Roman numerals correspond to case studies; numbers correspond to compendium entries)

Case Studies

I. Eleanor Tilson, Vice President, United Storeworkers Union, 101 West 31st Street, New York, NY 10001. Tel: (212) 239–6100.
Nat Lindenthal, Director, Health & Security Plans, American Federation of State, County, and Municipal Employees (AFSCME), District Council 37, 140 Park Place, New York, NY 1007. Tel: (212) 766–1000.

II. Raymond Lizza, Administrator, UFT Benefit Fund, United Federation of Teachers, 260 Park Avenue South, New York, NY 14219.

III. United Federation of Teachers. Same as No. II.
Louis Rolnick, International Ladies' Garment Workers Union, 1700 Broadway, New York, NY 10706. Tel: (212) 265–7000.

IV. Edwin McManus, Staff Vice President, Employee Benefit Program, Rockwell International, 600 Grant Street, Pittsburgh, PA 15219. Tel: (412) 565–5857.

V. Richard M. Martin, Mgr., Health & Services Industry Relations, Goodyear Tire & Rubber Co., 1144 E. Market Street, Akron, Ohio 44316. Tel: (216) 794–2224.

VI. Genesee Valley Group Health Association, Contact: John Nelson, Blue Cross Association, 41 Chestnut Street, Rochester, N.Y., Tel: (716) 454–1700.

Compendium Entries

1. Melvin Glasser, Director, Social Security Department, United Automobile Workers (UAW), 8000 East Jefferson Avenue, Detroit, Michigan 48214. Tel: (313) 926–5201.
2. Jacob Sheinkman, Secretary-treasurer, Amalgamated Clothing Workers of America, 15 Union Square, New York, N.Y. 10003. Tel: (212) 255–7800.
3. John Gibson, Secretary-Treasurer, Hotel and Restaurant Employees and Bartenders International Union, 720 East 4th Street, Cincinnati, Ohio 45202. Tel: (513) 621–0300.
4. Walter L. Sullivan, Director of Social Insurance, International Longshoremen's Association, 17 Battery Place—Rm 1530, New York, N.Y. 10004. Tel: (212) 425–1200.
5. Barry Silverman, Research Director, International Longshoremen's and Warehousemen's Union, 1188 Franklin Street, San Francisco, Calif. 94109. Tel: (415) 777–0533.
6. International Brotherhood of Electrical Workers System, Council U–10, See No. 109.
7. Bernie Young, International Brotherhood Electrical Workers, Local No. 1116, 750 So. Tucson Blvd., Tucson, Ariz. 85716. Tel: (603) 792–1475.
8. William Koepp, President, Health Services Association, P.O. Box 3099, St. Paul, Minn. 55165. Tel: (612) 645–5821.
9. Edwin Brown, Secretary-Treasurer, Rhode Island AFL–CIO, 357 Westminister Street, Providence, R.I. 02303. Tel: (401) 861–6000.
10. American Federation of State, County and Municipal Employees, D.C. 37 (N.Y.C.), same as No. I.

11. St. Louis Employer-Textile Workers Union of American Benefit Program, Charles Sallee, Midwest Regional Director, 1601 S. Broadway, St. Louis, Mo. 63104. Tel: (314) 621–5035.
12. Chicago Alliance of Labor and Employers, Inc., Larry Ferguson, Consultant, Employee Benefits, Chicago Textile Industry Employee Benefit Fund, 400 South Dearborn Street, Chicago, Illinois 60605. Tel: (312) 922–7690.
13. Bynum Tudor, Corporate Manager of Employee Benefits, R. J. Reynolds Industries, Inc., Winston-Salem, N.C. Tel: (919) 748–2558.
14. Sandia Laboratories, (Lovelace-Bataan Health Program is now defunct), Health Services Administration, Sandia Laboratories, Albuquerque, N. Mex. 87115. Tel: (505) 264–3545.
15. Arthur W. Hudock, Staff Vice President, Compensation and Benefits, Scott Paper Company, Scott Plaza, Philadelphia, Pa. 19113.
16. Twin Cities Health Care Development Project (now National Association of Employers on HMOs), Ruth H. Stack, Executive Director, National Association of Employers on HMOs, Federal Reserve Bank Building, Minneapolis, Minn. 55401. Tel: (612) 373–3724.
17. W. O. Kohnke, Manager, Insured Employee Benefits, Uniroyal, Inc., Oxford Management Center, Middlebury, Connecticut 06749, Tel: (203) 573–2107.
18. Communications Workers of America, John Abraham, Economist, Communications Workers of America, 1925 K Street, NW., Washington, D.C. Tel: (202) 785–6759.
    S. L. King, Jr., American Telephone and Telegraph Co., 195 Broadway, New York, New York 10007. Tel. (212) 393–3276 or x 3344.
19. Rex Clifford, Director of Social Insurance, International Union of Electrical, Radio and Machine Workers, 1126 16th Street, N.W., Washington, D.C. 20036. Tel: (202) 296–1200.
20. International Longshoremen's and Warehousemen's Union (West Coast), same as No. 5.
21. Virginia Guerin, Employee Benefits, Bechtel Corporation, P.O. Box 3965, San Francisco, Calif. 94119. Tel: (415) 768–1234.
22. James Mortimer, Manager, Personnel-Employee Benefits, Continental Bank, 231 S. LaSalle Street, Chicago, Illinois 60693. Tel: (312) 828–2425.
23. John W. Working, Director, Employee Benefits, Crocker National Bank, P.O. Box 38000, San Francisco, Calif. 94138. Tel: (415) 983–3853.
24. Marilyn Greenberger, Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y. 10019. Tel: (212) 554–3480.
25. C. S. Tsorvas, General Electric Company, 3135 Easton Turnpike, Fairfield, Conn. 06431. Tel: (203) 373–2188.
26. H. P. Keen, Jr., Director, Employee Benefits, International Business Machines Corp., Old Orchard Road, Armonk, N.Y. 10504. Tel: (914) 765–5070.
27. Cary E. Ashley, Director, Employee Benefits, Monsanto Company, 800 N. Lindbergh, St. Louis, Missouri 63166. Tel: (314) 694–2733.
28. Charles W. Jacoby, Vice President, Personnel Department, Prudential Insurance Co. of America, Prudential Plaza, Newark, New Jersey 07101. Tel: (201) 336–5270.
29. N. P. Ferguson, Manager, Insurance Programs, Personnel Department, Republic Steel Corporation, P.O. Box 6778, Cleveland, Ohio 44101. Tel: (216) 574–7538.
30. H. T. Eglint, Manager, Personnel Department, Shell Oil Company, P.O. Box 2463, Houston, Texas 77001. Tel: (713) 220–3721.
31. R. K. Maggy, Manager, Benefits Division, Personnel Department, Standard Oil Co. of Calif., 225 Bush Street, San Francisco, Calif. Tel: (415) 894–4412.
32. General Motors, Ford, Chrysler and the United Automobile Workers (for UAW, same as No. 1. for GM, same as No. 39, for Chrysler, same as No. 62).
    Jack K. Shelton, Manager, Employee Insurance, Ford Motor Company, The American Road, Dearborn, Mich. 48121. Tel: (313) 322–8650.
33. Ernie Sessa, Administrator, Pennsylvania Public Employees Health and Welfare Fund, City Towers, 301 Chestnut Street, Harrisburg, Pa. 17101. Tel: (717) 234–2456.
34. Ron Wackett, Research and Education Directors, Retail Clerks International Association, 1775 K Street, NW., Washington, D.C. 20006. Tel: (202) 223–3111.
35. American Federation of State, County and Municipal Employees, D.C. 37 Health and Security Plan (NYC), same as No. I.
36. United Storeworkers Union, same as No. I.
37. United Federation of Teachers Welfare Fund, same as No. II.
38. F. E. Crawford, Manager, Group Insurance, Firestone Tire and Rubber Company, 1200 Firestone Parkway, Akron, Ohio 44319. Tel: (216) 379–6710.
39. D. A. Deshaw, Manager, Employee Benefit Plan, General Motors Corp., 7–135 GM Building, Detroit, Mich. 48202. Tel: (313) 556–4111.
40. Stephen Caulfield, United Mine Workers of America, 2021 K Street, NW., Washington, D.C. 20006. Tel: (202) 452–5000.
41. Thomas H. Cooper, Manager, Compensation and Benefits, Budd Company, 2155 W. Big Beaver Road, Troy, Mich. 48084. Tel: (313) 643–3678.
42. Robert E. McDonald, Assistant Director, Employee Relations Department, Dupont (E.I.) de Nemours & Co., Inc., 1007 Market Street, Wilmington, Del. 19898. Tel: (302) 774–4541.
43. Uniroyal, Inc., same as No. 17.
44. United Mine Workers of America, same as No. 40.
45. United Mine Workers of America, same as No. 40.
46. Gerard A. Kraemer, Director, Employee Benefits, AMF, Inc., 777 Westchester Avenue, White Plains, N.Y. 10604. Tel: (914) 694–9000.
47. Calvin A. Michaels, Director, Personnel Administration, Burlington Industries, Inc., Greensboro, N.C. 27420. Tel: (919) 379–2497.
48. Steve Markowitz, Manager, Government Relations, Continental Can Company, Inc., 633 Third Avenue, New York, N.Y. 10017. Tel: (212) 551–7846.
49. Ed Russell, Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68154. Tel: (402) 348–4747.
50. R. L. Adams, Director, Employee Benefits, Reynolds Metals Company, 6603 W. Broad Street, Richmond, Virginia 23229. Tel: (804) 281–2121.
51. Joseph Duva, Director, Employee Benefits and Compensation, SCM Corp., 299 Park Avenue, New York, N.Y. 10017. Tel: (212) 752–2700.
52. Standard Oil Co. of California, same as No. 31.
53. Richard L. Thompson, Administrator, Group Insurance, Textron, Inc., 40 Westminister Street, Providence, Rhode Island 02903. Tel: (401) 421–2800.
54. Donald M. Young, Senior Director, Compensation, Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016. Tel: (212) 557–3827.
55. Frank Simpson, Manager, Group Insurance, Caterpillar Tractor Company, 100 N. E. Adams Street, Peoria, Illinois 61629. Tel: (309) 675–4897.
56. John F. Hohl, Supervisor, Employee Benefits, B. F. Goodrich Company, 500 S. Main Street, Akron, Ohio 44318. Tel: (216) 379–4070.
57. G. S. Shepard, Employee Benefits, Greyhound Corp., Greyhound Tower, Phoenix, Ariz. 85077. Tel: (602) 248–4081.
58. Donald C. Jones, Personnel Administration, Procter and Gamble Company, 301 E. Sixth Street, Cincinnati, Ohio 45201. Tel: (513) 562–3760.
59. UAW, General Motors, Ford and Chrysler, same as No. 32.
60. Blue Cross-Blue Shield of Greater New York, Lance Hoxie, Assistant Director, External Professional Relations, National Association of Blue Shield Plans, 211 East Chicago Avenue, Chicago, Illinois 60611. Tel: (312) 440–5661.
61. Pennsylvania Blue Shield and Capital Blue Cross, same as No. 60.
62. John T. Kenney, Manager, Benefit Plans, Chrysler Corp., P.O. Box 1919, Detroit, Mich. 48231. Tel: (313) 956–4008.
63. New York State and New York City, Employee Insurance Division, State of New York, Albany, N.Y. Tel: (518) 457–5754.
    Edward S. Salsberg, City of New York, Program Analysis and Planning, 125 Worth Street, Room 325, New York, N.Y. 10013. Tel: (212) 566–7160.
64. United Electrical, Radio and Machine Workers of America, contact No. 60 or:
    Nathan Spero, Research Director, United Electrical, Radio and Machine Workers of America, 11 East 51st Street, New York, N.Y. 10022. Tel: (212) 753–1960.
65. UAW, General Motors, Ford, Chrysler, same as No. 32.
66. Teamsters Union Local 25, Massachusetts, contact No. 60 or:
    Ms. A. Blair Thomas, Manager, Health and Welfare Plan, Teamster Local 25, 16 Sever Street, Charlestown, Mass. 02129. Tel: (617) 241–9220.
67. UAW, General Motors, Ford, Chrysler, same as No. 32.
68. Pennsylvania Public Employees Health and Welfare Fund, same as No. 33.
69. Thomas Duzak, Director, Social Insurance, United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222. Tel: (412) 562–2400.
70. G. Edward Woodmansee, Manager, Employee Benefits, Babcock and Wilcox Company, 161 E. 42nd Street, New York, N.Y. 10017. Tel: (212) 687–6700.
71. Burlington Industries, Inc., same as No. 47.
72. R. E. Grossman, Director, Employee Benefits, Campbell Soup Company, Campbell Place, Camden, N.J. 08101. Hel: (609) 964–4000 (ext. 2564).
73. Virginia Salerno, Manager, Insured Plans, Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Del. 19807. Tel: (302) 429–5277.
74. Firestone Tire and Rubber Company, same as No. 38.

75. W. M. Hendry, Manager, Special Projects, Treasurer's Departments: Benefits, General Foods Corp., 250 North Street, White Plains, N.Y. 10625. Tel: (914) 683-2976.
76. General Motors Corp., same as No. 39.
77. George R. Shifler, General Manager, Employee Benefits, H. J. Heinz Company, 1062 Progress Street, Pittsburgh, Pa. 15412. Tel: (412) 237-5291.
78. Philip R. Leschier, Manager, Employee Insurance, International Harvester, 401 North Michigan Avenue, Chicago, Illinois 60611. Tel: (312) 670-4180.
79. V. W. McDonald, Senior Vice President, Johnson and Higgins, Inc., 95 Wall Street, New York, New York 10005. Tel: (212) 482-2433.
80. Northern Natural Gas Company, same as No. 49.
81. Procter and Gamble Company, same as No. 58.
82. F. M. Ammon, Pullman, Inc., 200 S. Michigan, Chicago, Ill. 60604. Tel: (312) 322-7155.
83. Shell Oil Company, same as No. 30.
84. Standard Oil Company of California, same as No. 31.
85. Dennis A. Kaires, Director, Employee Benefits, Borden, Inc., 180 E. Broad Street, 22nd Floor, Columbus, Ohio 43215. Tel: (614) 225-4408.
86. Continental Bank, same as No. 22.
87. Firestone Tire and Rubber Company, same as No. 38.
88. William Dodge, Employee Relations, PPG Industries, One Gateway Center, Pittsburgh, Pa. 15222. Tel: (412) 434-2025.
89. United Mine Workers of America, same as No. 40.
90. General Motors, Ford, Chrysler and UAW, same as No. 32.
91. PPG Industries, Pittsburgh National Bank, same as No. 88.
92. Donald P. Gilmartin, Manager, Group Insurance Services, Allied Chemical Corp., P.O. Box 2245R, Morristown, N.J. 07960. Tel: (201) 455-5025.
93. R. G. Wardrop, Manager, Employee Benefits, Aluminum Company of America, 2636 Alcoa Building, Pittsburgh, Pa. 15219. Tel: (412) 553-2253.
94. Babcock and Wilcox Company, same as No. 70.
95. Bechtel Corp., same as No. 21.
96. Robert F. Toole, Director of Pensions and Benefits, Carrier Corp., Carrier Tower, P.O. Box 1000, Syracuse, N.Y. 13201. Tel: (315) 424-4751.
97. Crocker National Bank, same as No. 23.
98. David McIntier, Manager, Employee Benefits, General Mills, Inc., P.O. Box 1113, Minneapolis, Minn. 55440. Tel: (612) 540-4378.
99. Equitable Life Assurance Society, of the United States, same as No. 24.
100. B. F. Goodrich Company, same as No. 56.
101. IBM, same as No. 26.
102. H. A. Sinclaire, M.D., Mobil Oil Corporation, 150 E. 42nd Street, New York, N.Y. 10017. Tel: (212) 883-5373.
103. Shell Oil Company, same as No. 30.
104. K. L. Andrews, Manager, Employee Benefits, Southern California Edison Company, P.O. Box 800, Rosemead, Calif. 91770. Tel: (213) 572-1241.
105. Ronald V. Harris, Manager, Personnel Services, Sundstrand Corp., 4751 Harrison Avenue, Rockford, Ill. 61101. Tel: (815) 226-6153.
106. Peter A. Biggins, Manager, Corporate Benefits and Personnel Policy, Xerox Corp., High Ridge Park, Stamford, Conn. 06904. Tel: (203) 329-8711 (ext. 720).
107. Robert Hischom, Actors' Equity Association, c/o Martin Segal Co., 730 Fifth Avenue, New York, N.Y. 10009.
108. Amalgamated Clothing Workers of America, same as No. 2.
109. Charles H. Pillard, International President, International Brotherhood of Electrical Workers, 1125 15th Street, NW., Washington, D.C. 20005. Tel: (202) 833-7000.
110. Kathleen M. Murguia, National Farm Workers Health Group, United Farm Workers of America, La Paz, Keene, Calif. 93531. Tel: (805) 822-5571.
111. Reese Hammond, Director of Education, International Union of Operating Engineers, 1126 17th Street, NW., Washington, D.C. 20036. Tel: (202) 347-8560.
112. American Federation of State, County and Municipal Employees, District Council 37, same as No. 1.
113. United Storeworkers Union, same as No. 1.
114. California Council for Health Care Alternatives, No contact—program is defunct.
115. United Farm Workers of America, same as No. 110.
116. United Mine Workers of America, same as No. 40.
117. Aluminum Company of America, same as No. 93.
118. Martin B. Ball, Director, Corporate Employee Benefits, Eastman Kodak Company, 343 State Street, Rochester, N.Y. 14650. Tel: (716) 724-4801.
119. R. G. Bivona, J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, N.Y. 10019. Tel: (212) 957-6547.

INDEX II: ALPHABETICAL LIST OF EMPLOYERS AND UNIONS CITED

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[FR Doc.76-27163 Filed 9-16-76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

LOW INCOME PUBLIC HOUSING

Fair Market Rents For Existing Housing

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-311]

PART 803—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM

Fair Market Rents for Existing Housing

Notice was given on July 13, 1976, at 41 FR 28930, that the Department of Housing and Urban Development (HUD) was proposing to amend 24 CFR, Part 888, Schedule B, which sets forth the Fair Market Rents for existing housing under the Section 8 and Section 23 programs (including the Housing Finance and Development Agencies Program).

Interested parties were invited to submit written comments concerning the proposed amendments to Schedule B on or before July 28. Three letters were received during the comment period which expressed concern that the Schedule B rents were not high enough with respect to specific housing market areas. Further consideration of these letters resulted in HUD determination to publish for effect all amendments on Schedule B rents which had been published for comment on July 13 without change.

The amendments to Schedule B of Part 888 also amend Schedule B of Part 803, which sets forth the Fair Market Rents for the Section 23 Housing Assistance Payments Program. Section 23 Fair Market Rent schedules were published initially for all localities in the United States in the July 8, 1974 FEDERAL REGISTER, at 39 FR 25120.

Public Law 94-116, the Appropriations Act for HUD and Independent Agencies, FY 1976, states that in fiscal year 1976 and the period ending September 30, 1976, the Fair Market Rent basis of contracts approved pursuant to Section 8 of the United States Housing Act of 1937 shall not exceed by more than 10 percent in the aggregate, or 20 percent in individual market areas, those published in the FEDERAL REGISTER through September 8, 1975. The revisions of the Schedule B Fair Market Rents for both Section 8 and Section 23 have been calculated in such a manner as to assure compliance with the requirements of that Act.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. The Finding was made for Fair Market Rents under the Section 8 program, but also applies to Section 23 Fair Market Rents as well because the rental schedules are identical for both programs. In addition, the HUD Office of Policy Development and Research has determined, pursuant to Office of Management and Budget Circular A-107, that an Economic Impact Statement is not required for the publication of Fair Market Rents in the FEDERAL REGISTER. Copies of these findings are available for public inspection during regular business hours in Room 10141, Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. It is hereby certified that the economic and inflationary impact of this proposed amendment has been carefully evaluated in accordance with OMB Circular A-107.

By nature, Fair Market Rent schedules are subject to continuous review and revision where data and information indicate changes are needed. Accordingly, Schedule B will be amended periodically in the future in those local housing market or submarket areas where changes are deemed appropriate on the basis of available data and information.

Accordingly, Title 24, Part 803, Schedule B is amended to read as set forth in Title 24, Part 888, and are incorporated herein by reference for the market areas effected.

Effective date. These regulations and schedules shall become effective on September 17, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.76-27097 Filed 9-16-76;8:45 am]

[Docket No. R-76-311]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for Existing Housing

Notice was given on July 13, 1976, at 41 FR 28930, that the Department of Housing and Urban Development (HUD) was proposing to amend 24 CFR, Part 888, Schedule B, which sets forth the Fair Market Rents for existing housing (including the Housing Finance and Development Agencies Program).

Interested parties were invited to submit written comments concerning the proposed amendments to Schedule B on or before July 28. Three letters were received during the comment period which expressed concern that the Schedule B rents were not high enough with respect to specific housing market areas. Further consideration of these letters resulted in HUD determination to publish for effect all amendments on Schedule B rents which had been published for comment on July 13 without change.

The amendments to Schedule B of Part 888 also amend Schedule B of Part 803, which sets forth the Fair Market Rents for the Section 23 Housing Assistance Payments Program. The amendments to Schedule B of Part 888 and Schedule B of Part 803 are being transmitted to the FEDERAL REGISTER to be published on the same date.

Public Law 94-116, the Appropriations Act for HUD and Independent Agencies, FY 1976, states that in fiscal year 1976 and the period ending September 30, 1976, the Fair Market Rent basis of contracts approved pursuant to Section 8 of the United States Housing Act of 1937 shall not exceed by more than 10 percent in the aggregate, or 20 percent in individual market areas, those published in the FEDERAL REGISTER through September 8, 1975. The revisions of the Schedule B Fair Market Rents have been calculated in such a manner as to assure compliance with the requirements of that Act.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. In addition, the HUD Office of Policy Development and Research has determined, pursuant to Office of Management and Budget Circular A-107, that an Economic Impact Statement is not required for the publication of Fair Market Rents in the FEDERAL REGISTER. Copies of these findings are available for public inspection during regular business hours in Room 10141, Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. It is hereby certified that the economic and inflationary impact of this proposed amendment has been carefully evaluated in accordance with OMB Circular A-107.

By nature, Fair Market Rent schedules are subject to continuous review and revision where data and information indicate changes are needed. Accordingly, Schedule B will be amended periodically in the future in those local housing market or submarket areas where changes are deemed appropriate on the basis of available data and information.

Accordingly, Title 24, Part 888, Schedule B is amended to read as set forth below for the market areas specified.

Effective date: These regulations and schedules shall become effective on September 17, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing—Federal Housing Commissioner.

SCHEDULE B

FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4-plus bedrooms
REGION 1					
Boston, Mass. Area Office:					
SMSA: Worcester, Mass.:					
SMSA part.. Worcester, Mass.:					
Nonelevator	162	163	216	248	270
Elevator	177	201	257	273	277
Burlington, Vt., Insuring Office:					
Non-SMSA:					
Chittenden County, Vt.:					
Nonelevator	144	163	192	211	220
Elevator	158	178	211	232	243
REGION 2					
Camden, N.J., Area Office:					
SMSA: Philadelphia, Pa.-N.J..					
Burlington County, N.J..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Camden County, N.J..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Gloucester County, N.J..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
New York, N.Y., Area Office:					
SMSA: New York City, N.Y.-N.J..					
Rockland County, N.Y..					
Nonelevator	198	224	284	303	343
Elevator	218	247	279	333	378
Newark, N.J., Area Office:					
SMSA: Allentown-Bethlehem-Easton, Pa.-N.J..					
Warren County, N.J..					
Nonelevator	135	154	193	202	223
Elevator	148	170	201	223	244
SMSA: Newark, N.J..					
Essex County, N.J..					
Nonelevator	160	191	225	254	278
Elevator	180	210	243	279	306
Morris County, N.J..					
Nonelevator	160	191	225	254	278
Elevator	180	210	243	279	306
Somerset County, N.J..					
Nonelevator	160	191	225	254	278
Elevator	180	210	243	279	306
Union County, N.J..					
Nonelevator	160	191	225	254	278
Elevator	180	210	243	279	306
Non-SMSA:					
Hunterdon County, N.J..					
Nonelevator	177	202	240	225	251
Elevator	195	223	264	292	320
REGION 3					
Baltimore, Md., Area Office:					
SMSA: Washington, D.C.-Md.-Va..					
Charles County, Md..					
Nonelevator	173	207	242	270	311
Elevator	190	228	266	304	342
Charleston, W. Va., Insuring Office:					
SMSA: Charleston, W. Va..					
Kanawha County, W. Va..					
Nonelevator	108	123	146	169	194
Elevator	118	135	160	186	204
Putnam County, W. Va..					
Nonelevator	108	123	146	169	194
Elevator	118	135	160	186	204
Non-SMSA:					
Boone County, W. Va..					
Nonelevator	81	93	111	123	135
Elevator	90	103	122	135	150
Fayette County, W. Va..					
Nonelevator	81	93	111	123	135
Elevator	90	103	122	135	150
Logan County, W. Va..					
Nonelevator	81	93	111	123	135
Elevator	90	103	122	135	150
Mingo County, W. Va..					
Nonelevator	81	93	111	123	135
Elevator	90	103	122	135	150
Philadelphia, Pa., Area Office:					
SMSA: Allentown-Bethlehem-Easton, Pa.-N.J..					
Carbon County, Pa..					
Nonelevator	135	154	193	202	223
Elevator	148	170	201	223	244
Lehigh County, Pa..					
Nonelevator	135	154	193	202	223
Elevator	148	170	201	223	244
Northampton County, Pa..					
Nonelevator	135	154	193	202	223
Elevator	148	170	201	223	244

SCHEDULE B—Continued

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4-plus bedrooms
Philadelphia, Pa., Area Office—Continued					
SMSA: Harrisburg, Pa..					
Cumberland County, Pa..					
Nonelevator	122	139	165	192	210
Elevator	134	153	182	211	230
Dauphin County, Pa..					
Nonelevator	122	139	165	192	210
Elevator	134	153	182	211	230
Perry County, Pa..					
Nonelevator	122	139	165	192	210
Elevator	134	153	182	211	230
SMSA: Northeast, Pa..					
Lackawanna County, Pa..					
Nonelevator	110	127	151	163	183
Elevator	122	139	165	184	201
Luzerne County, Pa..					
Nonelevator	110	127	151	163	183
Elevator	122	139	165	184	201
Monroe County, Pa..					
Nonelevator	110	127	151	163	183
Elevator	122	139	165	184	201
SMSA: Philadelphia, Pa.-N.J..					
Bucks County, Pa..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Chester County, Pa..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Delaware County, Pa..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Montgomery County, Pa..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Philadelphia County, Pa..					
Nonelevator	160	182	216	250	284
Elevator	176	200	237	275	312
Richmond, Va., Area Office:					
SMSA: Norfolk-Virginia Beach-Portsmouth, Va.-N.C..					
Chesapeake, Va..					
Nonelevator	132	151	178	198	217
Elevator	145	165	196	217	238
Norfolk, Va..					
Nonelevator	132	151	178	198	217
Elevator	145	165	196	217	238
Portsmouth, Va..					
Nonelevator	132	151	178	198	217
Elevator	145	165	196	217	238
Suffolk, Va..					
Nonelevator	132	151	178	198	217
Elevator	145	165	196	217	238
Virginia Beach, Va..					
Nonelevator	132	151	178	198	217
Elevator	145	165	196	217	238
Washington, D.C., Area Office:					
SMSA: Washington, D.C.-Md.-Va..					
Montgomery County, Md..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Prince Georges County, Md..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Washington, D.C..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Arlington County, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Fairfax County, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Loudoun County, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Prince William County, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Alexandria, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Fairfax, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Falls Church, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Manassas, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342
Manassas Park, Va..					
Nonelevator	173	207	242	276	311
Elevator	190	228	266	304	342

SCHEDULE B—Continued

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4-plus bedrooms
REGION 4					
Atlanta, Ga., Area Office:					
SMSA: Atlanta, Ga..					
De Kalb County, Ga..					
Nonelevator	153	180	213	247	279
Elevator	174	198	235	271	307
Fulton County, Ga..					
Nonelevator	153	180	213	247	279
Elevator	174	198	235	271	307
Coral Gables, Fla., Insuring Office:					
SMSA: Fort Myers, Fla..					
Lee County, Fla..					
Nonelevator	145	165	195	216	235
Elevator	169	181	214	237	260
Columbia, S.C., Area Office:					
SMSA: Charleston, S.C.:					
Berkeley County, S.C..					
Nonelevator	122	145	171	198	217
Elevator	140	159	183	218	238
Charleston County, S.C..					
Nonelevator	122	145	171	198	217
Elevator	140	159	183	218	238
Dorchester County, S.C..					
Nonelevator	122	145	171	198	217
Elevator	140	159	183	218	238
SMSA: Columbia, S.C.:					
Lexington County, S.C..					
Nonelevator	122	140	165	192	210
Elevator	135	153	182	211	230
Richland County, S.C..					
Nonelevator	122	140	165	192	210
Elevator	135	153	182	211	230
SMSA: Greenville-Spartanburg, S.C..					
Greenville County, S.C..					
Nonelevator	104	118	140	163	177
Elevator	114	130	154	178	195
Pickens County, S.C.:					
Nonelevator	104	118	140	163	177
Elevator	114	130	154	178	195
Spartanburg County, S.C..					
Nonelevator	104	118	140	163	177
Elevator	114	130	154	178	195
Greensboro, N.C., Area Office:					
SMSA: Norfolk-Virginia Beach-Portsmouth, Va.-N.C.:					
Currituck County, N.C..					
Nonelevator	132	151	178	193	217
Elevator	145	165	196	217	238
Jacksonville, Fla., Area Office:					
SMSA: Gainesville, Fla..					
Alachua County, Fla..					
Nonelevator	114	130	154	171	183
Elevator	130	144	170	183	200
Louisville, Ky., Area Office:					
SMSA: Evansville, Ind.-Ky.:					
Henderson County, Ky.:					
Nonelevator	97	110	130	146	160
Elevator	109	121	144	160	176
Non-SMSA:					
Bell County, Ky.:					
Nonelevator	80	96	116	129	142
Elevator	94	108	123	142	157
Harlan County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	123	142	157
Knox County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	123	142	157
Laurel County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	123	142	157
McCreary County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	123	142	157
Pike County, Ky.:					
Nonelevator	81	93	111	123	135
Elevator	90	103	122	135	150
Wayne County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	123	142	157
Whitley County, Ky.:					
Nonelevator	80	93	110	129	142
Elevator	94	108	128	142	157
REGION 5					
Chicago, Ill., Area Office:					
SMSA: Chicago, Ill..					
Du Page County, Ill..					
Nonelevator	193	224	264	303	343
Elevator	218	247	290	333	378
SMSA: Davenport-Rock Island-Moline, Iowa-Illinois:					
Rock Island County, Ill..					
Nonelevator	151	172	204	226	258
Elevator	169	189	224	250	283
Cleveland, Ohio, Insuring Office:					
SMSA: Canton, Ohio:					
Carroll County, Ohio:					
Nonelevator	116	132	157	182	199
Elevator	126	145	172	200	218
Stark County, Ohio:					
Nonelevator	116	132	157	182	199
Elevator	126	145	172	200	218

SCHEDULE B—Continued

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4-plus bedrooms
Cleveland, Ohio, Insuring Office—Continued					
SMSA: Cleveland, Ohio:					
Cuyahoga County, Ohio:					
Nonelevator	139	160	191	223	253
Elevator	154	177	210	245	278
Geauga County, Ohio:					
Nonelevator	139	160	191	223	253
Elevator	154	177	210	245	278
Lake County, Ohio:					
Nonelevator	139	160	191	223	253
Elevator	154	177	210	245	278
Medina County, Ohio:					
Nonelevator	139	160	191	223	253
Elevator	154	177	210	245	278
SMSA: Mansfield, Ohio:					
Richland County, Ohio:					
Nonelevator	121	137	164	189	207
Elevator	132	151	181	203	223
SMSA: Youngstown-Warren, Ohio:					
Mahoning County, Ohio:					
Nonelevator	126	145	171	193	217
Elevator	138	158	183	218	238
Trumbull County, Ohio:					
Nonelevator	126	145	171	193	217
Elevator	138	158	183	218	238
Non-SMSA:					
Erie County, Ohio:					
Nonelevator	118	135	162	178	196
Elevator	130	150	177	196	216
Detroit, Mich., Area Office:					
SMSA: Detroit, Mich..					
Lapeer County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
Livingston County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
Macomb County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
Oakland County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
St. Clair County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
Wayne County, Mich..					
Nonelevator	159	181	214	248	280
Elevator	175	199	236	272	309
Grand Rapids, Mich., Insuring Office:					
Non-SMSA:					
Gratiot County, Mich..					
Nonelevator	93	106	127	141	154
Elevator	103	117	139	154	170
Indianapolis, Ind., Area Office:					
SMSA: Evansville, Ind.-Ky.:					
Gibson County, Ind..					
Nonelevator	97	110	130	146	160
Elevator	106	121	144	160	176
Posey County, Ind..					
Nonelevator	97	110	130	146	160
Elevator	106	121	144	160	176
Vanderburgh County, Ind..					
Nonelevator	97	110	130	146	160
Elevator	106	121	144	160	176
Warrick County, Ind..					
Nonelevator	97	110	130	146	160
Elevator	106	121	144	160	176
Milwaukee, Wis., Area Office:					
SMSA: Kenosha, Wis..					
Kenosha County, Wis..					
Nonelevator	144	163	192	211	230
Elevator	158	179	211	232	253
SMSA: Milwaukee, Wis..					
Milwaukee County, Wis..					
Nonelevator	159	181	214	247	280
Elevator	175	199	236	272	308
Ozaukee County, Wis..					
Nonelevator	159	181	214	247	280
Elevator	175	199	236	272	308
Washington County, Wis..					
Nonelevator	159	181	214	247	280
Elevator	175	199	236	272	308
Waukesha County, Wis.:					
Nonelevator	159	181	214	247	280
Elevator	175	199	236	272	308
Non-SMSA:					
Door County, Wis..					
Nonelevator	126	144	170	196	214
Elevator	138	153	187	216	236
Minneapolis-St. Paul, Minn., Area Office:					
SMSA: Fargo-Moorhead, N. Dak.-Minn..					
Clay County, Minn..					
Nonelevator	114	129	165	183	201
Elevator	125	142	182	202	222
Springfield, Ill., Insuring Office:					
SMSA: Peoria, Ill..					
Peoria County, Ill..					
Nonelevator	151	172	204	236	258
Elevator	166	189	224	260	283
Tazewell County, Ill..					
Nonelevator	151	172	204	236	258
Elevator	166	189	224	260	283

SCHEDULE B—Continued

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4-plus bedrooms
REGION 7					
Des Moines, Iowa, Insuring Office:					
Non-SMSA:					
Johnson County, Iowa:					
Nonelevator	145	170	199	220	243
Elevator	159	187	218	223	273
Kansas City, Kans., Area Office:					
Non-SMSA:					
Jasper County, Mo.:					
Nonelevator	87	99	118	132	145
Elevator	95	108	129	145	159
Newton County, Mo.:					
Nonelevator	87	99	118	132	145
Elevator	95	108	129	145	159
Nodaway County, Mo.:					
Nonelevator	101	116	133	153	169
Elevator	112	128	152	169	186
REGION 8					
Denver, Colo., Insuring Office:					
SMSA: Pueblo, Colo.:					
Pueblo County, Colo.:					
Nonelevator	129	147	175	201	219
Elevator	142	162	192	222	242
Fargo, N. Dak., Insuring Office:					
SMSA: Fargo-Moorehead, N. Dak. Minn.:					
Cass County, N. Dak.:					
Nonelevator	114	129	165	183	201
Elevator	125	142	182	202	222
Non-SMSA:					
Grand Forks County, N. Dak.:					
Nonelevator	111	127	165	183	201
Elevator	121	139	182	202	222
Ramsey County, N. Dak.:					
Nonelevator	111	127	165	183	201
Elevator	121	139	182	202	222
Walsh County, N. Dak.:					
Nonelevator	111	127	165	183	201
Elevator	121	139	182	202	222
Ward County, N. Dak.:					
Nonelevator	100	121	153	176	193
Elevator	110	134	174	193	212
Williams County, N. Dak.:					
Nonelevator	100	121	153	176	193
Elevator	110	134	174	193	212
Salt Lake City, Utah, Insuring Office:					
SMSA: Salt Lake City-Ogden, Utah:					
Davis County, Utah:					
Nonelevator	142	160	192	220	240
Elevator	160	178	208	240	260
Salt Lake County, Utah:					
Nonelevator	142	160	192	220	240
Elevator	160	178	208	240	260
Tooele County, Utah:					
Nonelevator	142	160	192	220	240
Elevator	160	178	208	240	260
Weber County, Utah:					
Nonelevator	142	160	192	220	240
Elevator	160	178	208	240	260
REGION 9					
Sacramento, Calif., Insuring Office:					
Non-SMSA:					
Shasta County, Calif.:					
Nonelevator	118	134	153	175	192
Elevator	129	147	175	193	211
San Francisco, Calif., Area Office:					
Non-SMSA:					
Humboldt County, Calif.:					
Nonelevator	118	134	153	175	192
Elevator	129	147	175	193	211
REGION 10					
Anchorage, Alaska, Insuring Office:					
Non-SMSA:					
Barrow District, Alaska:					
Nonelevator	265	301	345	391	423
Elevator	291	331	391	430	470
Portland, Oreg., Area Office:					
SMSA: Portland, Oreg.-Wash.:					
Clark County, Wash.:					
Nonelevator	136	155	185	234	254
Elevator	151	172	203	225	250
Clackamas County, Oreg.:					
Nonelevator	136	155	185	234	254
Elevator	151	172	203	225	250
Multnomah County, Oreg.:					
Nonelevator	136	155	185	234	254
Elevator	151	172	203	225	250
Washington County, Oreg.:					
Nonelevator	136	155	185	234	254
Elevator	151	172	203	225	250
Non-SMSA:					
Jackson County, Oreg.:					
Nonelevator	123	140	168	192	208
Elevator	135	154	182	211	230

SOURCE.—Prepared by HUD—EMAD (CO), Aug. 17, 1976.

[FR Doc.76-27096 Filed 9-16-76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART V:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs and Regulatory Functions, Office of Assistant Secretary

■

MOBILE HOMES

Procedural and Enforcement Regulations; Extension of Effective Date

Title 24—Housing and Urban Development

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS

[Docket No. R-76-390]

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Extension of Effective Date

On June 21, 1976, at 41 FR 24971, the Department adopted a new § 3282.401(c) which delayed until September 15, 1976, the effectiveness of certain provisions of Subpart I of 24 CFR Part 3282. That subpart implements section 615 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5414, primarily by establishing procedures for handling consumer complaints that indicate the existence of flaws in mobile homes with respect to which remedial actions are required by section 615. The Department delayed certain provisions of the subpart because it appeared that they established unworkable requirements and that they would cause disruption and delay in providing remedies under the Act. The Department stated that it would develop and propose a revision to subpart I and would publish a final revision of the subpart after considering all comments. The Department intended to accomplish this before September 15, 1976, but it is apparent that the Department will not be able to do so. The proposed revision of the subpart will shortly be published in the FEDERAL REGISTER, and the final rule cannot be published until all comments have been considered after the 30 day period for comment has closed.

The Department is now amending § 3282.401(c) to extend the delay to December 15, 1976. This extension of the delay is necessary to avoid confusion and improper implementation of the Act, and has been requested by several manufacturers. Under the amendment, manufacturers will not be required to act under subpart I with respect to noncompliances or defects until December 15, 1976, though they must retain all information indicating the possible existence of noncompliances and defects and take any appropriate actions after that date. This is the same as the provisions for delay that were originally put in effect.

The Department notes that manufacturers remain responsible under the Act for providing remedial actions with respect to noncompliances and defects, and that manufacturers may wish to work with the Department to provide such remedial actions prior to the effective date of the subpart. Also, the Department notes that the delay in the effectiveness of this subpart does not modify the responsibility of the manufacturer to assure that all mobile homes that it sells are in conformance with the Federal standards and to correct any home that has not yet been sold to a purchaser if it does not conform to the standards.

In order to avoid requiring manufacturers and others to act under a system that may hinder effective consumer protections, the Department has determined that this amendment must be made effective as of the date it is published in the FEDERAL REGISTER. Therefore, notice and public procedure are impractical and contrary to the public interest in this case, and this amendment must take effect before September 15, 1976 rather than 30 days after its publication, as would normally be the case.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability which was made for the regulation published on June 21, 1976, at 41 FR 24971 is available for inspection and copying according to Department rules and regulations at the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. That Finding applies to this amendment since the amendment merely extends the effectiveness of the rule for which the Finding was made.

NOTE.—It is hereby certified that the economic and inflationary impacts of the regulation published June 21, 1976, at 41 FR 24971 were carefully evaluated in accordance with OMB Circular A-107. That evaluation applies to this amendment for the reasons stated above.

Accordingly, 24 CFR Part 3282, as published in 41 FR 19846, is amended by adding a new paragraph (c) of § 3282.401 to read as follows:

§ 3282.401 Scope.

* * * * *

(c) Notwithstanding the provisions of §§ 3282.404–3282.407, no manufacturer may be required to act under those sections with respect to noncompliances or defects until December 15, 1976, except as stated in this paragraph. However, each manufacturer shall retain all consumer complaints and other information received by the manufacturer before that date that indicate the possible existence of noncompliances or defects and maintain complete records of the manufacturer's response, if any. The Secretary and State Administrative Agencies that would act under §§ 3282.404–3282.407 with respect to noncompliances and defects shall forward complaints and other information to the manufacturers as they would under § 3282.406(a) but shall not require that any action be taken by the manufacturer until December 15, 1976, if the manufacturer responds under § 3282.406(b) that the information does not relate to a serious defect or imminent safety hazard and the SAA or the Secretary agrees. December 15, 1976, shall be considered to be the date on which consumer complaints and other information were received by the manufacturer for purposes of computing the time periods within which actions must be taken under § 3282.404–3282.407 with respect to those complaints and other information relating to noncompliances or defects received before December 15, 1976.

(Secs. 615 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5414 and 5424, and section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Effective date: This amendment is effective September 14, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-27245 Filed 9-15-76;9:30 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART VI:

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

■

EQUAL EMPLOYMENT OPPORTUNITY

Proposed Revisions and Redesignation of Regulations

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Parts 60–1, 60–2, 60–5, 60–8]

EQUAL EMPLOYMENT OPPORTUNITY

Proposed Rulemaking

Section 201 of Executive Order 11246, as amended (30 FR 12319; amended, 32 FR 14303), provides that the Secretary of Labor shall adopt rules, regulations and orders as he deems necessary and appropriate to achieve the purposes of the Order. Since the Secretary's regulations to implement the Executive Order were originally issued in May of 1968 (33 FR 7804) they have been periodically expanded, revised and updated to reflect newly emerging concepts in the equal employment opportunity field, including litigation decisions and increased sophistication in enforcement and monitoring. This piecemeal development has resulted in a regulatory structure which, in some instances, is complex, repetitious, and unclear.

Accordingly, the Department of Labor herein proposes to revise and redesignate the regulations in 41 CFR Parts 60–1 through 60–60. Significant changes, which are further outlined below, are proposed to replace Part 60–1, Obligations of contractors and subcontractors; Part 60–2, Affirmative action programs; Part 60–30, Hearing rules for sanction proceedings; and Part 60–60, Contractor evaluation procedures for contractors for supplies and services, except that no changes are being proposed regarding the Standard Compliance Review Report. No amendment of Part 60–3, Employee testing and other selection procedures, is proposed at this time. However, it is the intent of the Department of Labor to amend such part to conform with the final version of the Uniform Guidelines on Employee Selection Procedures published for comment on July 14, 1976 (41 FR 29016) by the Equal Employment Opportunity Coordinating Council. Neither are any changes proposed at this time in the Sex discrimination guidelines (Part 60–20), Examination and copying of OFCC documents (Part 60–40) and Guidelines on discrimination because of religion or national origin (Part 60–50).

The regulations will also be rearranged in a more orderly manner. Part 60–1 will continue to be designated Obligations of contractors and subcontractors; Part 60–2 will be known as Affirmative action compliance programs and references to Revised Order No. 4 will be dropped; Part 60–3 will continue to be referred to as Employee testing and other selection procedures until the new uniform guidelines are adopted; the Sex discrimination guidelines now in Part 60–20 will be transferred to Part 60–4; the Hearing rules for sanction proceedings (presently in Part 60–30) will be designated Rules of practice for administrative proceedings to enforce equal opportunity under Executive Order 11246 and will be published in Part 60–5 (on final rulemaking this part will be transferred to Part 60–8 and appropriate adjustments will be made in the other part numbers affected by the change); Examination and copying of OFCCP documents now in Part 60–40 will be transferred to Part 60–6; Guidelines on discrimination because of religion or national origin will be transferred to Part 60–7; and Revised Order No. 14 will be designated Standards and procedures for conducting compliance reviews of contractors for supplies and services and will be transferred to Part 60–8. The various plans now published in Parts 60–5 through 60–8 and 60–10 through 60–11 will be transferred to Part 60–20 on final rulemaking. Those parts for which no substantive changes are being proposed will be amended on final rulemaking to reflect the OFCCP's new name.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed revision to Lawrence Z. Lorber, Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, on or before November 16, 1976.

Summary of Proposed Changes to Title 41 CFR Part 60–1

The format of Part 60–1 has been reorganized. Part 60–1 is now divided into four subparts, each of which sets forth the obligations of a particular participant in the compliance process. Subpart A, for example, outlines the obligations of contractors and subcontractors, Subpart B discusses the obligations of compliance agencies, Subpart C contains instructions for filing complaints, and Subpart D covers ancillary matters, most of which are the direct responsibility of OFCCP. These revisions improve upon the present format and make it easier to understand the requirements of the regulations. Specific substantive changes made in the proposed revision of Part 60–1 follow:

Section 60–1.3. A definition of the term "establishment" has been added (§ 60–1.3(k)). In addition, the definition of "agency" has been amended to include a compliance agency (§ 60–1.3(c)); the definition of "minority group" has been amended to specify the particular groups for whom the written affirmative action compliance program requirements of 41 CFR 60–1.6 and 41 CFR Part 60–2 and the contractor workforce reporting requirements of 41 CFR 60–1.9 are intended (§ 60–1.3(p)); and the definition of "administrative law judge" has been substituted for the definition of "hearing officer" (§ 60–1.3(b)).

Section 60–1.5. As in the past, contracts and subcontracts not exceeding $10,000 are exempt from the requirements of the equal opportunity clause. However, a proviso has been added which would eliminate the exemption where a contractor has contracts or subcontracts which in any 12 month period total $50,000, irrespective of the dollar value of any single contract. Such cumulation for purposes of coverage is intended to ensure equal employment opportunity by contractors with significant Federal involvement notwithstanding the relative amount of each contract.

The limited exemptions for state and local governments from the requirements of the equal opportunity clause and the obligations for filing compliance reports and developing written affirmative action compliance programs remains unchanged in proposed § 60–1.5(a)(4). However, public comment specifically is invited on further limiting these exemptions from the requirements of the equal opportunity clause, of filing reports, and of developing written affirmative action compliance programs. For example, should public utilities, transportation operations or other functions or portions of state or local governments (or agencies, instrumentalities or subdivisions thereof, including special authorities) be required to develop written affirmative action compliance programs and/or file special compliance reports covering their own employment practices? Are such extensions to other governmental entities or activities needed and feasible? What problem areas might be encountered in such extensions and how may they be resolved or minimized? What should be the precise parameters of such extensions?

Proposed 41 CFR 60–1.5(a)(6), dealing with work on or near Indian reservations, is a republication of the Department's proposal of June 25, 1976, (41 FR 26229) for expanding the employment opportunities of American Indians living on or near an Inndian reservation in both construction and noconstruction employment. The proposal would parallel section 703(i) of the Civil Rights Act of 1964, as amended, and would allow construction and nonconstruction contractors and subcontractors to engage in certain preferential hiring of such Indians.

Section 703(i) of the Civil Rights Act of 1964, as amended states:

> Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

The use of the word "near" would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. This definition is consistent with that offered by the Equal Employment Opportunity Commission to the U.S. Commision on Civil Rights in an opinion letter dated July 18, 1973.

In accordance with the Federal equal employment policy contained in section 715 of the Civil Rights Act of 1964, as amended, for consistent standards among the Federal equal employment opportunity enforcement agencies, the Department of Labor proposes to adopt the policy enunciated in section 703(i) of the Civil Rights Act of 1964, as the applicable standard under Executive Order 11246 for contractors performing contracts on or near an Indian reservation.

In order to miplement the proposed permissive employment preference for Indians living on or near an Indian reservation meaningfully, the Department is also republishing the remainder of its June 25, 1976, proposal in proposed 41 CFR 60–2.12(i) (Alternative A) and proposed 41 CFR 60–2.12(7) (Alternative B), set forth in proposed new 41 CFR Part 60–2, below, to provide that a contractor or subcontractor extending a publicly announced preference for Indians under proposed 41 CFR 60–1.5(a)–(6) may reflect such preference in the goals and timetables of its written affirmative action compliance programs.

Section 60–1.6. The term Affirmative Action Compliance Program (AACP) will replace "Affirmative Action Program" and "Affirmative Action Plan" to distinguish the affirmative action requirement under the Executive Order from various programs and plans voluntarily or otherwise adopted pursuant to other Federal law, State and local requirements or for other purposes. The basic requirements regarding Affirmative Action Compliance Programs, formerly found in 41 CFR 60–1.40 and 41 CFR 60–2.2, have been consolidated and revised in 41 CFR 60–1.6. Significant changes contained in this Section are outlined below.

A written AACP must be developed by each contractor and subcontractor having 100 or more employees and a Government contract or subcontract of $100,000 or more. The previous requirements were 50 employees and a contract or subcontract of $50,000 (§ 60–1.6(a)). In addition, contractors and subcontractors holding Government bills of lading which during any 12-month period total or may reasonably be expected to total $100,000, or contractors or subcontractors serving as depositaries of Government funds in any amount, or which are financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are covered by the written AACP requirement. The new AACP jurisdictional requirements will permit compliance agencies to focus their resources on those job opportunities which will result in meaningful goals. This change will relieve the compliance agencies of diverting resources to those establishments in which employment opportunities are minimal. In addition, contractors with small workforces will not be required to conduct the various analyses which, for them, may result in small or less than whole goals. Finally, this change will relieve small employers of the burden of preparing AACP's, the cost of which might exceed the benefit they receive from doing business with the Government. It should be noted, however, that such small employers would still be required to take comprehensive affirmative action pursuant to the requirements of the equal opportunity clause. See discussion of § 60–1.24(d), below. The proposal to aggregate government bills of lading is consistent with the Department's position to cover substantial Federal involvement. In this connection, substantial Federal dollars are spent in the surface transportation industry but bills of lading normally are for small amounts. This change will now cover the industry under the written AACP requirement. This change also is consistent with recent litigation. The provisions pertaining to depositaries of Government funds and issuing and paying agents are intended to clarify presently existing practices and policy.

Nationwide AACP formats covering all the contractor's establishments with national or local goals, as appropriate, are permitted (§ 60–1.6(a)).

A contractor who fails to develop an AACP or whose AACP does not meet the requirements of Part 60–2 will not be in compliance with the Order and the regulations, and will be declared nonresponsible by the contracting officer. The compliance agency or OFCCP, depending upon which agency made the determination of noncompliance, will initiate enforcement proceedings in accordance with proposed 41 CFR 60–1.25. During the pendency of the enforcement proceeding, the contractor will not be eligible for award of additional contracts. However, upon making a determination of nonresponsibility, the contracting officer is required to notify the contractor and the Director of OFCCP. The contractor may request the Director to make a determination that substantial issues of law or fact exist with respect to the contractor's responsibility to the extent that a hearing is required. If the Director does determine that substantial issue of law or fact exist, the nonresponsibility determination will be held in abeyance pending the conclusion of the enforcement proceeding and the contractor will be eligible for award during the interim.

This process of making determinations of nonresponsibility is consistent with basic procurement principles under which contracting officers routinely declare contractors-bidders nonresponsible when, for various reasons (e.g. insufficient production capacity or inadequate capitalization), the contractor/bidder is unable to comply with the terms and conditions of the contracts. In these proposed regulations, however, the Department of Labor has not elected to use the nonresponsibility determination as the sole factor of determining eligibility for award. Thus, where the issues involved do raise substantial issues of law or fact the contractor will be granted its "day in court" before being denied a contract. With respect to substantial issues determinations a contractor who has no AACP in all likelihood will not be successful in its request for a determination of the existence of substantial issues of law or fact. On the other hand, a contractor who has been declared nonresponsible because of affected class problems is likely to be successful in requesting a substantial issues determination.

Finally, when the Director reviews a matter under the substantial issues procedure, he/she may determine that additional investigative work is required prior to a determination of whether enforcement proceedings should be instituted. In such event, the contractor may be eligible for award.

Proposed § 60–1.6(d) provides that the enforcement provisions of this section shall be implemented consistent with section 718 of the Civil Rights Act of 1964, as amended, which references the effect of previously approved AACP's on the procurement process.

Section 60–1.7. Requires that a Certification of Compliance be included in all solicitation and contractual documents. The text of the Certification incorporates the Executive Order implementing regulations by references and binds the bidder/offeror, contractor or subcontractor to compliance with the Executive Order and the regulations.

Section 60–1.8. To eliminate an unnecessary administrative burden and to simplify the regulations, contractors and subcontractors no longer are required to submit a certification of nonsegregated facilities; further, contractors and subcontractors would no longer have an obligation to require their subcontractors to submit such a certification. Therefore, the requirement of nonsegregated facilities would be administered in the same manner as other nondiscrimination requirements.

Section 60–1.9. Present § 60–1.7 requires that each contractor and first tier subcontractor having 50 or more employees and a contract or subcontract for $50,000 or more file an annual report on Standard Form 100 (EEO–1). The proposed revision would bring OFCCP practice into greater conformity with that of EEOC, by requiring reports from all contractors and subcontractors having 100 or more employees and a contract or subcontract of $10,000 or more.

Section 60–1.10. Adds to the joint Office of Federal Contract Compliance Programs/Equal Employment Opportunity Commission EEO Notices required to be posted by all covered employers language citing the nondiscrimination and affirmative action provisions of the Rehabilitation Act of 1973 and the Vietnam Era Veteran's Readjustment Assistance Act of 1974. The specific wording of such notices has been jointly prescribed by the OFCCP and EEOC.

Section 60–1.12. The proposed revision of this section emphasizes cooperation between contractors and unions by providing that, when revision of a collective bargaining agreement is necessary for compliance purposes, the contractor should in the first instance attempt to negotiate such revision directly with the appropriate labor union or unions, without Government intervention.

Section 60–1.13. This proposal discusses the effect of foreign government practices on the contractor's obligations for employing and assigning employees and applicants hired in the United States for work to be performed either in the United States or abroad. This section implements directives of the President and the Secretary of Labor.

Section 60–1.21. Redefines the purpose of compliance reviews by focusing on the

examination of potential or apparent disparities in the hiring and employment conditions of minorities and women on a determination of whether such disparities derive from or are perpetuated by the contractor's hiring and employment practices. Agencies will focus in a major way on significant discrimination issues and their resolution.

Section 60–1.22. Changes previous regulations by requiring that a preaward compliance review be conducted if:

The contract of first-tier subcontract is for $10 million or more (present provision is $1 million); and

The contractor or subcontractor has not been reviewed within the previous 24 months (present provision is 12 months).

If the contract is to be awarded by an agency other than the compliance agency the awarding agency shall request preaward clearance at least 90 days prior to the date of proposed award and the compliance agency shall respond at least 10 days prior to the proposed award. Preaward clearance shall be granted in the absence of violations or on the basis of the contractor's good faith efforts toward compliance. These procedures are intended to ensure that preaward reviews are comprehensive and thorough by allowing enough time for review. Requiring such reviews every 24 months, rather than the presently required 12 months, enables compliance agencies to direct their resources in a more balanced manner over a wider number and assortment of contractors rather than duplicate reviews of the same contractors on an annual basis. Raising the preaward requirement to $10 million reflects the view that preaward reviews are intended to focus on contractors with significant employment/promotion opportunities resulting from the contemplated award; because of changes in the economy since issuance of the original regulation, 10 million is a more realistic figure for assuming such employment/promotion opportunities.

Section 60–1.22(b) provides that if the compliance agency, is unable to complete the compliance review or conciliation prior to the award date of the contract, preaward clearance may be given and the compliance review or conciliation completed at the earliest possible date. This provision recognizes that some agencies have been unable to schedule or complete preaward reviews under the present time constraints because of limited resources and previously scheduled compliance priorities.

Section 1.24. Section 209(b) of the Executive Order requires that reasonable efforts be made to secure compliance by conference, conciliation, mediation and persuasion prior to the institution of sanction proceedings. In order that the result of such conciliation truly serve the purpose and intent of the Executive Order, proposed § 60–1.24 sets forth guidelines governing conciliation agreements. Before a contractor may be found in compliance with the Order it must make a specific commitment in a written conciliation agreement to remedy all noted deficiencies, including appropriate relief for members of an affected class who continue to suffer the present effects of past discrimination.

Subsection (d) makes clear that it may be appropriate to require goals and timetables and other affirmative relief in conciliation agreements with contractors who are subject to the equal opportunity clause but not subject to the written AACP requirement; this is consistent with Title VII case law.

Section 60–1.25. This section clarifies procedures and policies regarding administrative and judicial proceedings to enforce the Executive Order and to seek appropriate relief. Seven categories of violations for which enforcement proceedings would be appropriate are set forth as examples. In the event of an alleged violation or threat of violation, the OFCCP or the compliance agency (with the approval of the Director) may institute administrative proceedings to enjoin the violation and seek appropriate relief, which may include affected class and back pay relief. This section will codify OFCCP policies regarding back pay and affected class relief which have been in effect for several years.

If it is determined after a hearing that the contractor is violating the Executive Order the compliance agency or the Secretary of Labor shall issue an Administrative Order enjoining the violations and requiring appropriate remedies; failure to comply with the Administrative Order would result in the imposition of the sanctions contained in section 209 (a)(5) or (a)(6) of the Executive Order (cancellation, termination, suspension or debarment) without additional proceedings.

The procedure thus established draws a critical distinction between the concepts of remedy and saction. A remedy (such as seniority reform, red circling, or back pay) is an affirmative step which is required to eliminate discrimination or the effects of past discrimination at the subject establishment. It is remedial rather than punitive. It is the mechanism by which the contractor may bring its employment practices into compliance with the Executive Order. On the other hand, a sanction such as debarment, is the Government's recourse, or the penalty to be levied, in the event of failure to comply and does not provide relief to victims of the contractor's discrimination.

This section specifies that when requesting approval to institute enforcement proceedings the compliance agency shall provide the Director with:

Information regarding at least one contract which subjects the contractor to Executive Order liability;

Specification of the sections of the Order, regulations or equal opportunity clause allegedly violated, including a brief description of the relevant facts;

Appropriate documentation and statistical analysis;

A proposed administrative complaint, where appropriate.

In addition, the section specifies that all Executive Order administrative enforcement proceedings will be conducted under the control and supervision of the Solicitor of Labor and under OFCCP's hearing rules. This will provide greater uniformity in the processing of enforcement proceedings. Finally, this section, along with § 60–1.24, outlines procedures pertaining to the referral of enforcement matters to the Department of Justice and includes authorization for the Attorney General or his designee to conduct any necessary investigation, make efforts to secure compliance and institute civil actions.

Section 60–1.30. This proposed section contains the following new provisions.

A preamble explaining that the complaint procedure is investigatory and not adjudicatory.

Contractors are encouraged to develop internal review procedures for the resolution of discrimination complaints. Such procedures can serve as a salutary and expeditious means for resolving many equal employment issues. See genarally, *"Alexander* v. *Gardner-Denver Co.,"* 415 U.S. 36 (1974). Such procedures may result in more rapid resolution of complaints than administrative processing under Executive Order 11246 in view of the number of administrative complaints filed, the compliance review, complaint investigation and enforcement priorities of the OFCCP and its compliance agencies, and the limited resources of OFCCP and its compliance agencies. Therefore, discrimination complaints need not be filed with OFCCP or its compliance agencies within the requisite 180 days of the alleged violation (subject to extension of time for good cause shown), if the complainant elects first to file a complaint under the contractor's internal review procedure, in which event, the employee would have 90 days to file with OFCCP or the compliance agency from the date the contractor notifies the complainant of the final decision resulting from the internal procedure.

Complaints filed by public interest or advocate-type organizations will be accepted notwithstanding that such complaints do not identify all or any of the alleged discriminatees so long as the complaint is of sufficient specificity as to indicate where the complaint investigation should focus.

OFCCP and the agencies will have the discretion to refer appropriate complaints to EEOC for resolution under Title VII rather than investigation and enforcement action under E.O. 11246. This allows OFCCP and the agencies to focus on large-scale discrimination/affirmative action matters affecting large numbers of minorities and women and to establish compliance priorities accordingly. Requiring OFCCP or the compliance agencies to investigate each individual complaint would interfere with a balanced compliance review enforcement program to maximize Federal resources for the greatest benefit. Class-wide complaints affecting larger numbers of persons may or may not be processed under

E.O. 11246, depending upon various enforcement factors, including compliance agency and OFCCP priorities and the extent of any existing EEOC involvement in the matter.

Such referrals to EEOC would implement the policies enunciated in section 715 of the Civil Rights Act of 1964, as amended, for coordination, consistency and the avoidance of duplication among the Federal EEO agencies.

SUMMARY OF CHANGES TO PART 60–2

Part 60–2 has been revised extensively, and the reference to "Revised Order No. 4" has been eliminated. The term Affirmative Action Compliance Program is proposed to replace "Affirmative Action Program" and "Affirmative Action Plan" to distinguish the Executive Order affirmative action requirement from various programs and plans voluntarily or otherwise adopted pursuant to Federal law, state and local or other requirements.

The provisions in §§ 60–2.1 and 60–2.10 defining the purpose of the affirmative action compliance program have been rewritten to reflect the underlying premise that beyond a pledge not to violate the law, Federal contractors have an obligation to seek out and correct any employment discrimination resulting from their own practices and to take action toward correcting the effect of past discrimination against minorities and women.

Section 2.11(a) has been revised to characterize and pinpoint more accurately those segments and levels of the contractor's workforce in which employment disparities flowing from the traditional pattern of discriminatory hiring, job assignment and promotion are likely to remain extant.

In proposed § 60–2.11(b) the term "workforce analysis" is replaced by the term "internal workforce array." The purpose and substance of the requirement remain the same.

Two provisions, "Alternative A" and "Alternative B", are being proposed for §§60–2.11(c) and 60–2.12. These two sections will set forth the requirements for conducting the job group and workforce array analyses and for establishing goals and timetables repectively. The Department of Labor has not taken a position as to which alternative will be adopted on final rulemaking. However, on final rulemaking only one rule will be promulgated. This rule may consist of one of the published proposed alternatives, any other suggested alternative, or any combination thereof. Accordingly, comments are invited on both proposals, and in addition, any other proposals are invited.

Alternatives A and B would both amend the definition of job group in § 60–2.11(c) to permit grouping of jobs which have substantially similar content, wage rates or career development opportunities. The amended definition is intended to avoid creating a large number of small job groups which often result in fractional goals. Both alternatives would eliminate those present availability factors (e.g. size of unemployment force, training institutions) which do not readily translate into actual availability of minorities or women, and which contribute little or no tangible benefit to the goal-setting process.

Otherwise, Alternative A would clarify, simplify and improve upon the traditional approach to conducting the job group and availability analyses and to establishing goals and timetables. Alternative A addresses goals and timetables to those job groups in which there are disparities in the employment of minorities and women. It defines an employment disparity as having fewer minorities or women in a particular job group than would be reasonably expected by their availability in the contractor's relevant recruiting area. Although they need not be triggered by a finding of employment discrimination, the goals and timetables which address such disparities are, nevertheless, drawn from the principles and concepts of remedy. For example, the goals must be designed to eliminate the disparities and the time schedule, including where appropriate annual rates of achievement, must be of a sufficient level to accomplish that result in the minimum feasible time period. The concept of ultimate goals and annual hiring and/or promotion rates have been simplified. In situations where the timetable exceeds one year the goal is to be established for a multiyear term up to five years and it is to include annual rates of hiring and/or promotion at a sufficient level to substantially correct the disparity as soon as practical within that time period. Thus under Alternative A contractors are expected to undertake a sustained, concentrated effort up to a five year period and thereby create a thrust from which equal employment opportunity will automatically flow during the years thereafter. To the extent that an approved multiyear affirmative action compliance program or conciliation agreement adequately addresses any apparent problems of a systemic nature and desk audits or monitoring mechanisms disclose that approved goals and other commitments are being achieved within the time schedules specified, contractors would be scheduled for compliance reviews during the multiyear period only in exceptional circumstances. In those situations where a multiyear goal does not project that the disparities will be substantially eliminated within five years the reasons therefor must be documented in detail prior to approval of the program and a new timetable must be established at the end of the five year period.

Alternative B would affect a change in the approach to affirmative action compliance programs as originally conceived. It would direct goals and timetables to focus job groups. Alternative B defines a focus job group as one in which minorities or women are employed in percentages less than their percentage in the total workforce of the relevant recruitment area, irrespective of their availability. The use of the term "focus job group" rather than the term "disparity" or "under-utilization" is designed to eliminate possible overtones of culpability or related value judgments. After identifying the focus job groups, each contractor is to conduct an availability analysis, similar to that contained in Alternative A, to measure the percentage of available minorities and women currently qualified or potentially qualified for hiring or promotion into the groups. This percentage should be the minimum acceptable goal in any affirmative action compliance program. In addition, contractors are especially asked to consider what programs they can reasonably undertake, through other institutions or contractor organizations, to increase the supply and thus the consequent employment of qualified women and minorities for these groups.

By thus redefining the affirmative action compliance program obligation, the traditional remedial underpinning of goals and timetables is replaced by a concept which holds that the economic gap facing minorities is largely due, for a host of causes, to their lack of equal participation in nontraditional, often higher paying job classifications. Thus affirmative action obligations include reasonable efforts to increase the supply of minorities and women for those jobs, regardless of the fact that minorities and women may be employed in the contrator's job groups at a level equal to their skill availability or immediate skill potential.

Subpart C of the current regulations which contain methods, procedures and specific techniques for achieving nondiscrimination and affirmative action results has been eliminated to permit contractors the latitude to tailor such measures to fit their own legitimate employment structure, operations and local circumstances and to enable compliance agencies to base their determinations on the results of such measures and on the extent to which in their execution, they represent a good faith effort to achieve the affirmative action compliance program objectives.

Section 602.13 proposes a new requirement under which contractors are to prepare a brief summary of the program and its results which is to be detached and forwarded to the OFCCP annually. The purpose of the summarized submission is to permit OFCCP to establish a priority compliance review selection system under which the compliance agencies will avoid scheduling reviews of contractors who are apparently complying with their equal employment opportunity obligations with no assistance required from the Government. The submission will also permit OFCCP to develop a much needed compliance information system which will allow it and the public to measure the success of the Federal contract compliance program in terms of the number and character of new opportunities created for minorities and women rather then by the number of sanc-

tion and other enforcement actions undertaken.

SUMMARY OF PROPOSED CHANGES TO 41 CFR PART 60–30

Part 60–30 of the present regulations contains the Hearing rules for sanction proceedings. The proposal would change the name to Rules of practice for administrative proceedings to enforce equal opportunity under Executive Order 11246. The hearing rules also would be published in Part 60–5.

Ordinarily, rules of practice, since they deal with procedural matters, would not be subject to proposed rulemaking. However, it is the policy of the Department of Labor, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Because of the proposed general revision of the regulations, the Department therefore will consider all comments submitted on this part.

The rules have been slightly changed but the basic framework of present Part 60–30 has been retained. One major change is that the rules of practice will govern all administrative hearings under Executive Order 11246 regardless of whether the proceeding is instituted by the Department of Labor or by a compliance agency.

SUMMARY OF PROPOSED CHANGES TO 41 CFR PART 60–60

Part 60–60, referred to as Revised Order No. 14, is being transferred to Part 60–8 and the Revised Order No. 14 reference is being dropped. This new Part 60–8 establishes standards and procedures for conducting compliance reviews of contractors for supplies and services. Part 60–8 will apply primarily to compliance reviews of contractors who are subject to the written affirmative action compliance program requirement; however, compliance agencies conducting reviews of contractors who do not meet the dollar and employee thresholds should follow the standards and procedures of Part 60–8 to the extent they are applicable.

Section 60–8.2 will require contractors to submit AACP's within 10 working days of a request made by the compliance agency or by OFCCP.

Section 60–8.3 sets forth the basic policy which is to guide compliance agencies in conducting reviews of contractors. This policy emphasizes uniformity in approach and in compliance determinations, and elimination of the collection of unnecessary data. It also requires that the reviews be of sufficient depth and comprehensiveness to achieve reasonably permanent solutions.

Section 60–8.4 clarifies and expands on the use of a single format by contractors with multiple establishment and by contractors within an industry for developing a written affirmative action compliance program. Under this section, contractors with a number of establishments may enter into agreements with their respective compliance agencies to use a single format at each establishment for presenting the internal workforce array and the job group analysis and for developing goals and timetables. Similarly, contractors within an industry may agree among themselves and with the appropriate compliance agency to a single format.

Section 60–8.4 expands the basic steps of a compliance review to include, where appropriate, a notice of deficiencies and a conciliation conference. This subsection also clarifies the purpose of the desk audit and requires compliance agencies to alert the contractor of apparent deficiencies disclosed by the desk audit prior to the on-site review.

Section 60–8.4(d) will permit the compliance agencies to cancel a scheduled compliance review if the desk audit does not disclose any apparent deficiencies which warrant an in depth on-site examination. On the other hand, if the material submitted does not demonstrate a reasonable effort by the contractor to develop an AACP, the compliance agency may cancel the on-site review and go directly to enforcement proceedings. This subsection has also been amended to define the primary purpose of the on-site phase of the compliance review.

Section 60–8.7 requires the compliance agency to give the contractor a written notice of deficiencies for violations which do not lend themselves to immediate correction. This notice replaces the show cause procedure in the present regulations (41 CFR 60–2.2(c)).

Section 60–8.8 sets forth the procedures and standards for the conciliation conference.

Section 60–8.9(c) establishes the time period by which any conciliation should be achieved and the time period by which enforcement proceedings should be initiated.

Section 60–8.10 eliminates appeal procedures on relevancy of information.

Section 60–8.10 also revises the present regulations with respect to claims of confidentiality of information submitted by a contractor to a compliance officer. Under present regulations (41 CFR 60–60.4) a contractor may appeal to the Director of OFCCP a decision by a compliance agency that certain information, submitted by the contractor in connection with a compliance review, is disclosable under the Freedom of Information Act. Disclosure questions now will be handled by the various compliance agencies under the Freedom of Information Act. This change is necessary because of the new time limitations for disclosure determinations under the recent amendments to the Freedom of Information Act.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing to the Director of OFCCP, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, on or before November 16, 1976.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Washington, D.C.

Dated: September 15, 1976.

W. J. USERY, Jr.,
Secretary of Labor.
JOHN C. READ,
Assistant Secretary, Employment Standards Administration.
LAWRENCE Z. LORBER,
Deputy Assistant Secretary Director, Office of Federal Contract Compliance Programs.

PART 60–1—GENERAL OBLIGATIONS

Subpart A—Obligations of Contractors and Subcontractors

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AUTHORITY: Sec. 201, E.O. 11246 (30 FR 12319) and E.O. 11375 (32 FR 14303).

Subpart A—Obligations of Contractors and Subcontractors

§ 60–1.1 Purpose and application.

The purpose of the regulations in this part is to achieve the aims of arts II, III, and IV of Executive Order 11246 as amended by Executive Order 11375 for the promotion and ensuring of equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with Government contractors, subcontractors, or with contractors and subcontractors performing under federally as-

sisted construction contracts. The regulations in this part apply to all contracting agencies of the Government and to contractors and subcontractors who perform under Government contracts, to the extent set forth in this part. The regulations in this part also apply to all agencies of the Government administering programs involving Federal financial assistance which may include a construction contract, and to all contractors and subcontractors performing under construction contracts which are related to any such programs, unless otherwise indicated. The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance with its obligations under the equal opportunity clause regardless of whether or not the contract contains a "Disputes" clause. Failure of a contractor or applicant to comply with any provision of the regulations in this chapter shall be grounds for the institution of the enforcement proceedings contained in § 60–1.25. The regulations in this part do not apply to any action taken to effect compliance with Title VI of the Civil Rights Act of 1964. The rights and remedies of the Government hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation or contract; neither do the regulations limit the exercise by the Secretary or Government agencies of powers not herein specifically set forth, but granted to them by the Order.

§ 60–1.2 Administrative responsibility.

Under the general direction of the Secretary, the Director is delegated authority and is assigned responsibility for carrying out the responsibilities assigned to the Secretary under the Order, except the power to issue rules and regulations of a general nature. Correspondence regarding the Order should be directed to the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

§ 60–1.3 Definitions.

(a) The term "administering agency" means any department, agency and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

(b) The term "Administrative Law Judge" means an Administrative Law Judge appointed as provided in 5 U.S.C. 3105 and Subpart B of Part 930 of Title 5 of the Code of Federal Regulations (see 37 F.R. 16787) and qualified to preside at hearings under 5 U.S.C. 557.

(c) The term "agency" means any contracting, compliance or administering agency of the Government.

(d) The term "applicant" means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract, as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

(e) The term "compliance agency" means the agency designated by the Director on a geographical, industry or other basis to conduct compliance reviews and to undertake such other responsibilities in connection with the administration of the Order as the Drector may determine to be appropriate.

(f) The term "construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utilility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

(g) The term "contract" means any Government contract or any federally assisted construction contract.

(h) The term "contracting agency" means any department, agency, establishment, or instrumentality in the Executive Branch of the Government, including any wholly owned Government corporation, which enters into contracts.

(i) The term "contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

(j) The term "Director" means the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, or any person to whom he/she delegates authority under the regulations in this part.

(k) The term "establishment," except as used in paragraphs (a) and (h) of this section, means any location where a contractor regularly assigns or maintains employees, and includes locations from which employees (who do not work in a permanent location) are assigned on a regular or temporary basis.

(l) The term "equal opportunity clause" means the contract provisions set forth in § 60–1.4 (a) or (b), as appropriate.

(m) The term "federally assisted construction contract" means any agreement or modification thereof between any applicant and a person or construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(n) The term "Government" means the Government of the United States of America.

(o) The term "Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services," as used in this definition includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depositary. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted construction contracts.

(p) The term "minority group" as used herein shall mean: (1) Black (not of Hispanic Origin), a person having origins in any of the black racial groups of Africa. (2) Hispanic, a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race. (3) Asian or Pacific Islander, a person having origins in any of the original peoples of the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. (4) American Indian or Alaskan Native, a person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

(q) The term "modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

(r) The terms "Order," Executive Order 11246," or "Executive Order" mean Parts II, III, and IV of the Executive Order 11246 dated September 24, 1965, (30 F.R. 12319), as amended.

(s) The term "person" means any natural person, corporation, including utilities, partnership, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

(t) The term "prime contractor" means any person holding a contract and, for the purposes of enforcement of the Order and the regulations in this Chapter, any person who has held a contract subject to the Order.

(u) The term "recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

(v) The term "rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his/her designee issued pursuant to the Order.

(w) The term "Secretary" means the Secretary of Labor, U.S. Department of Labor.

(x) The term "site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

(y) The term "subcontract" means any agreement or arrangement between a contractor and any person (in which the

parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(z) The term "subcontractor" means any person holding a subcontract and, for the purposes of enforcement of the Order and the regulations in this chapter, any person who has held a subcontract subject to the Order. The term "First-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(aa) The term "United States" as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

§ 60–1.4 Equal opportunity clause.

(a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the Order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clause of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering or compliance agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accords with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may re-

quest the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it with refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes.

(e) *Incorporation by operation of the Order.* By operation of the Order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) *Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clause and the regulations in this chapter as shall be appropriate to identify properly the parties and their undertakings.

§ 60–1.5 Exemptions.

(a) *General*—(1) *Transactions of $10,000 or under.* Contracts and subcontracts not exceeding $10,000, other than Government bills of lading, are exempt from the requirements of the equal opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No agency, contractor, or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the equal opportunity clause: *Provided,* That where a contractor has contracts or subcontracts with the Government in any 12-month period which have an aggregate total value (or can reasonably be expected to have an aggregate total value) of $50,000 or more, the $10,000 exemption does not apply, and the contracts are subject to the Order and the regulations issued pursuant thereto regardles of whether any single contract exceeds $10,000 in value.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open end contracts, utility contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts and purchase notice agreements), the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed $10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds $10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with state or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a state or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, any agency, instrumentality or subdivision of such government, except for educational institutions medical and health establishments, is exempt from the requirements of filing the annual compliance report provided for by § 60–1.9(a)(1) and maintaining a written affirmative action program prescribed by § 60–1.6 and Part 60–2 of this chapter.

(5) *Contracts with certain educational institutions.* It shall not be a violation of the equal opportunity clause for a school, college, university, or other educational institution or institutions of learning to hire and employ employees of a particular religion if such school, college, university, or educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion. The primary thrust of this provision is directed at religiously oriented church-related colleges and universities and should be so interpreted.

(6) *Work on or near Indian reservations.* It shall not be a violation of the equal opportunity clause for a construction or nonconstruction contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word "near" would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or subcontractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such a preference shall not excuse a contractor from complying with the other requirements contained in this chapter.

(b) *Specific contracts and establishments*—(1) *Specific contracts.* The Director may exempt any agency or any person from requiring the inclusion of all or any part of the equal opportunity clause, and or any or all requirements contained in the regulations of this chapter, in any specific contract or subcontract when he/she deems that special circumstances in the national interest so require. The Director may also exempt groups or categories of contracts or subcontracts of the same type where he/she finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the Order.

(2) *Establishments not connected with contracts.* The Director may exempt from the requirements of the equal opportunity clause any of a prime contractor's or subcontractor's establishments which he/she finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract: *Provided,* That he/she also finds that such an exemption will not interfere with or impede the effectuation of the Order.

(c) *National security.* Any requirement set forth in the regulations in this chapter shall not apply to any contract or subcontract whenever the head of an agency determines that such contract or subcontract is essential to the national

security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(d) *Withdrawal of exemption.* When any contract or subcontract is of a class exempted under this section, the Director may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when in his/her judgment such action is necessary or appropriate to achieve the purposes of the order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that is procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–1.6 Affirmative action compliance program requirements.

(a) *Who is covered.* Each nonconstruction contractor and subcontractor who (1) has 100 or more employees and (2) has a Government contract or subcontract of $100,000 or more, or has Government bills of lading which, in any 12-month period, total or can reasonably be expected to total $100,000 or more, or serves as a depositary of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and saving notes shall develop a written affirmative action compliance program consistent with Part 60–2 of this chapter, for each of its establishments with 100 or more employees. If one or more of a contractor's establishments has fewer than 100 employees, but the contractor's aggregate workforce consists of 100 or more employees, the contractor shall either (i) maintain a nationwide affirmative action compliance program with national or local goals as appropriate covering those establishments having less than 100 employees and maintain a copy of the program at each establishment or (ii) maintain separate affirmative action compliance programs for each such establishment. If more than one of a contractor's establishments is subject to the written affirmative action compliance program requirement, such contractor may enter into an agreement with its compliance agency to develop and use a nationwide affirmative action compliance program format for developing its separate affirmative action compliance programs.

(b) *Maintenance of programs.* Within 120 days of the commencement of a contract or subcontract which subjects the contractor or subcontractor to the affirmative action compliance program requirement of § 60–1.6(a), such contractor or subcontractor shall develop a written affirmative action compliance program for each of its establishments, in accordance with § 60–1.6(a) and part 60–2 of this chapter.

(c) *Revision of programs.* Each contractor and subcontractor shall review and evaluate progress under its affirmative action compliance programs at least annually and shall make such revisions as necessary to achieve the objectives of the Order.

(d) *Previously approved programs.* This § 60–1.6 shall be implemented in accordance with section 718 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–17), which states:

> No government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Compliance [Programs] has disapproved such plan.

(e) *Lack of an acceptable program.* (1) Any contractor or subcontractor required by § 60–1.6(a) to develop an affirmative action compliance program who has not developed such a program or whose program does not meet the requirements of Part 60–2 of this chapter is not in compliance with Executive Order 11246. Until such a program has been developed in accordance with the requirements of Part 60–2 of this chapter, the contractor is unable to comply with the the equal opportunity clause, and therefore is subject to the enforcement proceedings contained in 1 CFR 60–1.25. If in connection with the award of a contract subject to the preaward compliance review requirement of § 60–1.22, or the award of any other contract, the appropriate compliance agency or the Office of Federal Contract Compliance Programs informs the contracting officer that the contractor does not have an approved affirmative action compliance program for each of its establishments or that the contractor has deviated substantially from a previously approved program, the contracting officer shall declare the contractor-bidder nonresponsible and so notify the contractor and the Director (200 Constitution Avenue, NW., Washington, D.C. 20210). Any contractor which has been declared nonresponsible in accordance with the provisions of this section may request the Director to determine that the responsibility of the contractor raises substantial issues of law or fact to the extent that a hearing is required. If the Director, in his/her sole discretion, makes such a determination an administrative or judicial proceeding may be commenced in accordance with the regulations contained in § 60–1.25; or the Director may require the compliance agency to develop the investigation or compliance review further or to conduct additional conciliation. The contractor may be eligible for the award of Government contracts pending a final resolution of the administrative or judicial proceeding or of the compliance review or conciliation. (See § 60–1.22.)

§ 60–1.7 Certification of compliance with Executive Order 11246, as amended.

Each contracting agency shall include the following certification in each of its applicable solicitation and contractual documents. Covered contractors and subcontractors shall also include this certification in applicable subcontracts.

Certification. Each bidder/offerer, contractor or subcontractor (hereinafter the contractor) hereby certifies that it will fully comply with Executive Order 11246, as amended by Executive Order 11375, and the rules and regulations issued thereunder, which are hereby incorporated by reference as appropriate. The contractor commits itself to such compliance by submitting a properly signed bid or offer or by signing or otherwise accepting a contract or subcontract.

§ 60–1.8 Solicitations or advertisements for employees.

In solicitations or advertisements for employees placed by or on behalf of a contractor or subcontractor, the requirements of paragraph (2) of the equal employment clause shall be satisfied if the contractor or subcontractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, color, religion, sex, or national origin;

(d) Uses advertisements in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 60–1.9 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each agency shall require each contractor and each contractor and subcontractor shall cause its subcontractors to file annually, on the date and at the place specified by the Joint Reporting Committee of the Office of Federal Contract Compliance Programs and the Equal Employment Opportunity Commission complete and accurate reports on the appropriate form promulgated jointly by both agencies if such contractor or subcontractor (i) is not exempt from the provisions of these regulations pursuant to § 60–1.5; (ii) has 100 or more employees; and (iii) has a contract, subcontract, or purchase order, amounting to $10,000 or more, or is otherwise subject to the Order and these regulations pursuant to the provision in § 60–1.5(a)(1) or serves as a depositary of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes, or holds Gov-

ernment bills of lading regardless of amount.

(2) Each contractor or subcontractor required by § 60–1.9(a) (1) to submit reports shall file such a report within 30 days after the award to it of a contract or subcontract, unless such contractor or subcontractor person has submitted such a report within the 12 months preceding the date of the award. Subsequent reports shall be submitted annually pursuant to § 60–1.9(a) (1), or at such other intervals as the agency or the Director may require.

(b) *Other required information.* The Director may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director deems necessary for the administration of the Order.

(c) *Failure to file.* Failure to file timely, complete and accurate reports as required is a violation of the Order, equal opportunity clause and the regulations in this chapter and is ground to institute enforcement proceedings as authorized by § 60–1.25 of this part including referral to the Department of Justice pursuant to section 209(a) (2) of the Order. Any such failure shall be reported in writing to the Director by the agency as soon as practicable after it occurs.

§ 60–1.10 Notices to be posted.

(a) *Prescribed poster.* Unless alternative notices are prescribed by the Director or the agency with the approval of the Director, the notices which prime contractors and subcontractors are required to post by paragraphs (1) (3) of the equal opportunity clause will contain the following language:

EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW

PRIVATE INDUSTRY, STATE AND LOCAL GOVERNMENT

Title VII of the Civil Rights Act of 1964, because of race, color, religion, sex or national origin.

Applicants to and employees of private employers, state/local governments and public/private educational institutions are protected. Also covered are employment agencies, labor unions and apprenticeship programs. Any person who believes he or she has been discriminated against should contact immediately, The U.S. Equal Employment Opportunity Commission (EEOC), 2401 E Street, N.W., Washington, D.C. 20506, or an EEOC District Office, listed in most telephone directories under U.S. Government.

FEDERAL CONTRACT EMPLOYMENT

Executive Order 11246, as amended, prohibits job discrimination because of race, color, religion, sex or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Section 503 of the Rehabilitation Act of 1973 prohibits job discrimination because of handicap and requires affirmative action to employ and advance in employment qualified handicapped workers.

Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment (1) qualified Vietnam era veterans during the first four years after their discharge and (2) qualified disabled veterans throughout their working life if they have a 30 percent or more disability.

Applicants to and employees of any company with a Federal Government contract or subcontract are protected. Any person who believes a contractor has violated its affirmative action obligations, including nondiscrimination, under Executive Order 11246, as amended, or under section 503 of the Rehabilitation Act should contact immediately, The Employment Standards Administration, Office of Federal Contract Compliance Programs (OFCCP), Third and Constitution Ave., NW., Washington, D.C. 20210, or an OFCCP regional office, listed in most telephone directories under U.S. Government, Department of Labor, Complaints specifically under the veterans' law should be filed with the Veterans' Employment Service through local offices of the state employment service.

All complaints must be filed within 180 days from date of alleged violation.

(b) *Compliance with the equal opportunity clause.* The requirements of paragraph (3) of the equal opportunity clause will be satisfied if the contractor or subcontractor posts copies of the notification prescribed by or pursuant to paragraph (a) of this section in conspicuous places available to employees, applicants for employment and representatives of each labor union or other organization representing the contractor's employees with which the contractor has a collective bargaining agreement or other contract or understanding.

§ 60–1.11 Access to records of employment.

Each contractor and subcontractor shall permit access during normal business hours to its premises for the purpose of conducting on-site investigations or compliance reviews and for inspecting, coyping and removing off-site such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order and the rules and regulations promulgated pursuant thereto.

§ 60–1.12 Collective bargaining agreements.

(a) Whenever compliance with the equal opportunity clause may necessitate a revision of a collective bargaining agreement, the contractor or subcontractor shall attempt to negotiate such revisions with the labor union or unions which are parties to such an agreement. If such negotiations prove unsuccessful, the labor union shall be invited to present their views to the compliance agency.

(b) The Department of Labor shall use its best efforts, directly or in conjunction with other Federal agencies state and local agencies, contractors, subcontractors, applicants, state and local officials, public and private agencies, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to comply in the implementation of, the purposes of the order.

(c) The Department of Labor may notify any Federal, state, or local agency of its conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in its judgment has failed to cooperate with the agency contractors, subcontractors, or applicants in carrying out the purposes of the Order. The Director may notify the Equal Employment Opportunity Commission, the Department of Justice or any other appropriate Federal agency whenever the practices of any such labor organization or recruiting or training agency violates Title VII of the Civil Rights Act of 1964, as amended, or other provisions of Federal law, or interferes with the performance by any contractor or subcontractor with obligations imposed by the Order, equal opportunity clause, or the regulations in this chapter.

§ 60–1.13 Foreign government practices.

Contractors shall not discriminate on the basis of race, color, religion, sex or national origin when hiring or making employee assignments for work to be performed in the United States or abroad. Contractors are exempted from this obligation only when hiring persons outside the United States for work to be performed outside the United State (see § 60–1.5(a) (4)). Therefore, a contractor hiring workers in the United States for either Federal or nonfederally connected work may be in violation of Executive Order 11246, as amended, by refusing to employ or assign any person because of race, color, religion, sex, or national origin regardless of the policies of the country where the work is to be performed or for whom the work will be unable to acquire a visa of entry for any employee or potential employee to a country in which or with which it is doing business, and which refusal it believes is due to the race, color, religion, sex or national origin of the employee or potential employee, the contractor must immediately notify the Department of State and the Director of such refusal.

Subpart B—General Enforcement

§ 60–1.20 Duties of agencies.

(a) *General responsibility.* The primary responsibility of compliance agencies is to obtain compliance with the equal opportunity clause, the Order, and regulations in this chapter. Each compliance agency shall cooperate with the Director and shall furnish him/her such information and assistance as he/she may require in the performance of his/her functions under the Order. Such information shall include compliance review reports, schedules of compliance reviews and any other information or assistance relevant to the disposition of a particular matter or the general administration of the Order.

(b) *Compliance agency programs.* Each agency shall submit for the prior approval of the Director his/her program and the procedures he/she proposes to promulgate to carry out the agency's responsibilities for obtaining compliance with the equal opportunity clause, the Order and regulations in this chapter.

Modifications to such programs and procedures must be approved by the Director. Agency regulations, directives and orders may be enforced upon approval of the Director or 60 days after submission if not disapproved by the Director: *Provided,* That the Director may at any time specifically disapprove agency regulations, directives and orders and the enforcement thereof. Each agency shall designate a Contract Compliance Officer who, unless otherwise approved by the Director, shall be appointed from among the agency's executive personnel to whom the Executive Schedule applies. Such officer shall be subject to the immediate supervision of the head of the agency.

(c) *Evaluations.* The Director shall from time to time evaluate the programs, procedures, and policies of agencies in order to assure their compliance with the Order and the regulations in this chapter and to assure compliance by contractors and subcontractors with the Order, the equal opportunity clause, and the regulations in this chapter.

§ 60–1.21 Compliance reviews.

(a) *Purpose of compliance reviews.* The purpose of a compliance review is to determine whether a contractor is meeting its equal employment obligations in accordance with the Order, equal opportunity clause and applicable rules, regulations and orders and, where violations are disclosed, to make every effort to achieve compliance through the processes of conciliation, mediation and persuasion. It shall consist of an examination of potential or apparent disparities and/or discrimination in the hiring and employment conditions of minorities and women, a determination of whether such disparities and/or discrimination, if any, derive from or tend to be perpetuated by the contractor's hiring and employment practices, and whether the contractor has developed an affirmative action compliance program which fully meets the requirements of part 60–2 of this chapter. Compliance reviews shall be conducted in accordance with the procedures contained in Part 60–8 of this chapter.

(b) *Responsibility of agencies.* Agencies shall have primary responsibility for conducting compliance reviews. Agencies shall institute programs for the regular conduct of compliance reviews in accordance with guidelines established by the Director, or any special instructions of the Director and shall also conduct compliance reviews on the special request of the Director. Compliance reviews may also be conducted by OFCCP, in which case the compliance agency shall participate to the extent required by the Director. Compliance reviews should be conducted by qualified specialists regularly involved in equal opportunity programs.

§ 60–1.22 Preaward compliance reviews of non-construction contractors and subcontractors.

(a) *Compliance reviews.* (1) Each agency shall include in each solicitation for bids or state at the outset of negotiations for each negotiated contract, that if the non-construction contract, when let, is $10 million or more, the prospective non-construction contractor and known first-tier non-construction subcontractors with subcontracts of $10 million or more will be subject to a compliance review before the award of the contractor. No such contract shall be awarded unless a compliance review of the prospective contractor and known first-tier $10 million subcontractors has been conducted by the compliance agency within 24 months prior to the award.

(2) The awarding agency will notify the compliance agency at least 90 days prior to the proposed date of award and request appropriate action and findings in accordance with this section. Compliance agencies will provide awarding agencies with written reports 10 days prior to proposed date of award. In order to qualify for the award of a contract, a contractor must be found to have no violations of the Order, equal opportunity clause, and the regulations in this chapter: *Provided further,* That where a compliance review discloses a compliance deficiency, prior to informing the contracting officer that the contractor is in violation, compliance agency shall make every effort through the procedures contained in §§ 60–8.6 through 60–8.8 of this chapter to achieve compliance through conference, mediation, conciliation and persuasion, so that the contractor is able to meet its equal employment opportunity obligations in accordance with the Order, equal opportunity clause and regulations. If, in the judgment of the compliance agency, a contractor, demonstrates good faith efforts to comply with the Order, equal opportunity clause, and the regulations in this chapter, the compliance agency shall give a preaward clearance notwithstanding any other provision in this § 60–1.22.

(b) *Failure to complete compliance review.* If the compliance agency, after making every good faith effort, is unable to complete the compliance review or conciliation prior to the award date of the contract, pre-award clearance may be given and the compliance review or conciliation completed at the earliest possible date: *Provided,* That upon the request of the Director, agencies shall not enter into contracts or subcontracts with any bidder, prospective contractor, or proposed subcontractor named by the Director until a preaward compliance review has been conducted and the Director or designated agency head or his/her designee has approved a determination that the bidder, prospective contractor or proposed subcontractor will be able to comply with the Order, equal opportunity clause, or the regulations in this chapter.

§ 60–1.23 Complaint investigation.

In conducting complaint investigations, OFCCP or the compliance agency shall, as a minimum, conduct a thorough evaluation of the allegations of the complaint and shall be responsible for developing a complete case record. The agency shall follow such other guidance in investigating the complaints as the Director provides. The case record should contain the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, a reference to at least one Federal contract, and a narrative report of the investigation with references to exhibits and other evidence which relate to the alleged violations.

§ 60–1.24 Conciliation.

(a) *No violation found.* If the compliance review or complaint investigation shows no violation of the Order, the equal opportunity clause, or the regulations in this chapter, the compliance agency shall so inform the Director, the contractor and the complainant. The contractor and the complainant should be advised that the Director may review the findings of the compliance agency, and may require further investigation by the compliance agency or may undertake such investigation as he/she deems appropriate.

(b) *Violation found.* If any compliance review or complaint investigation indicates a violation of the Order, the equal opportunity clause, or the regulations in this chapter, the compliance agency or OFCCP, depending upon which agency conducted the investigation or compliance review, shall proceed in accordance with the procedures set forth in Part 60–8 of this chapter: *Provided,* That if a contractor refuses to submit an affirmative action compliance program, to allow an onsite review or to supply records or other requested information, enforcement procedures may be commenced pursuant to § 60–1.25 without proceeding through the procedures set out in Part 60–8 of this chapter: *Provided further,* That if the Director determines that judicial enforcement of the Order is appropriate, he/she may refer the matter to the Department of Justice for consideration pursuant to § 60–1.25 without proceeding through the procedures set out in Part 60–8 of this chapter, or he/she may refer the matter to the Department of Justice at any stage in those procedures.

(c) *Written conciliation agreements.* Before the contractor can be found to be in compliance with the Order, it must make a specific commitment in a written conciliation agreement in accordance with the requirements and procedures set forth in § 60–8.8 of this chapter to correct any such deficiencies. Relief for members of an affected class who by virtue of past discrimination continue to suffer the present effects of that discrimination shall be provided in the conciliation agreement. In developing an affirmative action compliance program under § 60–1.6 and Part 60–2 of this chapter, a contractor shall remedy in all respects the current effects of past discrimination.

(d) *Conciliation with contractors not subject to the written affirmative action compliance program requirement.* Only contractors and subcontractors covered by § 60–1.6 and Part 60–2 of this chapter are required to develop and implement

written affirmative action compliance programs. However, the equal opportunity clause is required to be included in all contracts, and the clause, in addition to proscribing discrimination, requires that contractors and subcontractors take affirmative action notwithstanding that they are not required to develop a written affirmative action compliance program. Accordingly, it may be appropriate to include affirmative action requirements such as goals and timetables, hiring ratios, affected class relief etc., in the conciliation agreement with contractors and subcontractors not covered by § 60–1.6 and Part 60–2 of this chapter. In developing goals and timetables for such contractors, Part 60–2 principles and procedures, to the extent applicable, should be followed.

(e) *Submissions to OFCCP.* Notice of deficiencies shall be submitted to OFCCP within 10 days after issuance. The compliance agency shall inform the contractor or subcontractor that the conciliation agreement is subject to review by OFCCP and may be disapproved if OFCCP determines that the conciliation agreement is insufficient to achieve compliance.

(f) *Intimidation and interference.* The enforcement proceedings contained in § 60–1.25 may be instituted against any contractor, subcontractor or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigaton, complance review, hearing, or any other activity related to the administration of the Order or any other Federal, state, or local laws requiring equal employment opportunity.

§ 60–1.25 Enforcement proceedings.

(a) *General.* (1) Violations of the Order, equal opportunity clause, or the regulations in this chapter may result in the institution of administrative or judicial enforcement proceedings to enforce the Order and to seek appropriate relief. Violations may be found based upon, inter alia, any of the following: (i) The results of a complaint investigation; (ii) analysis of an affirmative action compliance program; (iii) the results of an on-site review of the contractor's compliance with the Order and its implementing regulations; (iv) a contractor's refusal to submit an affirmative action compliance program; (v) a contractor's refusal to allow an on-site compliance review to be conducted; (vi) a contractor's refusal to supply records or other information as required by these regulations; or (vii) or any other substantial or material violation or the threat of a substantial or material violation of the contractual provisions of the Order, or of the rules or regulations issued pursuant thereto.

(2) If the investigation of a complaint or a compliance review results in a determination that the Order, equal opportunity clause or regulations issued pursuant thereto, have been violated, and the violations have not been corrected in accordance with procedures in § 60–1.24 and Part 60–8 of this chapter, the compliance agency (with the prior approval of the Director), or OFCCP may institute an administrative enforcement proceeding to enjoin the violations and to seek appropriate relief (which may include affected class and back pay relief). However, if the contractor refuses to submit an affirmative action compliance program, or refuses to supply records or other requested information, and/or refuses to allow the compliance agency access to its premises for an on-site review; and if conciliation efforts under § 60–1.24 are unsuccessful, the compliance agency (with the prior approval of the Director) or OFCCP, notwithstanding the requirements of Part 60–8 of this chapter, may go directly to administrative enforcement proceedings to enjoin the violations and to seek appropriate relief. Whenever the Director has reason to believe that there is substantial or material violation or the threat of substantial or material violations of the contractual provisions of the Order or of the rules, regulations or orders issued pursuant thereto, he/she may institute administrative enforcement proceedings as set forth in this section or refer the matter to the Department of Justice to enforce the contractual provisions of the Order, to seek injunctive relief (incling relief against noncontractors, including labor unions, who seek to thwart implementation of the Order and regulations) and to seek such additional relief, including back pay, as may be appropriate. There are no procedural prerequisites to a referral to the Department of Justice by the Director, and such referrals may be accomplished without proceeding through § 60–1.24 or Part 60–8 of this chapter, and a referral may be made at any stage in the procedures under § 60–1.24 or 41 CFR Part 60–8: *Provided,* That no order for cancellation, termination or suspension of existing contracts or subcontracts or for debarment from further contracts or subcontracts pursuant to section 209(a) (5) or (6) of the Order shall be made without affording the contractor an opportunity for a hearing either administrative or judicial.

(b) *Request to institute enforcement proceedings.* (1) If a compliance agency determines that a contractor or any other person, organization or group is in violation or threatens violation of the Order or the regulations issued pursuant thereto (through, e.g., any of the seven examples listed in § 60–1.25(a)), the compliance agency shall attempt to resolve the matter, where appropriate, through the procedures set out in § 60–1.24 and/or Part 60–8 of this chapter. If the compliance agency is unable to resolve the matter, it shall send to the Director a written request to institute either administrative or judicial enforcement proceedings. The request shall describe at least one contract which covers the contractor under the Order (or if the proposed respondent is not a contractor, the basis for finding coverage under the Order) and § 60–1.6 as appropriate. The request shall specify sections of the Order or regulations allegedly violated and briefly describe the facts which give rise to the violations. Appropriate documentation and statistical analysis also should be attached.

(2) If the compliance agency requests that administrative enforcement proceedings be instituted, a proposed administrative complaint which conforms to the regulations in § 60–5.5 of this chapter shall be attached to the request to institute enforcement proceedings.

(3) The Director is not bound by a request for enforcement from a compliance agency, and he/she may take such action as he/she deems appropriate: *Provided,* That where analysis of a request for enforcement proceedings (including additional investigation, if necessary) indicates a violation of the Order or its implementing regulations, and the Director is unable to resolve the matter through informal methods, he/she shall institute enforcement proceedings under § 60–1.25 of this part.

(c) *Administrative enforcement proceedings.* Administrative enforcement proceedings instituted by a compliance agency or the OFCCP shall be conducted under the control and supervision of the Solicitor of Labor and under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in Part 60–5 of this chapter.

(d) *Decision following administrative proceeding.* If it is determined after a hearing (or after the contractor waives a hearing) that the contractor is violating the Order or the regulations issued thereunder, the agency head or the Secretary shall issue an Administrative Order enjoining the violations and require the contractor to provide whatever remedies are appropriate. Failure to comply with the Administrative Order will result in the imposition of the sanctions contained in section 209 (a) (5) or (a) (6) of the Executive Order.

(e) *Referrals to the Department of Justice.* (1) Whenever a matter has been referred to the Department of Justice for consideration of judicial proceedings pursuant to § 60–1.25(a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, or an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order.

(2) The Attorney General is authorized to conduct such investigation of the facts as he may deem necessary or appropriate to carry out his responsibilities under these regulations.

(3) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Director, is authorized to make reasonable efforts to secure compliance with the contract provisions of the Order. He may do so by providing the contractor and any other respondent with reasonable notice of his findings, his intent to file suit, and the

actions he believes necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(4) As defined in these regulations, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(5) The Director or his/her designee, representatives of the compliance agencies and representatives of the Attorney General may consult from time to time to determine what investigations should be conducted to determine whether contractors or groups of contractors or other persons may be engaged in patterns or practices in violation of the Executive Order or these regulations, or of resistance to or interference with the full enjoyment of any of the rights secured by them, warranting judicial proceedings.

(f) *Initiation of lawsuits by the Attorney General without referral from the Director.* In addition to initiating lawsuits upon referral under § 60–1.25, the Attorney General may, subject to approval by the Director, initiate independent investigations of contractors which he/she has reason to believe may be in violation of the Order or the rules and regulations issued pursuant thereto. If, upon completion of such an investigation, the Attorney General determines that the contractor(s) has in fact violated the Order or the rules and regulations issued thereunder, he/she shall make reasonable efforts to secure compliance with the contract provisions of the Order. He/she may do so by providing the contractor and any other respondent with reasonable notice of the Department's findings, its intent to file suit, and the actions that the Attorney General believes are necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor(s) and any other respondent a reasonable opportunity for conference and conciliation in an effort to obtain such compliance without contested litigation. If these efforts are unsuccessful, the Attorney General may, upon approval by the Director, bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, or an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order.

§ 60–1.26 Reinstatement of ineligible contractors and subcontractors.

Any contractor or subcontractor declared ineligible for further contracts or subcontracts under the Order may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause.

Subpart C—Complaint Procedure

§ 60–1.30 Filing complaints.

(a) *Purpose.* The compliance procedure described herein is investigative rather than adjudicatory. Therefore, the purpose of this complaint procedure is to gather facts upon which a determination may be made by OFCCP or the appropriate compliance agency whether an employer is violating the Order, the equal opportunity clause, or the regulations in this chapter. The Order does not create a private right of action against the contractor which the complainant may pursue in a court of law in the event the resolution of the complaint is not satisfactory to the complainant. Nothing in these regulations precludes a complainant or any other person from exercising against a contractor any rights they may have under Title VII of the Civil Rights Act of 1964 or any other Federal or nonfederal law, however.

(b) *Filing complaints.* Complaints shall be filed within 180 days of the alleged violation unless the exception set forth in § 60–1.30(d) is applicable or unless the time for filing is extended by the agency or the Director for good cause shown. Complaints may be filed with the compliance agency or the OFCCP, 200 Constitution Avenue, NW, Washington, D.C. 20210.

(c) *Contents of Complaint.* (1) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subconstractor committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted for investigation provided the other requirements of this paragraph are met.

(2) Where a complaint contains incomplete information, the agency or OFCCP shall seek the needed information from the complainant. In the event such information is not furnished to the agency or the Director within 60 days of the date of such request, the case may be closed. Nothing in this section or in § 60–1.23 shall preclude a compliance agency or OFCCP from referring complaints to the Equal Employment Opportunity Commission for enforcement under Title VII of the Civil Rights Act of 1964, rather than enforcement under E.O. 11246 and the regulations in this chapter.

(d) *Filing a complaint under the contractor's internal review procedure.* Where a contractor has an internal review procedure, the employee may elect to file a complain under that procedure without first filing a complaint with the compliance agency or with OFCCP. In that event, the employee shall have 90 days from the date that the contractor notifies him/her of the final decision resulting from the internal review process in which to file a complaint with the compliance agency or with OFCCP. The contractor shall maintain all records pertinent to the complaint and shall make them available to the compliance agency or the Director upon request.

Subpart D—Ancillary Matters

§ 60–1.40 Assumption of jurisdiction by or referrals to the Director.

The Director may inquire into the status of, or the agency may refer for consideration, any matter pending before a compliance agency, including complaints and matters arising out of reports, reviews, and other investigations. If the Director considers it necessary or appropriate to the achievement of the purposes of the Order, he/she may assume jurisdiction over the matter and proceed as provided in these regulations. Whenever the Director assumes jurisdiction he/she may assume all duties and responsibilities delegated to compliance agencies by this chapter. Whenever the Director assumes jurisdiction over any matter he/she may conduct, or have conducted by the agency, such investigations, hold such hearings, and make such findings, issue such recommendations and directives, and take such other action as may be necessary or appropriate to achieve the purposes of the Order.

§ 60-1.41 Rulings and interpretations.

Rulings under or interpretations of the Order or the regulations contained in this chapter shall be made solely by the Director. No contractor or subcontractor shall be found to be in violation of the Executive Order, the equal opportunity clause, or the regulations in this chapter if he/she pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written ruling or interpretation of the Director issued after the effective date of these regulations, and which is in effect at the time such reliance is made.

§ 60–1.42 Delegation of authority by the Director.

The Director is authorized to redelegate the authority given to him/her by the regulations in this chapter. The authority redelegated by the Director pursuant to the regulations in this chapter shall be exercised under his/her general direction and control.

§ 60–1.43 Access to records and site of employment.

Each contractor and subcontractor shall permit access during normal business hours to its premises for the purpose

of conducting on-site compliance reviews and inspecting, copying and removing offsite such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, equal opportunity clause and regulations promulgated pursuant thereto. Where such information is not stored in printed form, the contractor shall provide all data requested in printed form. Information obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964, as amended, and in furtherance of the purposes of the Order and that Act.

§ 60–1.44 Contracts in effect prior to October 24, 1965.

All contracts and subcontracts in effect prior to October 24, 1965, which are not subsequently modified shall be administered in accordance with the nondiscrimination provisions of any prior applicable Executive Orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to the Order. Complaints received by and violations coming to the attention of agencies regarding contracts and subcontracts which were subject to Executive Orders 10925 and 11114 shall be processed as if they were complaints regarding violations of the Order.

PART 60–2—AFFIRMATIVE ACTION COMPLIANCE PROGRAMS

Subpart A—General

Sec.

60–2.1 Purpose.

Subpart B—Required Contents of Affirmative Action Compliance Programs

60–2.10 Purpose of affirmative action compliance programs.
60–2.11 Required employment analyses.
60–2.12 Establishment of goals and timetables. (Procedural directives concerning goals and timetables—Alternative B Proposal.)
60–2.13 Additional required contents of affirmative action compliance programs.
60–2.14 Program summary.

AUTHORITY: Sec. 201, E.O. 11246 (30 FR and 12319) and E.O. 11375 (32 FR 14303).

Subpart A—General

§ 60–2.1 Purpose.

Section 60–1.6 of this chapter, affirmative action compliance programs requirements, requires that within 120 days of the commencement of a contract, each prime contractor or subcontractor with 100 or more employees and a contract or subcontract of $100,000 or more (or Government bills of lading which, in any 12-month period, total or can reasonably be expected to total $100,000 or more), demonstrate evidence of compliance with the non-discrimination and affirmative action requirements of the equal opportunity clause by developing an affirmative action compliance program for each of its establishments. This part, sets forth the standards by which contractors subject to § 60–1.6 of this chapter examine and evaluate their employment practices to identify and endeavor to remedy any continuing effect of employment discrimination on minorities and women and to take affirmative action to eliminate disparities in the hiring and employment of these groups.

Subpart B—Required Contents of Affirmative Action Compliance Programs

§ 60–2.10 Purpose of affirmative action compliance programs.

An affirmative action compliance program is a set of specific and result-oriented procedures to which a contractor commits itself to apply every good faith effort.

An acceptable affirmative action compliance program must include an analysis of those areas in which there are employment practices which create or tend to perpetuate disparities, a program of remedial relief for those persons, if any, who have been disadvantaged by such practices, and goals and timetables to which the contractor's good faith efforts must be directed to eliminate the disparities and thus to achieve prompt and full utilization of minorities and women at all levels and in all segments of the workforce. Also, see § 60–1.24 of this chapter which provides for conciliation agreements.

§ 60–2.11 Required employment analyses.

(a) *Background.* Based upon the Government's experience with compliance reviews, disparities in the employment of minority groups and women are most likely to exist in those organizational units, work processes, lines of progression or promotion sequences and specific jobs which offer average or better opportunities with respect to compensation, promotion, advancement potential, skill development, working conditions and supervisory and management level responsibilities. Concentrations of minorities and women are likely to be found in those organizational units, work processes, lines of progression or promotion sequences and specific jobs which are lower paying, less desirable, and which have less promotion and advancement potential. Therefore, contractors shall direct special attention to these potential problem areas in their employment analyses. Affirmative action compliance programs must contain an internal workforce array and a job group analysis.

(b) *Internal workforce array.* The internal workforce array is a listing of each job title (not job group) as appears in applicable collective bargaining agreements or payroll records ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental and unit supervision. If there are separate work units or lines of progression within a department or similar organizational unit, a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles should be listed by departments, job families or disciplines, in order of wage rates or salary ranges. For each job title, the total number of incumbents and the total number of male and female incumbents in each of the following groups must be given: American Indian or Alaskan Native, Asian or Pacific Islander, Black not of Hispanic Origin and Hispanic. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

NOTE.—Two provisions, "Alternative A" and "Alternative B," are being proposed for §§ 60–2.11(c) and 60–2.12. These two sections will set forth the requirements for conducting the job group and workforce array analyses and for establishing goals and timetables respectively. The Department of Labor has not taken a position as to which alternative will be adopted on final rulemaking. However, on final rulemaking only one rule will be promulgated. This rule may consist of one of the published proposed alternatives, any other suggested alternative, or any combination thereof. Accordingly, comments are invited on both proposals, and, in addition, any other proposals are invited.

[ALTERNATIVE A]

(c) *Job group analysis.* The job group analysis is a listing of all major job groups at the facility ("job groups" herein meaning any one or more jobs having substantially similar content, wage rate or skill or career development opportunities) showing total incumbents of each such group, and total numbers and percentages of minorities and women in each, including an identification of those in which minorities and women are employed in percentages less than the percentages in which they are available in the contractor's internal workforce and in the relevant labor area. In making the job group analysis the contractor shall conduct such analysis separately for minorities and women.

(1) In determining the availability of minorities for employment in any job group, the contractor will consider at least all the following factors:

(i) The percentage of the minority population in the labor area from which the contractor can reasonably recruit;

(ii) The percentage of the internal minority workforce as compared with the percentage of minorities in the total labor force within the area in which the contractor can reasonably recruit;

(iii) The percentage of minorities having potential or actual requisite skills in an area in which the contractor can reasonably recruit;

(iv) The promotable and transferable minorities within the contractor's organization;

(v) The degree of training which the contractor is reasonably able to undertake as a means of making all jobs available to minorities.

(2) In determining the availability of women for employment in any job group, the contractor will consider at least all the following factors:

(i) The percentage of the female population in the labor area from which the contractor can reasonably recruit;

(ii) The percentage of women having potential or actual requisite skills in an area in which the contractor can reasonably recruit;

(iii) The percentage of the internal female workforce as compared with the percentage of women in the labor force within the area in which the contractor can reasonably recruit;

(iv) The promotable and transferable female employees within the contractor's organization;

(v) The degree of training which the contractor is reasonably able to undertake as a means of making all jobs available to women.

§ 60–2.12 Establishment of goals and timetables.

(a) *Goals.* For each job group in which the analysis conducted pursuant to § 60–2.11(c) discloses a disparity in the employment of minorities and women the contractor must establish a goal designed to eliminate such disparity. The goal must be stated as a percentage of the total employees and must be at a level equivalent to the percentage of minorities or women available for employment in the job group in accordance with the criteria set forth in § 60–2.11(c).

(b) *Timetables.* For each job group in which a goal is established a specific timetable must be established for reaching the goal within a reasonable time period. Such timetables must consider the anticipated expansion, contraction and turnover of and in the contractor's workforce.

(c) *Annual hiring and promotion rates.* For each job group for which the timetable exceeds one year the goal must be established for a multiyear term up to five years, and include annual rates of hiring and/or promotion. In such cases the annual rate must be established at a level which will permit the goal to be achieved within the minimum feasible time period and the goal should be updated annually and adjusted, as may be appropriate, to reflect any significant increases in the internal and external availability of minorities and women. In those situations where the multiyear goal cannot be met within five years, the reason(s) therefor must be documented in detail, and a new timetable should be established at the end of that period.

(d) *Separate goals by minority group and sex.* A single goal for minorities and a separate single goal for women is acceptable, unless through the contractor's evaluation it is determined that a particular minority group, or men or women of a particular minority group, are employed in a substantially disparate manner, in which case separate goals for such minority group subdivided by sex, where appropriate, are required.

(e) *Nondiscrimination.* The purpose of a contractor's establishment and use of goals is to ensure that it meet its affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

(f) *Goals to remedy discrimination.* Upon a finding of discrimination, and to correct the effects of past discriminatory practices, goals and timetables may be established in conciliation agreements under § 60–1.24 of this chapter or proceedings under § 60–1.25 of this chapter which are based on factors other than those set forth in § 60–2.11(b).

(g) *Goals reflecting current availability required.* In conducting a job group analysis pursuant to § 60–2.11(b) and in establishing goals and timetables under § 60–2.12, each contractor must make special effort to avoid continuing the effects of any past discrimination or exclusion of minorities or females from desirable, better paying jobs. In each job group in which there is a disparity in the utilization of minorities of females (e.g., supervisory jobs), it is not sufficient for a contractor to establish goals and timetables based on the current utilization of minorities or women in such jobs in the surrounding labor area. Instead, the goals and timetables should be established based on the percentage of minorities and women in the workforce who presently or potentially meet the contractor's job specification requirements, regardless of whether they currently occupy such jobs. Job specification requirements must comply with Part 60–3 of this chapter.

(h) *Work on or near Indian reservations.* A contractor or subcontractor extending a publicly announced preference for Indians as authorized in § 60–1.5(a)(6) of this chapter may reflect in its goals and timetables the permissive employment preference for Indians living on or near an Indian reservation.

[ALTERNATIVE B]

(c) *Job group analysis.* The job group analysis is a listing of all major job groups at the establishment ("job groups" herein meaning any one or more jobs having substantially similar content, wage rate or skill or career development opportunities) showing total incumbents of each such group, and total numbers and percentages of minorities and women in each, including identification of those job groups in which minorities or women are employed in percentages less than the percentages of all minorities or women in the total labor force of the relevant labor recruitment area. Such identified job groups will become the focus for affirmative action designed to increase therein the participation of minorities or women (Focus job group).

(d) *Availability analysis.* An availability analysis, is a determination, for each of the "Focus Job Groups", identified in paragraph (c) of this section, of the numbers and percentages of minorities or women in the relevant labor recruitment area having the requisite skills for employment into such groups, or can be reasonably trained for employment therein within the term of the current affirmative action compliance program. In making the availability analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining the availability of minorities for employment in any job group, the contractor will consider at least all the following factors:

(i) The percentage of the minority population in the labor force from which the contractor can reasonably recruit;

(ii) The percentage of the internal minority workforce as compared with the percentage of minorities in the labor force within the area in which the contractor can reasonably recruit;

(iii) The percentage of minorities having potential or actual requisite skills in an area in which the contractor can reasonably recruit;

(iv) The promotable and transferable minorities within the contractor's organization.

(2) In determining the availability of women for employment in any job group, the contractor will consider at least all the following factors:

(i) The percentage of the female population in the labor area from which the contractor can reasonably recruit;

(ii) The percentage of women having potential or actual requisite skills in an area in which the contractor can reasonably recruit;

(iii) The percentage of women seeking employment in an area in which the contractor can reasonably recruit;

(iv) The promotable and transferable female employees within the contractor's organization.

(3) In addition, for each Focus Job Group, the contractor should appraise the efforts it may reasonably undertake, either through its own efforts, or through other institutions or contractor organizations, to increase the supply of qualified women and minorities for these groups. Such programs should be tailored to the contractor's own potential, which will vary by size, industry, skill requirements, etc. In any case, goals should be implemented by the contractor's expected results of current or previous training programs.

§ 60–2.12 Procedural directives concerning goals and timetables.

(a) Personnel relations staff, department and division heads, and local and unit managers should be involved in the goal setting process.

(b) Goals should be significant, measurable and attainable.

(c) Goals should be specific for planned results, with timetables, normally annual, for completion.

(d) A goal must be established for each Focus Job Group and must be designed to significantly improve the participation of minorities and women in such job group through recruitment, training, and non-discriminatory selection procedures. The goal must be stated as a percentage of the total employees anticipated in the job group at the conclusion of the program timetables, as well as in terms of whole numbers.

(e) A single goal for minorities and a separate single goal for women is acceptable, unless through the analysis conducted in determining "Focus Job Groups" it is determined that a particular minority group, or men or women of a particular minority group is currently participating in such job group in a substantially disparate manner when compared with their participation in the total workforce. In such cases, separate goals for such minority groups subdivided by sex, where appropriate, are required.

(f) Where the contractor has not established a goal for a Focus Job Group, its written affirmative action compliance program must specifically analyze each of the factors listed in § 60–2.11. They must be reasonably attainable through putting forth every good faith effort; they are based solely on the contractor's estimate of the results of its recruitment, training, and non-discriminatory practices. It is not intended that goals should be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

(g) A contractor or subcontractor extending a publicly announced preference for Indians as authorized in § 60–1.5(a)(6) of this chapter may reflect in its goals and timetables the permissive employment preference for Indians living on or near an Indian reservation.

§ 60–2.13 Additional required contents of an affirmative action compliance program.

(a) Affirmative action compliance programs shall contain measures to achieve the objectives set forth in this part. The specific measures to be adopted shall not be prescribed by the Government but should be established by the contractor and tailored to its employment structure, operation and local circumstances.

(b) An executive of the contractor should be appointed as director or manager of company Equal Opportunity Programs. Depending upon the size and geographical alignment of the company, this may be his or her sole responsibility. He or she should be given the necessary top management support and staffing to execute the assignment. Management and supervisory personnel should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results as well as other criteria.

(c) The contractor shall develop and periodically reaffirm an equal employment opportunity policy and disseminate it as follows:

(1) Communicate to prospective employees the existence of the affirmative action compliance program and make available such portions of the program as will enable such prospective employees to know and avail themselves of its benefits.

(2) Communicate to employees the existence of the affirmative action compliance program and make it available at stated times and places to employees.

(d) The contractor should conduct an in-depth examination of the composition of applicant flow and promotion rates by minority group status and sex, and the composition of the workforce with particular attention to those potential problem areas described in § 60–2.11. Special corrective or remedial action measures shall be undertaken if the examination discloses any of the following:

(1) The selection and promotion system eliminates a significantly higher percentage of minorities or women than non-minorities or men.

(2) Other hiring or employment practices operate to exclude or otherwise have a disparate or adverse impact on minorities and women and cannot be justified by a legitimate overriding business necessity.

(e) The contractor shall develop and execute action oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(f) The contractor shall design and implement an internal audit and reporting system to measure effectiveness of the total program.

(g) The contractor shall take measures to ensure compliance of personnel practices with the Employee Testing and Other Selection Procedures (41 CFR Part 60–3), Sex Discrimination Guidelines (41 CFR Part 60–4), and Guidelines on Discrimination because of Religion or National Origin (41 CFR Part 60–7).

(h) The contractor shall actively support local and national programs designed to improve the employment opportunities of minorities and women.

§ 60–2.14 Program Summary.

The affirmative action compliance program shall be summarized and updated annually. The program summary shall be prepared on a coding sheet, to be prescribed by the Director, and submitted annually.

PART 60–5—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

GENERAL PROVISIONS

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AUTHORITY: Sec. 201, 205, 208, 209, 301, 302(b), 303(a), Executive Order 11246, as amended, 30 FR 12319; 32 FR 14303; § 60–1.25 of Part 60–1 of this chapter (41 CFR Part 60–1).

GENERAL PROVISIONS

§ 60–5.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted either by the OFCCP or by a compliance agency, relating to the enforcement of equal opportunity under Executive Order 11246, as amended. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

§ 60–5.2 Waiver, modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him, modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 60–5.3 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

§ 60–5.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Admin-

istrative Law Judge, and a designation of the pleading or paper (e.g. complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed.

(b) *Service.* Service upon any party shall be made by the party filing the pleading or document by delivering a copy or mailing a copy to the party's last known address. When a party is represented by an attorney, the service shall be upon the attorney.

(c) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of service, shall be proof of the service.

PREHEARING PROCEDURES

§ 60–5.5 Administrative complaint.

(a) *Issuance.* The Solicitor of Labor shall institute enforcement proceedings by issuing a complaint and causing the complaint to be served upon the contractor which shall be designated in the complaint as respondent.

(b) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the respondent on notice of the acts or practices it is alleged to have committed in violation of the Order, the regulations, or its contractual obligations. The complaint shall also contain a prayer for whatever relief is being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(c) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and respondent may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 7 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer.

§ 60–5.6 Answer.

(a) *Filing and service.* Within 14 days after the service of the complaint, the respondent shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the respondent or its attorney, and served on the Government in accordance with § 60–5.4(b) of this part.

(b) *Contents; failure to file.* The answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all the allegations of the complaint. The answer may contain a waiver of hearing; if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the respondent, or attorney representing the respondent. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision, and to file briefs in support of the exceptions.

§ 60–5.7 Notice of hearing.

The Administrative Law Judge shall respond to respondent's request for a hearing within 10 days by serving a notice of hearing on the parties. The notice shall contain the time and place of the hearing.

§ 60–5.8 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, these motions shall be in writing. If made at the hearing, they may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision, and to file briefs in support of the exceptions.

§ 60–5.7 Notice of hearing.

The Administrative Law Judge shall respond to respondent's request for a hearing within 10 days by serving a notice of hearing on the parties. The notice shall contain the time and place of the hearing.

§ 60–5.8 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, these motions shall be in writing. If made at the hearing, they may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Within 10 days after a written motion is served, or such other time period as may be fixed by the Administrative Law Judge, any party may file a response to a motion.

(b) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to the expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: *Provided,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

§ 60–5.9 Interrogatories and admissions as to facts and documents.

(a) *Interrogatories.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whomever is representing the party. Answers and objections shall be filed and served within the period designated in the interrogatory but not less than 10 days within service of the interrogatory.

(b) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days, after service) the party to whom the request is directed serves upon the requesting party a sworn statement either (1) denying specifically the matter as to which an admission is requested, or (2) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

§ 60–5.10 Production of documents and things and entry upon land for inspection and other purposes.

(a) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or

may lead to relevant information and which is in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of the data compilations shall be done by the party furnishing the information.

(b) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and which is in the possession or control of the part upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 10 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

§ 60–5.11 Depositions upon oral examination.

(a) *Depositions; notice of examination.* After commencement of the action any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(b) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 3 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to proudce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to supress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(c) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party may examine and cross-examine the witness under oath upon any unprivileged matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided,* That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(d) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order of the Administrative Law Judge for good cause shown.

(e) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(3) The deposition of a witness whether or not a party, may be used by any party for any purpose if the hearing examiner finds: (i) That the witness is dead; or (ii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iii) that the party offering the deposition, has been unable to procure the attendance of the witness by notice; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 60–5.12 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the hearing examiner may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact and of contents and authenticity of documents;

(4) Limitation of the number of expert witnesses;

(5) Scheduling dates for the exchange of witness lists and of proposed exhibits; and

(6) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 60–5.13 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to the reception of evidence in any proceeding, the respondent may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and

an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) A waiver of any further procedural steps; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Administrative Law Judge for his consideration; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings and his decision shall constitute the final Administrative Order.

HEARINGS AND RELATED MATTERS

§ 60–5.14 Designation of Administrative Law Judges.

Hearings shall be held before an Administrative Law Judge of the compliance agency or of the Department of Labor and shall be designated by the Chief Administrative Law Judge of the compliance agency or of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge pleadings and papers shall be filed with the Chief Administrative Law Judge.

§ 60–5.15 Authority and responsibilities of Administrative Law Judges.

The Administrative Law Judge shall propose findings and conclusions to the compliance agency or to the Secretary on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necesasry action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion.

(b) Require parties to state their position with respect to the various issues in the proceeding;

(c) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full.

(d) Administer oaths;

(e) Rule on motions, and other procedural items or matters pending before him;

(f) Regulate the course of the hearing and conduct of participants therein;

(g) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(h) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial or unduly repetitious;

(i) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

(2) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(3) Expelling any party or person from further participation in the hearing;

(k) Take official notice of any material fact not appearing in evidence in the record which is among the traditional matters of judicial notice;

(l) Recommend whether the respondent is in violation of the Order, regulations, or its contractual obligations, as well as the nature of the relief necessary to ensure the full enjoyment of the rights secured by the Order;

(m) Take any action authorized by these rules.

§ 60–5.16 Appearances.

(a) *Representation.* The parties or other persons or organizations participating pursuant to § 60–5 have the right to be represented by counsel.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

§ 60–5.17 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice setting forth the time, date and place at which he is to appeal for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 3 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

§ 60–5.18 Evidence; testimony.

Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available shall be applied. Testimony shall be given orally by witnesses at the hearing. A witness shall be available for cross-examination, and, at the discretion of the Administrative Law Judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding. The Administrative Law Judge may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

§ 60–5.19 Objections; exceptions; offer of proof.

(a) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the compliance agency or to the Secretary but shall be considered by the compliance agency or the Secretary upon filing exceptions to the

Administrative Law Judge's recommendations and conclusions.

(c) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 60–5.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision, except as witness or counsel in the proceeding.

§ 60–5.21 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

§ 60–5.22 Official transcript.

The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11 (a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

§ 60–5.23 Summary judgment.

(a) *For the Government.* At any time after the expiration of 14 days from the commencement of the action or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for summary judgment upon all claims on any part.

(b) *For respondent.* The Respondent may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(c) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in its own behalf.

(d) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(e) *Motion and proceedings.* The motion shall be served upon all parties and at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(f) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

§ 60–5.24 Participation by interested persons.

(a) (1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative Order could adversely affect them or the class they represent and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this paragraph shall file with the Administrative Law Judge and serve on all parties a petition within 7 days after the commencement of the action. Such petition shall concisely state (i) petitioner's interest in the proceedings, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: *Provided,* That the representative of a labor organization qualifying to participate under subparagraph (1) of this paragraph must be permitted to participate in the proceeding. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party to each petition granted.

(b) (1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state (i) the petitioner's interest in the hearing, (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the Administrative Law Judge. He may submit a written statement of position to the Aministrative Law Judge prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and shall serve a copy on each party.

POST HEARING PROCEDURES

§ 60–5.25 Proposed findings of fact and conclusions.

Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the hearing examiner. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed ex-

cept by special permission of the Administrative Law Judge.

§ 60–5.26 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

§ 60–5.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision to the head of the compliance agency if the proceeding was instituted by the agency, or to the Secretary if it was instituted by the OFCCP, for a final Administrative Order. The recommended findings, conclusion, and decision shall be served on all parties and amici to the proceeding.

§ 60–5.28 Exceptions to recommended decisions.

Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 10 day of their receipt by said parties. All exceptions and responses shall be filed with the compliance agency or the Secretary Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the compliance agency or the Secretary for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

§ 60–5.29 Record.

After expiration of the time for filing briefs and exceptions, the compliance agency or the Secretary shall make a final decision, which shall be the final Administrative Order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

§ 60–5.30 Final Administrative Order.

(a) After expiration of the time for filing, the Secretary shall make a final Administrative Order which shall be served on all parties. If the Secretary concludes that the respondent has violated the Executive Order, the equal opportunity clause, or the regulations, the contractor shall be ordered to discontinue all violations and to comply with Executive Order 11246 including all appropriate relief. Failure to comply with the Administrative Order shall result in the immediate cancellation, termination and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

(b) If the administrative proceeding was instituted by the compliance agency a similar order will be prepared by the agency and forwarded to the Director for approval. When approved by the Director, the order becomes the final Administrative Order and shall be served on all parties. Failure to comply with it in all respects will result in the immediate cancellation, termination and suspension of the contractor's contracts and/or debarment of the respondent from further contracts.

PART 60–8—STANDARDS AND PROCEDURES FOR CONDUCTING COMPLIANCE REVIEWS OF CONTRACTORS FOR SUPPLIES AND SERVICES

Subpart A—General

Sec.
60–8.1 Purpose.
60–8.2 Contractor obligations.
60–8.3 Policy.

Subpart B—Standards and Procedures for Conducting Compliance Reviews

60–8.4 Agency actions.
60–8.5 Employee interviews.
60–8.6 Exit conference.
60–8.7 Notice of deficiencies.
60–8.8 Conciliation conference.
60–8.9 Time schedule for completing review.

Subpart C—Disclosure and Review of Contractor Data

60–8.10 Confidentiality and relevancy of information.

AUTHORITY: 5 U.S.C. 553(a)(3)(B), 29 CFR 2.7; sec. 201, E.O. 11246, (30 FR 12319), and E.O. 11375, (32 FR 14303).

Subpart A—General

§ 60–8.1 Purpose.

This part is intended to establish standards and procedures for conducting compliance reviews of non-construction contractors and subcontractors subject to the requirements of § 60–1.6 and Part 60–2 of this chapter.

§ 60–8.2 Contractor obligations.

Each contractor or subcontractor required to develop a written affirmative action compliance program under § 60–1.6 of this chapter shall submit its affirmative action compliance program and supporting documents, including the workforce analysis, within 10 working days of a request made by the compliance agency or by OFCCP.

§ 60–8.3 Policy.

It is the policy of OFCCP that reviews to achieve compliance by Government contractors with the Order, equal opportunity clause and regulations in this chapter (a) to the extent possible, be uniform in approach and in compliance determinations both among the various compliance agencies and within a single agency; (b) be of sufficient depth and comprehensiveness to achieve reasonably total and permanent solutions to identified compliance problems in order to obviate the necessity for, or reduce the frequency of, subsequent compliance reviews of the same contractor establishments; and (c) eliminate undue administrative burdens on agencies and contractors by avoiding the collection of unnecessary data and information.

Subpart B—Standards and Procedures for Conducting Compliance Reviews

§ 60–8.4 Agency actions.

(a) *Agreements on definitions and formats.* Within one year from the effective date of Part 60–8 of this chapter compliance agencies shall endeavor to identify those of their assigned contractors (or industries) whose employment structure, operations and business circumstances would be appropriate for the development of a special format for the presentation of data and the completion of a conciliation agreement in order to implement the requirements of § 60–1.6 of this chapter in accordance with the requirements of Part 60–2 of this chapter. Such special format shall be developed in order to provide uniformity of enforcement within industries and to facilitate the review and analysis of data. The special format may include but not necessarily be limited to: (1) the definition of and format for presenting the internal workforce array. (2) the definition of and format for presenting the job group analysis and (3) the methods for developing goals including the size and characteristics of the job groups or organizational units upon which they are based and the time periods by which they are to be achieved. Any such special format must be designed to achieve fully and effectively the purposes of the specific provisions to which they apply and must receive the prior approval of the Director. At any time subsequent to the effective date of Part 60–8 contractors may request negotiations or consultations with their respective compliance agencies leading to an agreement on definitions and nationwide formats pursuant to this section.

(b) *Basic steps.* A compliance review shall proceed as follows:

(1) A desk audit of the contractor's affirmative action compliance program;

(2) An on-site review of those matters which are not fully or satisfactorily addressed in the affirmative action compliance program;

(3) Where necessary, an off-site analysis of information supplied by the contractor during or pursuant to the on-site review;

(4) An exit conference; and

(5) Where appropriate, a conciliation conference.

(c) *Desk audit.* Using OFCCP approved methods of priority selection, compliance agencies routinely shall request from among the Federal contractors within their jurisdiction affirmative action compliance programs for desk audit purposes. The purpose of the desk audit is to permit the compliance agency to prepare sufficiently for the on-site review. The desk audit should identify apparent or potential systemic problems, organizational components, levels of pay and responsibility within the contractor's workforce in which there are likely to be disparities in the employment of minorities and women. Compliance agencies shall notify contractors of such focus

areas or subject matters immediately after the desk audit and within a reasonable period in advance of the on-site review.

(d) *On-site review.* (1) If upon selection of an affirmative action compliance program for desk audit, the compliance agency finds that the material submitted does not demonstrate a reasonable effort by the contractor to meet the requirements of Part 60–2 of this chapter, the on-site review need not be carried out and the enforcement procedures specified in Part 60–1 of this chapter shall be applicable. Otherwise, following a desk audit of the affirmaitve action compliance program the agency will schedule an on-site review of the establishment: *Provided,* That the compliance review need not be pursued when the agency can determine that there are no apparent deficiencies for which an in-depth examination is warranted.

(2) The primary purpose of the on-site review is to collect sufficient facts, including supporting documentation, to make a determination regarding problems identified during the desk audit. To assist in achieving this purpose, the compliance agency should request that those contractors scheduled for on-site reviews make available on-site that information necessary to perform the review. This may include, inter alia, (i) information necessary to conduct an in-depth analysis of apparent disparities in the employment of women or minorities, (ii) information required for a complete and thorough understanding of data contained in or offered as support for the affirmative action compliance programs and (iii) information concerning matters relevant to a determination of compliance with the requirements of Executive Order 11246, as amended, but not adequately addressed in the affirmative action compliance program. However, the contractor should be requested to furnish only the specific items of information which the compliance officer determines are necessary for conducting the review and developing an adequate record, and which is not contained in and cannot be derived from the material already submitted by the contractor. In order to pursue certain issues uncovered in the compliance review, it may be necessary for the compliance officer to request certain additional information on-site even though such data have not been previously identified. Such additional information must also meet the above criteria.

(e) *Off-site analysis.* Where necessary, the compliance officer may take information made available during the on-site review off-site for further analysis. An off-site analysis should be conducted where issues have arisen concerning deficiencies or an apparent violation which, in the judgment of the compliance officer, should be more thoroughly analyzed off-site before a determination concerning compliance is made.

§ 60–8.5 Employee interviews.

The compliance officer should contact, where appropriate, a reasonable number of employees for interviews as part of the on-site review of the contractor's employment practices. The number of employees to be interviewed and the manner of conducting the interview should be discussed in advance with the contractor; however, the compliance officer shall take every precaution to ensure that the identity of employees to be interviewed are not disclosed or that the identity of employees interviewed are not disclosed.

§ 60–8.6 Exit conference.

Upon completion of the on-site review the compliance officer should schedule an exit conference with contractor officials to itemize any deficiencies which lend themselves to immediate correction and solicit the contractor's agreement to take adequate corrective action by specified dates. However, in cases where the apparent resolutions require further analysis subsequent to the on-site review, the compliance officer will advise the contractor of the areas of concern, secure the data necessary for an ultimate determination and complete the review later by forwarding a notice of compliance, or a notice of deficiencies followed by a conciliation conference.

§ 60–8.7 Notice of deficiencies.

Each violation which does not lend itself to immediate correction should be communicated to the contractor in the form of a written notice of deficiencies. The notice of deficiencies should be presented to the contractor within a reasonable period in advance of the conciliation conference and should contain:

(1) An itemization of the sections of the Executive Order and of the regulations with which the contractor has been found in apparent violation, and a summary of the conditions, practices, facts or circumstances which give rise to each apparent violation;

(2) The corrective actions necessary to achieve compliance or, as may be appropriate, the concepts and principles of an acceptable remedy and/or the corrective action results anticipated;

(3) A request for a written response to the findings, including commitments to corrective action or the presentation of opposing facts and evidence; and

(4) A suggested date for the conciliation conference.

§ 60–8.8 Conciliation conference.

The purpose of the conciliation conference is to expend reasonable efforts to achieve compliance through conference, conciliation, mediation and persuasion. In preparation for the conference, the agency should conduct an in-depth analysis and evaluation of the contractor's written response. Any conciliation agreement shall include a specific commitment, in writing, to correct all violations. The commitment must include the precise action to be taken, dates for completion, and appropriate remedies. The time period alloted shall be no longer than the minimum period necessary to effect such changes. Upon approval by the compliance agency, unless disapproved by the Director, the contractor may be considered in compliance, on condition that the commitments are faithfully kept.

§ 60–8.9 Time schedule for completing review.

Within 90 days of receipt of the affirmative action compliance program for desk audit purposes, except where the Director has granted an extension, the compliance agency must have found the contractor in compliance and notified the contractor of that fact, or must have issued a notice of deficiencies. During the 90-day period the compliance agency shall:

(1) Complete the desk audit.
(2) Schedule the on-site review.
(3) Complete the on-site review.
(4) Complete the off-site analysis, if conducted.
(5) Give notice of compliance or issue a notice of deficiencies.

Within 90 days after issuing a notice of deficiencies the compliance agency shall forward to OFCCP a conciliation agreement or a request to institute enforcement proceedings. The request shall comply with the requirements of § 60–1.25(b) of this chapter.

Subpart C—Disclosure and Review of Contractor Data

§ 60–8.10 Confidentiality and relevancy of information.

(a) *Desk audit data.* If the contractor is concerned about the confidentiality of such information as lists of employees, employee names, reasons for termination and pay data, then alphabetic or numeric coding or the use of an index of pay ranges are acceptable.

(b) *On-site data.* The contractor must provide full access to all relevant data on-site including lists of employees, reasons for termination, employment applications, pay and salary information, and all other data necessary to a determination of compliance with the Order and the regulations in this chapter (see § 60–1.43 of this chapter).

(c) *Data required for off-site analysis.* The contractor must provide all data determined by the compliance officer to be necessary for off-site analysis (see § 60–8.4(e) and § 60–8.10(b) above).

(d) *Public access to information.* Information obtained from a contractor under Subpart B will be subject to the public inspection and copying provisions of the Freedom of Information Act (5 U.S.C. 552). Upon submission of an affirmative action compliance program for desk audit purposes, contractors shall identify any information which they believe is not subject to disclosure under 5 U.S.C. 552 and should specify in detail the reasons why such information should not be disclosed. Upon receipt of a request under the Freedom of Information Act for an affirmative action compliance program, the contract compliance agency shall consider the contractor's claim and make a determination thereon within the time limits in the Freedom of Information Act.

(e) *Examination and copying of documents.* Nothing contained herein is intended to supersede or otherwise limit the provisions contained in Part 60–6 of this chapter for public access to information from records of the OFCCP or its various compliance agencies.

[FR Doc.76–27432 Filed 9–16–76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART VII:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secertary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making 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	FL76–1102, FL76–1105
Kentucky	KY76–1101, KY76–1103, KY76–1106, KY76–1107
Mississippi	MS76–1099

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.

Alabama:	
AL76–1011	Jan. 30, 1976.
AL76–1030	Feb. 27, 1976.
AL76–1047	Apr. 9, 1976.
Arkansas:	
AR76–4004	July 16, 1976.
California:	
CA76–5063; CA76–5064	Do.
Delaware:	
DE76–3212	July 30, 1976.
Florida:	
FL76–1048	Apr. 16, 1976.
Maryland:	
MD76–3216; MD76–3217	July 30, 1976.
Mississippi:	
MS76–1004	Jan. 9, 1976.
New Mexico:	
NM76–4144	Sept. 3, 1976.
New York:	
NY76–3224; NY76–3227	Aug. 20, 1976.
NY76–3228	Aug. 13, 1976.
Virginia:	
VA76–3213; VA76–3214; VA 76–3215.	July 30, 1976.
VA76–3245	Sept. 10, 1976.
Utah:	
UT76–5032	Do.

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 decision being superseded.

Connecticut:	
CT76–2042 (CT76–2111); CT76–2043 (CT76–2112).	Apr. 2, 1976.
Iowa:	
IA76–4061 (IA76–4150)	Feb. 27, 1976.
New Hampshire:	
NH75–2097 (NH76–2113); NH75–2099 (NH76–2114).	July 16, 1976.
Ohio:	
OH76–2006 (OH76–2110)	May 28, 1976.
Pennsylvania:	
PA76–3156 (PA76–3246)	Mar. 26, 1976.
PA76–3172 (PA76–3247)	May 28, 1976.

Signed at Washington, D.C., this 10th day of September 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Florida
COUNTY: Dade
DECISION NUMBER: FL76-1102
DATE: Date of Publication
DESCRIPTION OF WORK: Heavy Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	7.60				
Cement masons	6.00				
Electricians	10.75	4.5%	1%+2%	8.5%	1%
Ironworkers, reinforcing	6.58				
Laborers:					
Laborers	3.52				
Pipelayers	5.00				
Piledrivermen	5.25				
Truck drivers	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.51	.35	.35		.05
Bulldozer	6.26	.35	.35		.05
Crane	7.45	.35	.35		.05
Ditcher	7.01	.35	.35		.05
Dragline	6.51	.35	.35		.05
Earthmover	5.91	.35	.35		.05
Forklift	6.76	.35	.35		.05
Grader	6.51	.35	.35		.05
Loader	6.26	.35	.35		.05
Mechanic	6.51	.35	.35		.05
Oiler	5.61	.35	.35		.05
Roller	5.61	.35	.35		.05
Scraper	5.91	.35	.35		.05
Trencher	6.36	.35	.35		.05

NEW DECISION

STATE: Florida
COUNTY: Brevard (except Cape Kennedy, Patrick AFB, and Melbar Radar Site)
DECISION NUMBER: FL76-1105
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family houses 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.
Air conditioning mechanics	4.00				
Bricklayers	6.46	.20	.20		.05
Carpenters	5.69				
Carpet layers	7.00				
Cement masons	6.31	.20	.20		.05
Drywall finishers	6.50				
Drywall hangers	7.50				
Electricians	5.50				
Laborers	3.00				
Painters	5.00				
Plasterers	6.00				
Plumbers	6.00				
Roofers	4.50				
Sheet metal workers	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.22				
Bulldozer	4.00				

NEW DECISION

STATE: Kentucky
COUNTY: *See below
DECISION NUMBER: KY76-1101
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

Counties: Breathitt, Harlan, Knott, Leslie, Letcher, and Perry

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating Mechanics	4.59				
Bricklayers & blocklayers	5.98				
Carpenters	4.85				
Cement masons	5.00				
Drywall finishers	5.00				
Drywall hangers	5.00				
Electricians	5.12				
Insulation installers	4.35				
Laborers	3.50				
Painters;					
Painters	5.00				
Paperhangers	4.25				
Plumbers & pipefitters	5.10				
Roofers	5.00				
Sheet metal workers	4.47				
Soft floor layers	5.00				
Truck drivers	3.50				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.60				
Bulldozer	5.00				

NEW DECISIONS

STATE: Kentucky
COUNTIES: Laurel & Whitley
DECISION NUMBER: KY76-1103
DATE: Date of Publication
DESCRIPTION OF WORK: 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.
Air conditioning & heating mechanic	4.25				
Bricklayers	5.00				
Carpenters	4.00				
Cement masons	3.66				
Drywall finishers	3.93				
Drywall hangers	3.47				
Electricians	4.25				
Insulation installers	4.00				
Laborers:					
Laborers	3.00				
Hod carriers	3.50				
Painters	3.50				
Plumbers & pipefitters	3.82				
Roofers	4.00				
Soft floor layers	3.90				
Tile setters	3.60				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.25				

NEW DECISION

STATE: Kentucky COUNTY: Christian
DECISION NUMBER: KY76-1106 DATE: Date of Publication
DESCRIPTION OF WORK: 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.
Air conditioning & heating mechanics	4.25				
Bricklayers & blocklayers	7.00				
Carpenters	4.16				
Cement masons	3.50				
Drywall finishers & hangers	4.60				
Electricians	5.50				
Insulation installers	3.50				
Laborers	3.50				
Painters	4.00				
Plumbers & pipefitters	4.46				
Roofers	3.50				
Sheet metal workers	4.25				
Soft floor layers	4.05				
Tile setters	4.73				
Truck drivers	3.50				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				

NEW DECISION

STATE: Kentucky COUNTY: Daviess
DECISION NUMBER: KY76-1107 DATE: Date of Publication
DESCRIPTION OF WORK: 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.
Air conditioning & heating mechanics	4.27				
Bricklayers & blocklayers	5.96				
Carpenters	4.25				
Cement masons	4.27				
Drywall finishers	4.53				
Drywall hangers	4.19				
Electricians	5.43				
Insulation installers	4.00				
Laborers	2.50				
Painters	4.25				
Plumbers & pipefitters	4.58				
Roofers	4.27				
Sheet metal workers	4.79				
Soft floor layers	4.00				
Tile setters	4.00				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS					
Backhoe	4.50				

NEW DECISION

STATE: Mississippi COUNTIES: Claiborne, Issaquena, Sharkey, and Warren

DECISION NUMBER: MS76-1099 DATE: Date of Publication

DESCRIPTION OF WORK: 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.
Carpenters	5.00				
Cement masons	5.85				
Drywall finishers	5.00				
Drywall hangers	5.00				
Electricians	4.54				
Ironworkers, reinforcing	3.75				
Laborers	3.50				
Painters	5.00				
Plumbers	4.50				
Sheet metal workers	4.00				
Tile setters	6.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.00				
Bulldozer	4.00				
Forklift	4.27				
Front end loader	3.80				
Motor grader	4.25				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL76-1011 - Mod. #4 (41 FR 4741 - January 30,1976) Colbert and Lauderdale Counties, Alabama					
CHANGE:-					
Sheet metal workers	$ 9.50	.55	.60		.05
DECISION #AL76-1030 - Mod. #3 (41 FR 8637 - February 27, 1976) Lawrence, Limestone and Morgan Counties, Alabama					
CHANGE:					
Bricklayers:					
Bricklayers, marble masons, stonemasons, pointers, cleaners & caulkers	$9.40				
Cement masons	8.65				
DECISION #AL76-1047 - Mod. #3 (41 FR 15238 - April 9, 1976) Madison County, Alabama					
CHANGE:					
Bricklayers	$ 9.40				
Cement masons	8.65				
Painters:					
Commercial	8.00		.25		.05
Industrial	8.25		.25		.05
New Industrial	8.50		.25		.05

DECISION NO. AR76-4004 - Mod. #1 (41 FR 29617 - July 16, 1976) Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
CARPENTERS:					
Commercial work over $1,000,000:					
Carpenters	$7.83	.40	.30		.04
Millwrights & Piledrivermen	8.33	.40	.30		.04
Commercial work under $1,000,000:					
Carpenters	7.63	.40	.30		.04
Millwrights & Piledrivermen	8.13	.40	.30		.04
ADD:					
CARPENTERS:					
Carpenters	7.93	.45	.35		.04
Millwrights & Piledrivermen	8.33	.45	.35		.04
CHANGE:					
ASBESTOS WORKERS	9.80	.35	.40		.02
ELEVATOR CONSTRUCTORS-Journeymen	8.88	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.545	.35	4%+a+b	.02
GLAZIERS	7.30		.25		

DECISION NO. CA76-5063 - Mod. #2
(41 FR 29619 - July 16, 1976)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Lake, Marin, Mendocino and Sonoma Counties					
Electricians	$11.85	.81	1%+.30		.02
Cable Splicers	13.04	.81	1%+.30		.02
Painters:					
Alpine, Amador, Calaveras and San Joaquin Counties					
Brush	8.92	.70	2.34	1.11	
Spray; Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structural Steel	9.32	.70	2.34	1.11	
Sheet Metal Workers:					
Monterey, San Benito, Santa Clara and Santa Cruz Counties	11.15	3%+.66	1.845	1.115	
Add:					
Painters:					
Del Norte and Humboldt Cos.					
Brush	7.55	.50	.20	.80	
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	7.80	.50	.20	.80	

DECISION NO. CA76-5064 - Mod. #2
(41 FR 29637 - July 16, 1976)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Marin and Sonoma Counties					
Electricians	$11.85	.81	1%+.30		.02
Cable Splicers	13.04	.81	1%+.30		.02
Painters:					
Alpine, Amador, Calaveras and San Joaquin Counties					
Brush	8.92	.70	2.34	1.11	
Spray; Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structural Steel	9.32	.70	2.34	1.11	
Sheet Metal Workers:					
Monterey, San Benito, Santa Clara and Santa Cruz Cos.	11.15	3%+.66	1.845	1.115	
Add:					
Painters:					
Del Norte and Humboldt Cos.					
Brush, Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	7.55	.50	.20	.80	
	7.80	.50	.20	.80	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DELAWARE #DE76-3212 - Mod. #2 (41 FR 32122 - July 30, 1976) State of Delaware					
Change:					
Carpenters - Building & Heavy: New Castle & Kent Counties	$ 9.70	$ 1.04	$0.74		$0.02
Roofers:					
Composition, damp & waterproofing	11.36	1.30	.82	h	
Mechanic II (re-roofing)	5.50	1.30	.82	h	
Decision #FL76-1048 - Mod. #4 (41 FR-16360 - April 16, 1976) Counties: Brevard and Volusia (Cape Kennedy, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site ONLY), Florida					
Change: Mod. dated 9/3/76 (41 FR- 37474) from Mod. #2 to Mod. # 3.					
Decision #76 MD-3216 - Mod. #1 (41 FR 32132 - July 30, 1976) Allegany and Garrett Counties, Maryland					
CHANGE:					
Linemen - Allegany County					
Lineman	$10.15	.50	1%+.25		1%
Equipment Operator	9.64	.50	1%+.25		1%
Truck Driver & Groundmen (exp.)	6.60	.50	1%+.25		1%
Linemen - Garrett County					
Lineman	10.55	.50	1%+.25		1%
Equipment Operator	10.04	.50	1%+.25		1%
Truck Driver & Groundmen (exp.)	7.00	.50	1%+.25		1%
Decision #76 MD-3217 - Mod. #1 (41 FR-32134 - July 30, 1976) Allegany and Garrett Counties, Maryland					
CHANGE:					
Electricians - Allegany Co.	$10.15	.50	1%+.25		1%
Electricians - Garrett Co.	10.55	.50	1%+.25		1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS76-1004 - Mod. #1 (41 FR-1695 - January 9, 1976) Washington, Warren, Sunflower, and Coahoma County, Mississippi.					
Change Counties To:					
Washington, Sunflower, and Coahoma County, Mississippi					

DECISION NO. NM76-4144 - Mod. #1
(41 FR 37495 - September 3, 1976)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Description of work to read "Building and Heavy Engineering Construction (including Residential in Santa Fe, McKinley, Rio Arriba, Bernalillo, Taos, Sandoval, Valencia, and San Juan Counties, but not on the Navajo Indian Reservation)					
LABORERS:					
(GENERAL BUILDING, HEAVY ENGINEERING CONSTRUCTION)					
Group I	$5.82	.34	.40		.05
Group II	6.12	.34	.40		.05
Group III	6.12	.34	.40		.05
Group IV	6.42	.34	.40		.05
CARPENTERS:					
(Dwelling houses and apartments not to exceed two stories in height)					
Zone I-A	7.50	.85	.90	.60	.20
Zone I-B	8.50	.85	.90	.60	.20
Zone I-C	9.25	.85	.90	.60	.20
(General Building, Heavy Engineering and Residential Construction (Dwelling Houses and Apartments over two stories)					
Zone 2-A	8.70	.85	.90	.60	.20
Zone 2-B	9.70	.85	.90	.60	.20
Zone 2-C	10.45	.85	.90	.60	.20
MILLWRIGHTS & PILEDRIVERMEN					
Zone 1	9.20	.85	.90	.60	.20
Zone 2	10.20	.85	.90	.60	.20
Zone 3	10.95	.85	.90	.60	.20
Change Millwrights & Piledrivermen basing point to read "Albuquerque City Limits"					
BRICKLAYERS-STONEMASONS:					
Zone I-A	8.86	.48	.40		.05
Zone I-B	9.61	.48	.40		.05
Zone I-C	10.11	.48	.40		.05

DECISION NO. NM76-4144

CHANGE ZONE I (IRONWORKERS ZONE DEFINITIONS) TO READ:
IRONWORKERS:
ZONE I--AREA I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties.
ZONE I--AREA II - Farmington, San Juan County
Zone 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall.
Zone 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of zone 1.
Zone 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of zone 2.
Zone 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of zone 3.
All areas not within Zones 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
IRONWORKERS:					
Zone I	$7.99	.50	.75		
ADD:					
IRONWORKERS:					
ZONE I - AREA I	9.45	.55	1.00		.12
ZONE I - AREA II					
Zone 1	9.60	.55	1.00		.12
Zone 2	10.35	.55	1.00		.12
Zone 3	11.10	.55	1.00		.12
Zone 4	11.35	.55	1.00		.12
PAINTERS (INDUSTRIAL WORK)					
ZONE I					
Brush, roller, sandblast and grinder operators	8.42	.35	.20		.05
Spray	8.92	.35	.20		.05
Pot tender	7.42	.35	.20		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # 76-NY-3224 - Mod. # 1					
(41 FR-35387 - August 20, 1976)					
Nassau and Suffolk Counties, New York					
Change:					
Laborers, Building:					
Laborers, Mason tenders, and Mortar mixers	8.35	.95	.93	.84	
Decision # 76-NY-3227 - Mod. #1					
(41-FR-35429 - August 20, 1976)					
Jefferson County, New York					
Change:					
Laborers: (Building)					
Laborers	7.05	.55	.80	e	
Chain Saw op., Jackhammer op., Scaffold builders, mortar mixers, pipelayers, gas buggy op., wagon drill & wagon jack ops., vibrator op., and all air on electric tools (electric tools used in place of air tools) used by laborers, hod carriers (for plasterers only)	7.25	.55	.80	e	
Sandblasters on construction clean up where laborers are ordinarily employed, pot liners and acetylene torch op., on demolition work only	7.25	.55	.80	e	
Blasters	7.65	.55	.80	e	
Decision # 76-NY-3228 - Mod. #1					
(41 FR-34526 - August 13, 1976)					
Bronx, Kings, Queens, New York, and Richmond Counties, New York					
Change: Laborers:					
Cement Concrete Workers	7.00	8.025	1.3525	1.20	
Plaster Helpers' (NY-Bronx-Richmond)	8.25	.90	1.00	.35	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #VA76-3213 - Mod. #1					
(41 FR 32187 - July 30, 1976)					
Henrico and the independent City of Richmond, Virginia					
Change:					
Painters:					
Brush, paperhangers, tapers & finishers	$ 7.05				
Structural steel, swing, stage & bosun chair	7.30				
Scaffold or hazardous work above 50' & tanks	7.30				
Spray	7.55				
Sandblasting, elevated tanks, smoke stacks & towers	7.70				
Commercial repaint work	7.00				
Epoxy work - shall be paid an additional 25¢ above the applicable classification.					
Piledrivers & dock builders	7.15	.30	.30		
DECISION #VA76-3214 - Mod. #1					
(41 FR 32189 - July 30, 1976)					
The Cities of Norfolk, Chesapeake, Portsmouth & Virginia Beach, Virginia					
Change:					
Piledrivers & dock builders	7.15	.30	.30		
DECISION #VA76-3215 - Mod. #1					
(41 FR 32191 - July 30, 1976)					
York and the independent cities Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe), Virginia					
Change:					
Piledrivers & dock builders	7.15	.30	.30		

DECISION #VA76-3245 - Mod. #1
(41 FR September 10, 1976)
Alleghany, Austin, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Shenandoah & Warren Counties, Virginia

Add:
To location Rockingham County, Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

DECISION #UT76-5082 - Mod. #1
(41 FR - September 10, 1976)
Statewide, Utah

Change:

	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:						
Dump trucks - Water level capacity (Bottom, end and side) (including Dumpster trucks, Euclid type trucks, Turnawagons, Turnarockers and Dumpcrete)						
Less than 8 yds.	$8.00	$9.50	.54	.65	.82	.10
8 yds. and less than 14 yds.	8.15	9.65	.54	.65	.82	.10
14 yds. and less than 35 yds.	8.30	9.80	.54	.65	.82	.10
35 yds. and less than 55 yds.	8.50	10.00	.54	.65	.82	.10
55 yds. and less than 75 yds.	8.70	10.20	.54	.65	.82	.10
75 yds. and less than 95 yds.	8.90	10.40	.54	.65	.82	.10
95 yds. and less than 105 yds.	9.10	10.60	.54	.65	.82	.10
105 yds. and less than 130 yds.	9.22	10.72	.54	.65	.82	.10
All 130 cu. yds. and over to be paid one-half cent ($.005) per cu. yds. capacity per hour in addition to rate for 105 yds. and less than 130 yds.						

DECISION #UT76-5082 (Cont'd)

Change (Cont'd):	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd):						
Flat rack trucks, bulk cement trucks, transport trucks, semi-trailer (carrying capacity):						
Pickup	$7,825	$9.325	.54	.65	.82	.10
Less than 10 tons	7.90	9.40	.54	.65	.82	.10
10 tons and less than 15 tons	8.05	9.55	.54	.65	.82	.10
15 tons and less than 20 tons	8.15	9.65	.54	.65	.82	.10
20 tons and over	8.30	9.80	.54	.65	.82	.10
Transit mix trucks:						
4½ yds. capacity and less	8.025	9.525	.54	.65	.82	.10
Over 4½ yds. capacity to and including 6½ yds.	8.125	9.625	.54	.65	.82	.10
Over 6½ yds. capacity	8.225	9.725	.54	.65	.82	.10
Concrete Pumping trucks	8.225	9.725	.54	.65	.82	.10
Water, fuel and oil tank trucks:						
Less than 1200 gals.	7.875	9.375	.54	.65	.82	.10
1200 gals. to less than 2500 gals.	8.00	9.50	.54	.65	.82	.10
2500 gals. to less than 4000 gals.	8.15	9.65	.54	.65	.82	.10
4000 gals. to less than 6000 gals.	8.45	9.95	.54	.65	.82	.10
6000 gals. to less than 10,000 gals.	8.70	10.20	.54	.65	.82	.10

DECISION #UT76-5082 (Cont'd)

Change (Cont'd):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck drivers (Cont'd):						
Water, fuel and oil tank trucks (Cont'd):						
10,000 gals. to less than 15,000 gals.	$8.95	$10.45	.54	.65	.82	.10
15,000 gals. to less than 20,000 gals.	9.20	10.70	.54	.65	.82	.10
20,000 gals to less than 25,000 gals.	9.45	10.95	.54	.65	.82	.10
Over 25,000 gals.	9.70	11.20	.54	.65	.82	.10
Oil spreader operator (on single man operation where boot man is not required)	8.70	10.20	.54	.65	.82	.10
Construction job servicemen:						
Telescopic man-lift truck	8.20	9.70	.54	.65	.82	.10
Fork lift (under 6 tons) and straddle truck	8.20	9.70	.54	.65	.82	.10
Truck driver helper	7.775	9.275	.54	.65	.82	.10
Chauffeurs	7.775	9.275	.54	.65	.82	.10
Bunkers and truck loaders	7.90	9.40	.54	.65	.82	.10
Warehousemen (Counter clerk)	7.95	9.45	.54	.65	.82	.10
Warehouseman	7.825	9.325	.54	.65	.82	.10
Washers	7.975	9.475	.54	.65	.82	.10
Fireman and Greaser	8.40	9.90	.54	.65	.82	.10
Gas station attendants	7.825	9.325	.54	.65	.82	.10
Fork lift (over 6 tons)	8.30	9.80	.54	.65	.82	.10

DECISION #UT76-5082 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck drivers (Cont'd)						
Construction job servicemen (Cont'd):						
Teamster mechanic	$9.01	$10.51	.54	.65	.82	.10
Teamster mechanic helper	8.76	10.26	.54	.65	.82	.10
Teamster welder	9.01	10.51	.54	.65	.82	.10
Teamster driving two horses	8.775	10.275	.54	.65	.82	.10
Teamster driving three or more horses	8.875	10.375	.54	.65	.82	.10
Sweeper or vacuum truck	8.15	9.65	.54	.65	.82	.10

AREA DEFINITIONS

Laborers (Heavy and Highway), Power Equipment Operators and Truck Drivers

AREA 1: All areas included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:
Commencing at the intersection of the Utah/Nevada border and the southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;
Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;

AREA DEFINITIONS (Cont'd)

Laborers (Heavy and Highway), Power Equipment Operators and Truck Drivers (Cont'd)

AREA 1 (Cont'd):

Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;
Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning; commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 as defined.

STATE: CONNECTICUT COUNTIES: *See Below
DECISION NUMBER: CT76-2111 DATE: Date of Publication
Supersedes Decision No. CT76-2042 dated April 2, 1976, in 41 FR 14276
DESCRIPTION OF WORK: Building Construction(including residential), Heavy and Highway Construction

*Fairfield, Litchfield, New London and Windham	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Fairfield County; Litchfield County: Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, and Thomaston; New London County: Bozrah, Colchester, East Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salem, Sprague and Waterford; Windham County: Ashford, Chaplin, Eastford, Hampton, Scotland and Windham	$10.34	.65	.96		
Litchfield County: Canaan, Colbrook, Norfolk, North Canaan and Salisbury; Windham County: Woodstock	9.60	.54	.75		.01
New London County: Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, and Voluntown; Windham County: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling and Thompson	9.32	.71	.83		
BOILERMAKERS.	10.00	.60	10%		.01
BRICKLAYERS; Cement Masons; Finishers; Marble Masons; Plasterers; Stonemasons; Terrazzo Workers; and Tile Setters (Building Construction): Fairfield County: Bridgeport Easton, Fairfield, Monroe, Southport, Stratford, and Trumbull	9.60	.50	.50		$50.00p/y
Fairfield County: New Canaan, Norwalk, Ridgefield, Weston, Westport, and Wilton	9.60	.50	.50	a	$50.00p/y

DECISION NO. CT76-2111

BRICKLAYERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairfield County: Darien & Stamford	$9.60	.53	.25		
Fairfield County: Greenwich	9.60	.41	.45		
Fairfield County: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, & Sherman; Litchfield County: Bridgewater, Kent, New Milford, & Roxbury	9.30	.50	.50		
Litchfield County: Bantam, Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, North Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Winsted	9.45	.50	.50		
New London County; Windham County	9.85	.50	.50		.01
Litchfield County: Plymouth, Thomaston, Watertown, & Woodbury	9.41	.50	.55		
BRICKLAYERS (Heavy and Highway Construction): Fairfield County, except Darien, Greenwich, & Stamford; Litchfield County, west of Housatonic River	8.75	.65	.50	b	
Fairfield County: Darien & Stamford	8.83	.53	.25	b	
Fairfield County: Greenwich	8.84	.41	.45	b	
Litchfield County, east of Housatonic River; New London County & Windham County	8.70	.65	.50	b	
CARPENTERS; Millwrights; Pile-drivermen; & Soft floor layers (Building Construction): Fairfield County: Greenwich	8.88	.45	.35	.50	.02
Fairfield County: Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston, & Westport, & that part of Orange from Orange Center Road west to Milford & the Oyster River situated in Orange	9.35	.50	.30	c	$50.00p/y

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Fairfield County: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton; Litchfield County: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Woodbury	$9.25	.50	.40		.05
Litchfield County: Harwinton, Plymouth, & Terryville	9.65	.65	.40		.05
Fairfield County: Shelton	9.35	.35	.30	d	
Litchfield County: Morris (South of Route #109), Northfield, Thomaston, & Watertown	9.35	.50	.30	e	.03
New London County: Bozrah, Colchester, East Lyme, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, North Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington (North of Route #184), Voluntown, & Waterford; Windham County: Canterbury (South of Route #14), Colchester, Franklin & Scotland	9.75	.65	.40		.03
CARPENTERS (Heavy and Highway Construction):					
Fairfield County: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	9.40	.65	.40	f	$50.00p/y
Fairfield County: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, & Wilton; & Litchfield County	9.40	.65	.40	f	.05
Fairfield County: Greenwich	9.45	.60	.40	f	.02
New London & Windham Counties	9.40	.65	.40	f	.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Fairfield County: Norwalk (east of Five Mile River), Weston, Westport and Wilton					
Building Construction	9.60	.68	1%+.30	6%	1/4%
Residential Construction	5.30	.68	1%+.30	6%	1/4%
Fairfield County: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Redding, Ridgefield, Shelton, Sherman, Stratford, and Trumbull; Litchfield County: Bridgewater, and New Milford					
Building Construction	10.05	.58	1%+.30		1/4%
Residential Construction	5.60	.43	1%+.20		1/4%
Fairfield County: Darien, Greenwich, New Canaan, and Stamford	9.68	3-3/4%	7½%+1.50	10%	1/2%
Litchfield County: Plymouth					
Building Construction	9.87	1.00	1%+.50		1/4%
Residential Construction	5.53	.55	1%+.50		1/4%
New London County: Bozrah, Colchester, Franklin, Griswold, Lebanon, Ledyard, Lisbon, Montville, North Stonington, Norwich, Preston, Salem, Sprague, Stonington, and Voluntown; Windham County					
Building Construction	10.55	1.00	1%+.50		1/2%
Residential Construction	5.50	.75	1%+.45		1/2%
New London County: East Lyme, Groton, Lyme, New London, Old Lyme and Waterford	10.16	.80	1%+.40		
Litchfield County: Remainder of County	9.55	.82	1%+.60	g	1/8%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+h+i	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
Fairfield County: Greenwich	9.10	.66	1.66	.365	.03
Fairfield County: (Remainder of County); Litchfield County	9.53	.95	.47	j	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS: (Cont'd)					
New London County; Windham Co.	$10.81	.84	.55	k	
IRONWORKERS:					
Ornamental; Reinforcing; Structural; and Precast concrete erection	11.10	.75	.95	l	.08
LATHERS:					
Fairfield County: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport, and Wilton	9.73	.35	.40		.01
Fairfield County: Greenwich, New Canaan, Norwalk, and Stamford	8.51	.35	.20	.75	.01
Fairfield County: Bethel, Brookfield, Danbury, New Fairfield, Newtown, and Sherman; Litchfield County: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford, North Canaan, Plymouth, Roxbury, Thomaston, Torrington, Warren, Washington, Watertown and Woodbury	9.65	.35	.30		.01
Litchfield County: Barkhamsted, Colebrook, New Hartford, Norfolk, and Winchester; New London County: Bozrah, Colchester, East Lyme, Franklin, Groton, Lebanon, Lisbon, Lyme, Montville, Norwich, Old Lyme, Salem, Sprague, and Waterford; Windham County: Chaplin, Hampton, Scotland and Windham	9.90	.35	.30		.01
New London County: Groton; Windham County: Danielson	9.25	.45	.55		.01
LEADBURNERS	9.25	.35		m	.01

DECISION NO. CT76-2111

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Fairfield County: Darien, Greenwich, New Canaan, Stamford, and that portion of Norwalk, west of Five Mile River				..	
Linemen	$9.33	3-3/4%	6%+n+o	10%	1/2%
Cable Splicers	9.33	3-3/4%	6%+n+o	10%	1/2%
Driver Groundmen	9.33	3-3/4%	6%+n+o	10%	1/2%
Fairfield County: Remainder of County; Litchfield County; New London County; and Windham Co.				..	
Linemen	10.16	.40	1%	p	3/8%
Equipment Operators	9.48	.40	1%	p	3/8%
Driver Groundmen	7.32	.40	1%	p	3/8%
MARBLE SETTERS' HELPERS:					
Fairfield County: Darien, Greenwich, Norfolk, Stamford, and Westport	7.33	.74	.88	q	
MARBLE SETTERS' HELPERS; Terrazzo Workers' Helpers; and Tile Setters' Helpers:					
Fairfield County: Remainder of County; Litchfield County; New London County; and Windham County	8.65	.50	.65		
PAINTERS:					
Bridge (all Counties)					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Fairfield County: Greenwich					
Brush; Structural Steel; Paperhangers; Tapers	7.90	.20	.75	.30	
Spray	11.85	.20	.75	.30	
Fairfield County: Bridgeport Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	8.60	.35	.55	r	
Spray	10.60	.35	.55	r	
Taper	8.99	.35	.55	r	

DECISION NO. CT76-2111

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Fairfield County: Darien and Stamford					
Brush; Structural Steel	$7.38	.35	.50		.01
Spray	10.50	.35	.50		.01
Fairfield County: New Canaan, Norwalk, Weston, Westport, and Wilton					
Brush	7.58	.35	.50		.01
Fairfield County: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Sandy Hook and Sherman; Litchfield County: New Milford					
Brush; Roller	9.35	.50	.25		
Paperhangers; Tapers	8.70	.50	.25		
Epoxy	10.85	.50	.25		
Residential	7.60	.50	.25		
Fairfield County: Byram					
Brush	8.15	.45	.45+.426/7	.40	
Spray	9.15	.45	.45+.426/7	.40	
Steel and swing stage and boatswain chair	9.31 3/7	.45	.45+.426/7	.40	
Drywall Taper	8.95	.45	.45+.426/7	.40	
Fairfield County: Monroe and Shelton					
Brush	9.25	.35	.80	a	.01
Hand roller; Paperhangers	9.75	.35	.80	a	.01
Structural Steel	10.25	.35	.80	a	.01
Spray	12.25	.35	.80	a	.01
Windham County: Willimantic and Windham					
Brush; Tapers	9.60	.50	.30		
Paperhangers	10.10	.50	.30		
Riding Steel, Steamcleaning, Sandblasting, Tanks, Towers, and hazardous work	10.18	.50	.30		
Spray	12.60	.50	.30		
Litchfield County: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, Newfield, North Canaan, Plymouth, Salisbury,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd) Sharon, Terryville, Torrington, Warren, Winchester, and Winsted					
Brush; Roller	$9.15	.60	.45		
Spray; High	12.00	.60	.45		
Epoxy	9.30	.60	.45		
New London County: Norwich; Windham County, except Willimantic and Windham					
Brush	8.95	.35	.60		.01
Paperhangers	9.25	.35	.60		.01
Sign	9.33	.35	.60		.01
Taping	9.35	.35	.60		.01
Roller	9.45	.35	.60		.01
Structural Steel	9.75	.35	.60		.01
Spraying oil paint	12.10	.35	.60		.01
Spraying epoxy	13.35	.35	.60		.01
PLUMBERS:					
Windham County: Windham	10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
Fairfield County: Greenwich	10.00	.45	.70		.02
Fairfield County: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, and Trumbull	9.74	.75	.70	4%	.01
Fairfield County: Georgetown, Norwalk, South Norwalk, Weston, Westport, and Wilton	9.50	.75	.50	.36	.02
Fairfield County: Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield and Sherman; Litchfield County: Bridgewater, and New Milford	9.85	.75	.70	.50	.02
Fairfield County: Darien, New Canaan and Stamford	10.20	.75	.70	4%	.02
Litchfield County: Bantam, Barkhamsted, Canaan, Colebrook Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, North Canaan, Salisbury, Sharon, Torrington, Warren, Winchester and Winsted	9.64	.83	.70	t	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters (Cont'd)					
Litchfield County: Bethlehem New Preston, Plymouth (including Terryville), Roxbury, Thomaston, Washington, Watertown and Woodbury	$10.00	.83	.70	t	.05
New London County: Bozrah, Colchester, East Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, North Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, and Waterford; Windham County: entire County, except Windham	11.32	.40	.70	u	.025
ROOFERS:					
Fairfield County, except that portion of Fairfield County bounded on the east by the eastern boundary of Greenwich; Litchfield County: Bethlehem Bridgewater, Kent, New Milford, Roxbury, Washington and Woodbury	9.25	.80	.50		
Litchfield County: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, East Canaan, Falls Village, Gaylordsville, Goshen, Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Pequabuck, Pine Meadow, Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, South Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, West Cornwall, West Goshen, Winchester Center, and Winsted; New London County; and Windham County					
Composition	8.75	.525	.70	.55	
Slate and Tile	9.25	.525	.70	.55	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (CONT'D)					
Fairfield County: that portion of Fairfield County bounded on the east by the eastern boundary of Greenwich					
Slate and Tile	$9.20	.50	1.40	1.40	
Helpers	7.50	.50	1.00	1.00	
SHEET METAL WORKERS:					
Fairfield County; Litchfield County	11.04	6½%+v	5%		.02
New London County; and Windham County	10.95	.50	.66		.07
SPRINKLER FITTERS	11.38	.60	.90		.08
STEAMFITTERS:					
Windham County: Windham	10.27	1.16	.66		.13
TILE SETTERS' HELPERS:					
Fairfield County: Darien, Greenwich, Norwalk, Stamford, and Westport	7.58	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 2 paid holidays: C and D
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. The last 4 regular working hours prior to Christmas shall be a paid half day.
h. 6 paid holidays: A through F.
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, 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 day preceding and following the holiday.
n. 1% of the gross electrical labor payroll
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
q. 1 paid holiday: St. Patrick's Day
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
s. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day
u. 1 paid holiday: D
v. 3% of gross earnings to SASNI

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Kochring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Fork lift not over 4'; & Steam Jenny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day					
FOOTNOTE: a. 7 paid holidays: A through F, and Good Friday					
LABORERS (Heavy and Highway Construction):					
Laborers	$7.50	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

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TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional-type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
LABORERS (Building Construction):					
Laborers; Carpenters' tenders; & wrecking laborers	$7.25	.50	.45		.05
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.50	.50	.45		.05
Air track operators; Sandblasters; & Wagon drill operators	7.75	.50	.45		.05
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.25	.50	.45		.05
Bottom man	7.75	.50	.45		.05

DECISION NO. GT76-2111

POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra			"	"	
Crane with 200' boom - $.50 extra			"	"	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

SUPERSEDEAS DECISION

STATE: CONNECTICUT COUNTIES: *See Below
DECISION NUMBER: CT76-2112 DATE: Date of Publication
Supersedes Decision No.: CT76-2043 dated April 2, 1976, in 41 FR 14285
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

*Hartford, Middlesex, New Haven and Tolland	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Hartford County: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, East Hartford, East Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, South Windsor, West Hartford, Wethersfield, and Windsor; Middlesex County; New Haven County; and Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon and Willington	$10.34	.65	.96		
Hartford County: East Granby, Enfield, Granby, Hartland, Suffield, and Windsor Locks; Tolland County: Somers, Stafford and Union	9.60	.54	.75		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement Masons; Finishers; Marble Masons; Plasterers; Stonemasons; Terrazzo Workers and Tile Setters (Building Construction):					
Hartford County: Avon, Bloomfield, Burlington, Enfield, East Granby, East Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rocky Hill, Simsbury, South Windsor, Suffield, Thompsonville, West Hartford, Wethersfield, Windsor, Windsor Locks; Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon and Willington	9.70	.65	.50		

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BRICKLAYERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hartford County: Berlin, Kensington, New Britain, Newington, Plantsville, and Southington; New Haven County: Meriden	$9.60	.50	.50		
Hartford County: Canton	9.45	.50	.50		
Middlesex County	9.85	.50	.50		.01
New Haven County: Bethany, Branford, East Haven, Guilford, Hamden, Madison, New Haven, North Branford, North Haven, Orange, West Haven, Woodbridge, part of Milford, and parts of Cheshire	9.55	.65	.50		
New Haven County: Ansonia and Derby	9.10	.50	.50	a	
Hartford County: Bristol, Marion and Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury and Wolcott	9.41	.50	.55		
New Haven County: Devon to the Orange Town line and the Indian River in Milford	9.60	.50	.50		$50.00p/y
BRICKLAYERS (Heavy and Highway Construction):					
New Haven County: Milford	8.75	.65	.50	b	
Hartford County; Middlesex Co.; New Haven County, except Milford; and Tolland County	8.70	.65	.50	b	
CARPENTERS; Millwrights; Piledrivermen; and Soft Floor Layers (Building Construction):					
New Haven County: Milford	9.35	.50	.30	c	$50.00p/y
Hartford County: Avon, East Granby, East Hartland, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Rocky Hill, Simsbury, South Windsor, Suffield, Thompsonville, Unionville, West Hartford, Wethersfield, Windsor, Windsor Locks; Tolland County: Bolton, Ellington, Rockville, Somers, Stafford, Tolland, & Vernon	9.31	.50	.30		.05

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CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hartford County: Berlin, Bristol, Canton, East Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, & Southington; Middlesex County: New Haven County: Meriden, & Wallingford	$9.65	.65	.40		.05
New Haven County: Bethany, Branford, East Haven, Guilford, Hamden, Madison, New Haven, North Branford, North Haven, South Cheshire, West Haven, & Woodbridge	9.30	.50	.30		
New Haven County: Ansonia, Derby, Orange, Oxford, & Seymour	9.35	.35	.30	d	
New Haven County: Beacon Falls, Bethany (to the firehouse), Cheshire (west of Route #10 from Southington to Hamden line), Middlebury, Naugatuck, Prospect Southbury, Waterbury, & Wolcott	9.35	.50	.30	e	.03
CARPENTERS (Heavy and Highway Construction):					
New Haven County: Ansonia, Derby, Milford, Orange (west of Orange Center Road & south of Route #1 & west of the Oyster River), Oxford, & Seymour	9.40	.65	.40	f	$50.00p/y
Hartford County; Middlesex County; & New Haven County: Remainder of County; Tolland County: Bolton, Ellington, Somers, Stafford, Tolland, & Vernon	9.40	.65	.40	f	.05
Tolland County: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	9.40	.65	.40	f	.03
ELECTRICIANS:					
New Haven County: Milford	10.05	.58	1%+.30		½%
Hartford County: Berlin, Bristol, New Britain, Newington, Plainville, & Southington	9.87	1.00	1%+.50		½%
Hartford County: Suffield, & Thompsonville	8.29	.48	1%+.15	.43	g
Hartford County: Hartland; New Haven County: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	9.55	.82	1%+.60	h	1/8%

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ELECTRICIANS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hartford County: Remainder of County; Middlesex County: Cromwell, Middlefield, Middletown and Portland; Tolland Co.	$10.55	1.00	1%+.50		1/2%
Middlesex County: Centerbrook Chester, Clinton, Cobalt, Deep River, Durham, East Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall and Westbrook; New Haven County: Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, North Branford, North Haven, Northford, Orange, South Britain and Wallingford	10.16	.80	1%+.40		
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
New Haven County, except Wallingford	9.53	.95	.47	k	.01
Hartford County; Middlesex Co.; New Haven County: Wallingford; Tolland County	10.81	.84	.55	l	
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast concrete erection	11.10	.75	.95	m	.08
LATHERS:					
Hartford County: Bristol, Southington; New Haven County: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury and Wolcott	9.65	.35	.30		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS: (Cont'd)					
Hartford County: Avon, Berlin, Bloomfield, Burlington, Canton, East Granby, East Hartford, Farmington, Glastonbury, Granby Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, South Windsor, West Hartford, Windsor and Windsor Locks; Middlesex County: Cromwell, East Haddam, East Hampton, Middlefield, Middletown and Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield, and Vernon	$9.90	.35	.30		.01
Hartford County: Broad Brook, Enfield, Hazardville, Melrose, Suffield, Thompsonville, and Warehouse Point; Tolland Co.: Crystal Lake, North Somers, Somers, Stafford, Stafford Springs, Staffordville and Union	8.45	.45	.25		.01
Middlesex County: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook and Westbrook; New Haven County: Ansonia, Branford, Derby, East Haven, Guilford, Hamden, Madison, Milford, New Haven, North Branford, North Haven, Orange, Seymour, Wallingford, West Haven, and Woodbridge	9.57	.50	.30		.01
LEADBURNERS	9.25	.35		n	.01
LINE CONSTRUCTION:					
Linemen	10.16	.40	1%	o	3/8%
Equipment Operators	9.48	.40	1%	o	3/8%
Driver Groundmen	7.32	.40	1%	o	3/8%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS; Terrazzo Workers' Helpers; and Tile Setters' Helpers	$8.65	.50	.65		
PAINTERS:					
Bridge:					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
New Haven County: Milford (up to Gulf Street)					
Brush	8.60	.35	.55	p	
Taping	8.99	.35	.55	p	
Spray	10.60	.35	.55	p	
Hartford County: Avon Bloomfield, Broad Brook, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, South Windsor, Suffield, South Manchester, West Hartford, West Simsbury, Wethersfield, Windsor, and Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Rockville, Stafford, Somers, Tolland, Union, Vernon and Willington					
Brush; Tapers	9.60	.50	.30		
Paperhangers	10.10	.50	.30		
Riding Steel, Steamcleaning Sandblasting, Tank, Towers, and Hazardous work	10.18	.50	.30		
Spray	12.60	.50	.30		
Hartford County: Berlin, Bristol, Burlington, East Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, and Unionville; New Haven County: Cheshire, Guilford, Madison, Meriden, and Wallingford;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Middlesex County: Chester, Clinton, Cromwell, Deep River, Durham, East Haddam, East Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook and Westbrook					
Brush; Roller	$9.15	.60	.45		
Spray; High	12.00	.60	.45		
Epoxy	9.30	.60	.45		
New Haven County: Ansonia, Beacon Falls, Derby, Oxford, and Seymour					
Brush	9.25	.35	.80	q	.01
Hand roller; Paperhangers	9.75	.35	.80	q	.01
Structural Steel	10.25	.35	.80	q	.01
Spray	12.25	.35	.80	q	.01
New Haven County: Bethany, Branford, East Haven, Hamden, Milford (south on Gulf Street and north on North Street), New Haven, North Branford, North Haven, Orange, West Haven, Woodbridge and Woodmont					
Brush; Sandblasting	8.80	.50	.60		.02
Tapers	9.15	.50	.60		.02
Paperhangers	9.30	.50	.60		.02
Spray	11.55	.50	.60		.02
Structural Steel	9.05	.50	.60		.02
New Haven County: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott and Woodbury					
Brush	8.05	.35	.60		
Paperhanger	8.30	.35	.60		
Taping	8.30	.35	.60		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Hartford County: Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks; Middlesex County: Chester, Cromwell, Deep River, East Haddam, East Hampton, Haddam; Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	$10.10	.62	.62		.20
PLUMBERS; Steamfitters:					
New Haven County: Milford	9.74	.75	.70	4%	.01
Hartford County: Southington; Middlesex County: Durham; New Haven County: Cheshire, Meriden, & Wallingford	10.10	.75	.70	r	.03
Hartford County: Berlin, Bristol, East Berlin, Kensington, New Britain, & Plainville	9.40+10%	.75	.70	s	.03
Middlesex County: Clinton, Killingworth, & Westbrook; New Haven County: Branford, Derby, East Haven, Guilford, Hamden, Madison, New Haven, North Branford, North Haven, Orange, West Haven, & Woodbridge	9.98	.75	.70	t	.02
Middlesex County: Essex, Ivoryton, Old Saybrook, & Saybrook	11.32	.40	.70	u	.025

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (Cont'd):					
New Haven County: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour	$10.45	.83	.70	v	.05
New Haven County: Middlebury, Southbury, South Britain, Waterbury, & Wolcott	10.00	.83	.70	v	.05
Hartford County: Hartland	9.64	.83	.70	v	.05
ROOFERS:					
New Haven County: Ansonia, Beacon Falls, Bethany, Branford, Derby, East Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, North Branford, North Haven, Orange, Oxford, Seymour, Union City, West Haven, & Woodbridge	9.25	.80	.50		
Hartford County; Middlesex County; New Haven County: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; & Tolland County					
Composition	8.75	.525	.70	.55	
Slate, Tile	9.25	.525	.70	.55	
SHEET METAL WORKERS	10.95	.50	.66		.07
SPRINKLER FITTERS	11.38	.60	.90		.08
STEAMFITTERS:					
Hartford County: Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex County: Chester, Cromwell, Deep River, East Haddam, East Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	10.27	1.16	.66		.13

DECISION NO. CT76-2112

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:
a. 2 paid holidays: D and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. 4 paid holidays: B, C, D, and E
f. 3 paid holidays: B, C, and D
g. $30.00 per man per week
h. The last 4 regular working hours prior to Christmas Day shall be a paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
l. 9 paid holidays: A thru F, Washington's Birthday, Good Friday and Columbus Day
m. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve
n. 9 paid holidays: A through F, 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 day preceding and following the holiday.
o. 9 paid holidays: A through F, Washington's Birthday, Good Friday and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holiday: D
v. 2 paid holidays: B, D & Half day paid holiday the Friday after Thanksgiving and the last working day before Christmas, & Good Friday paid half day.

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	$10.90	.45	.90	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull or drag material regardless of motive power or operation); Koehring scooper loader and/or hoe; Master mechanic; Shovel; & Tower crane	10.80	.45	.90	a	.10
Maintenance engineer	10.70	.45	.90	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; Combination hoe and loader over 1/4 yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; Pumpcrete machine; Rock boring machine; Vibratory hammer; Welder; & Well digger	10.45	.45	.90	a	.10
Compressor battery operator	9.70	.45	.90	a	.10
Asphalt spreader	10.25	.45	.90	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.20	.45	.90	a	.10
Combination hoe and loader machine Concrete mixer - 5 bags or over; Front end loader under 3 cy.; Powerstone spreader	10.15	.45	.90	a	.10
Air and steam valve	9.45	.45	.90	a	.10
Compressor; Generator; Pump and Well point; Welding machine	9.35	.45	.90	a	.10

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POWER EQUIPMENT OPERATORS (Building construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Fork lift not over 4'; & Steam Janny	$10.05	.45	.90	a	.10
Mechanical heater	9.20	.45	.90	a	.10
Roller	9.95	.45	.90	a	.10
Dinky machine; Power pavement breaker	9.80	.45	.90	a	.10
Fireman (High pressure)	9.00	.45	.90	a	.10
Oiler	8.55	.45	.90	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day					
FOOTNOTE: a. 7 paid holidays: A through F, and Good Friday					
LABORERS (Heavy and Highway Construction):					
Laborers	$7.50	.50	.45		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated concrete vibrator operators; Hand operated vibratory compactor operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic Gas & Electric drill operators; Powdermen & wagon drill operators	7.75	.50	.45		.10
Air track operators; Block pavers; Curb setters	8.00	.50	.45		.10
Blasters	8.25	.50	.45		.10

DECISION NO. CT76-2112

TRUCK DRIVERS (Building, Heavy, and Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Class 1	$7.41	a	b	c	
Class 2	7.51	a	b	c	
Class 3	7.61	a	b	c	
Class 4	7.56	a	b	c	
Class 5	7.66	a	b	c	
Class 6	7.71	a	b	c	

CLASSIFICATIONS:
Class 1: Two axle trucks; Helpers
Class 2: Three axle trucks; Two axle ready mix
Class 3: Four axle trucks; Heavy duty trailer-up to 40 tons
Class 4: Three axle ready-mix
Class 5: Four axle ready-mix; Specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailers (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. $23.60 per week for employees employed over 16 hours and $.42 per hour for employees employed less than 16 hours during the week
b. $23.00 per week for employees employed over 16 hours and $.575 per hour for employees employed less than 16 hours during the week
c. 7 paid holidays: A through F, and Good Friday provided the employee has 31 calendar days' service and is available for work the day preceding and following the holiday

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (Building Construction):					
Laborers; Carpenters' tenders; & wrecking laborers	$7.25	.50	.45		.05
Jackhammer operators; Mason tenders; Mortar mixers; Pipe layers; Plasterers' tenders; & Power buggy	7.50	.50	.45		.05
Air track operators; Sandblasters; & Wagon drill operators	7.75	.50	.45		.05
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.25	.50	.45		.05
Bottom man	7.75	.50	.45		.05

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POWER EQUIPMENT OPERATORS (Heavy and Highway construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$10.93	.45	.90	a	.10
Class 2	10.79	.45	.90	a	.10
Class 3	10.47	.45	.90	a	.10
Class 4	10.28	.45	.90	a	.10
Class 5	10.14	.45	.90	a	.10
Class 6	9.96	.45	.90	a	.10
Class 7	9.76	.45	.90	a	.10
Class 8	8.92	.45	.90	a	.10
Class 9	9.02	.45	.90	a	.10
Class 10	9.36	.45	.90	a	.10
Class 11	9.69	.45	.90	a	.10
Class 12	8.58	.45	.90	a	.10
Class 13	9.30	.45	.90	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); Master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine
Class 8: Compressor; Pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Polk
DECISION NO.: IA76-4150 DATE: Date of Publication
Supersedes Decision No. IA76-4061, dated February 27, 1976, in 41 FR 8688
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.20	.63	.685		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.95	.80	.45		.02
CARPENTERS:					
Carpenters	9.325	.30	.50		.04
Millwrights; Piledrivermen	9.675	.30	.50		.04
CEMENT MASONS	9.93				
ELECTRICIANS	11.02	.40	1%+.60		1%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.81	.45	.25	4.35%	.005
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - General laborers	8.18	.30	.635		
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete; power tool operators (air tools, concrete vibrator, gunnite nozzlemen, electric drills & hammers)	8.28	.30	.635		
GROUP 3 - Plasterers' tenders	8.305	.30	.635		
GROUP 4 - Powderman	8.33	.30	.635		
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	8.38	.30	.635		
GROUP 6 - All tunnel work	8.43	.30	.635		
GROUP 7 - Paving breakers weighing 50 lbs. and over	8.48	.30	.635		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	8.75	.35	1%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	5.69	.35	1%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	5.86	.35	1%	b	1/2%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.00	.35	1%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	4.81	.35	1%	b	1/2%
MARBLE SETTERS	10.185				
PAINTERS:					
GROUP 1 - Brush, roller, drywall finisher	9.61		.20		.03
GROUP 2 - Paperhangers	9.86		.20		.03
GROUP 3 - Spray; Structural steel; Sandblasting; Swing stage	10.11		.20		.03
GROUP 4 - Stack; tower work over 100 ft.	10.71		.20		.03
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	10.65	.55	.75		.10
ROOFERS	8.93		.35		
SHEET METAL WORKERS	10.33	.50	.60		.07
SOFT FLOOR LAYERS	9.035	.30	.50		.04
SPRINKLER FITTERS	11.23	.60	.90		.08
TERRAZZO WORKERS	10.185				
TILE SETTERS	10.185				
TRUCK DRIVERS	5.91				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE
a/ - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F

b - Seven 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

DECISION NO. IA76-4150

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower crane; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull,etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 7.30	.31			
CEMENT MASONS	6.86				
LABORERS:					
Group 1	6.60	.30	.10		
Group 2	6.35	.30	.10		
Group 3	6.10	.30	.10		
Group 4	5.95	.30	.10		
Group 5	5.85	.30	.10		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air tracs, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checkers and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving; sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers, electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rocmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA76-4150

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 7.30	.40	.40		.03
Group 2	6.90	.40	.40		.03
Group 3	6.50	.40	.40		.03
TRUCK DRIVERS	6.34	.35			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: New Hampshire COUNTY: Merrimack
DECISION NO.: NH76-2113 DATE: Date of Publication
Supersedes Decision No. NH75-2097, dated July 18, 1975 in 40 FR 30422.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy, highway, and marine construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.26	.80	.80		.01
Boilermakers	10.00	.60	10%		.01
Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, & tile setters	7.65	.45	.40		.01
Carpenters,	7.20	.55	.50		.01
Electricians:					
Hookset	10.10	.40	1%		.03
Remainder of County	7.90	.40	1%		.02
Elevator constructors	10.665	.495	.32	4%+a+b	.02
Elevator constructors's helpers	7.465	.495	.32	4%+a+b	.02
Elevator constructors's helpers (prob.)	5.33	.495	.32	4%+a+b	.02
Glaziers	7.87	.52	.59		.03
Ironworkers-- structural, ornamental, and reinforcing	9.20	.70	1.00		.02
Laborers:					
Building:					
Laborers	5.91	.60	.70		.10
Plasterers' tenders	6.06	.60	.70		.10
Pipelayers, fence and guard rail erectors	6.16	.60	.70		.10
Pneumatic tool ops, pavement breakers, drillers, chipping gun ops, powdermen & blasters	6.41	.60	.70		.10
Boiler and stack work	6.41	.60	.70		.10
All other pneumatic tool ops on boiler and stack work	6.81	.60	.70		.10
Heavy and Highway:					
Laborers and pipelayers	4.75	.40	.40		.05
Pneumatic tool ops, drillers, concrete vibrators, and electric chipping machines	5.00	.40	.40		.05
Blasterers and powdermen	5.25	.40	.40		.05
Lead burners	9.25	.35		c	.01
Line construction:					
Linemen	7.07	.30	1%	d	
Equipment operator	6.92	.30	1%	d	
Groundman	4.71	.30	1%	d	
Drivers groundman	4.91	.30	1%	d	

DECISION NO. NH76-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters:					
Brush	$4.70	.175			
Open structural steel work to 25 feet and spray	5.95	.175			
Steel, enclosed, over 25 feet	5.80	.175			
Steeplejack	6.80	.175			
Plumbers and steamfitters	9.60	.53	.45		.02
Piledrivermen and millwrights	8.05	.55	.50		.01
Roofers	6.40				
Roofers' helpers	5.60				
Sheet metal workers	8.92	.45	3%+.35		.02
Soft floor layers	6.56	.25	.20		.01
Sprinkler fitters	10.21	.60	.90		.08
Welders-- receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

c. Holidays: A through F; Washington's Birthday, Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday

d. Holidays: B through F, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

POWER EQUIPMENT OPERATORS :

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Ot
CLASS 1	$ 9.00	.75	.75	a	.05	
CLASS 2	8.75	.75	.75	a	.05	
CLASS 3	8.55	.75	.75	a	.05	
CLASS 4	7.975	.75	.75	a	.05	
CLASS 5	7.95	.75	.75	a	.05	
CLASS 6	7.30	.75	.75	a	.05	
CLASS 7	7.50	.75	.75	a	.05	
CLASS 8	10.00	.75	.75	a	.05	
CLASS 9	9.50	.75	.75	a	.05	

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, Veterans Day, Washington's Birthday and Columbus Day.

CLASSIFICATIONS:

CLASS 1--Shovel, crane, dragline, derrick, backhoe, elevator with Chicago boom, gradall, elevating grader, front end loader 6 yds. and over, cherry picker, pile driving rigs, concrete road pavers, all three drum hoisting and trenching machines.

CLASS 2--Rotary drill with mounted compressor, compressor house (3-6 compressors), rock and earth boring machines excluding McCarthy and similar drills, graders, 4 yds. and over front end loader, two drum hoists, high fork lifts with capacity of 15' & over, scrapers, sonic hammer, vibratory hammer.

CLASS 3--Bulldozers, push cats, scrapers (tractor drawn), asphalt paver, front end loader 3/4 yds. to 4 yds., well driller, mechanics, pumperete machines, concrete pumps and similar type pumps, engineer or firemen on high pressure boiler (on job), self loading batch plant, well point operators including installing, engineer-in-charge of powered grease truck, all automatic elevators permanent or temporary operated manually or by remote controls.

CLASS 4--Single drum hoist, self-powered roller, self-propelled compactors, power pavement breakers, concrete pavement finishing machines, two bag mixers with skip, front end loaders under 3/4 yds. McCarthy and similar drills, batch plant not self loading, bulk cement plants, self-propelled material spreaders, A-frame trucks, fork lifts up to 15'.

CLASS 5--Compressor 315 cubic feet and over, (one or two), pumps (4 inches and over-total discharge) when total discharge is over 12 inches, classification 3 will be paid, tractor (without blade or bucket) drawing roller compactors or other machines.

CLASS 6--Compressors(up to 315 cubic feet) small mixers, pumps (up to 4 inches), power heaters, welding machines (when 3 or more heaters or welding machines are used on one job, classification 4 rate will be paid), conveyor, oiler, including helpers on grease trucks and grease trucks with hand greasing equipment.

CLASS 7--Oilers on truck cranes and gradalls.

CLASS 8--Cranes with boom lengths of 200 feet or more.

CLASS 9--Crane with boom length of 150 feet or more.

POWER EQUIPMENT OPERATORS
HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Ot
CLASS 1	$ 8.35	.45	.60	a	.05	
CLASS 2	8.10	.45	.60	a	.05	
CLASS 3	7.90	.45	.60	a	.05	
CLASS 4	7.35	.45	.60	a	.05	
CLASS 5	7.025	.45	.60	a	.05	
CLASS 6	6.50	.45	.60	a	.05	
CLASS 7	8.85	.45	.60	a	.05	

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Veterans' Day; Columbus Day

CLASSIFICATIONS:

CLASS 1--Shovels, Crawler & Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradall, Piledrivers, Concrete Pavers, Engineers on site processing plant, Dragline, Clamshell, Cableways.

CLASS 2--Rotary drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and earth boring machine (excluding McCarthy and similar drills), Graders, Front end loader (4 yds. or over).

CLASS 3--Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-powered Asphalt paver, (Front end loader 3/4 to 4 yds), Mechanics, Well driller, Pumperete machine, Engineer or Fireman on high pressure boiler (on job) Self-loading Batch plant (on job), Well Point Operators.

CLASS 4--Hoists, Conveyors, Self-powered rollers and Compactors, Self-propelled Material spreader, Self-powered concrete finishing machine, Mixers (2 bag with skip), front end loader (under 3/4 yd.), McCarthy and similar drills, Batch plant (not a self-loading), Bulk cement plant.

CLASS 5--Compressor (315 C.F. or over-one or two), Pump 4" or over, Tractor without blades, Drawing sheeps-foot, rubber tired roller or other type compactor including machines for pulverizing and aerating soil.

CLASS 6--Compressor (up to 315 C.F.), Small mixers with skip, Oiler, Pumps up to 4", Grease truck, Power heaters, Welding machines (when 3 or more welding machines Class 4 rate applies), A-Frame Trucks, Forklifts, (where grease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)

CLASS 7--Crane with boom length of 200 feet or more including jib.

POWER EQUIPMENT OPERATORS
MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CLASS 1	$6.335	.275	.30	a	.02	
CLASS 2	6.285	.275	.30	a	.02	
CLASS 3	6.215	.275	.30	a	.02	
CLASS 4	5.965	.275	.30	a	.02	
CLASS 5	5.755	.275	.30	a	.02	
CLASS 6	5.23	.275	.30	a	.02	
CLASS 7	4.555	.275	.30	a	.02	
CLASS 8	5.18	.275	.30	a	.02	
CLASS 9	4.605	.275	.30	a	.02	

Booms over 150' including jib-additional $.25 per hour.
Booms over 185' including jib-additional $.50 per hour.
Booms over 220' including jib-additional $.75 per hour.
Booms over 275' including jib-additional $1.00 per hour.

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. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day; and Veterans' Day; Provided the employee has worked 3 days during the week in which the holiday falls and is available for work the days preceding the holiday.

CLASSIFICATIONS:
CLASS 1--Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift.
CLASS 2--Swinger engine.
CLASS 3--Sonic or vibratory hammer, grader, scraper(over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. struck or less).
CLASS 4--Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.
CLASS 5--Assistant engineer (fireman).
CLASS 6--Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer.
CLASS 7--Oiler (other than truck crane and gradall).
CLASS 8--Oiler on scow.
CLASS 9--Oiler on truck crane and gradall.

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CLASS 1	4.71	.45	.25	a		
CLASS 2	4.94	.45	.25	a		
CLASS 3	5.17	.45	.25	a		

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, plus Washington's Birthday, Veterans' Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first day assigned following the holiday).

CLASSIFICATIONS:
CLASS 1--Two axle equipment.
CLASS 2--Three axle equipment including low beds.
CLASS 3--Special earth hauling equipment other than conventional type on the road trucks and semitrailers trailer dumps.

STATE: New HAMPSHIRE COUNTY: Strafford
DECISION NO.: NH76-2114 DATE: Date of Publication
Supersedes Decision No. NH75-2099, dated July 18, 1975 in 40 FR 30430
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy, highway and Marine Construction.

9-NH-1-2-3-E 1 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, Cement masons, Marble setters, Plasterers, Stone masons, Terrazzo workers and Tile setters	7.65	.45	.40		.01
CARPENTERS & SOFT FLOOR LAYERS	7.20	.55	.50		.01
ELECTRICIANS	9.50	.50	1%+.10		.02
ELEVATOR CONSTRUCTORS	10.665	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.465	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.33	.495	.32	4%+a+b	.02
GLAZIERS	7.87	.52	.59		.03
IRONWORKERS: Structural, Ornamental & Reinforcing	9.20	.70	1.00		.02
LABORERS: Laborers	5.91	.60	.70		.10
Plasterers Tenders	6.06	.60	.70		.10
Boilers, stack work, Pneumatic tool op., drillers, pavement breakers, electric chipping ops., blasters & Powdermen, Creosote work	6.41	.60	.70		.10
Pipelayers, fence & guardrail erectors	6.16	.60	.70		.10
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION: Linemen	7.07	.30	1%	d	
Equipment Operator	6.92	.30	1%	d	
Groundman	4.71	.30	1%	d	
Driver Groundman	4.91	.30	1%	d	
PAINTERS: Brush	6.35		.25		
Spray and Tender	7.35		.25		
Structural Steel	6.96		.25		
Structural Steel (45 ft. or more)	7.96		.25		
Taping & Paperhanging	6.60		.25		
PILEDRIVERMEN & MILLWRIGHTS	8.05	.55	.50		.01
PLUMBERS & STEAMFITTERS	9.60	.53	.45		.02
ROOFERS	6.40				
ROOFERS' HELPERS	5.60				
SHEET METAL WORKERS	8.92	.45	3%+.35		.02
SPRINKLER FITTERS	10.21	.60	.90		.08

DECISION NO. NH76-2114

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 1% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holiday; B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays.

N.H. 3-PEO- 0

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CLASS 1	$ 9.46	.75	.60	a		
CLASS 2	9.34	.75	.60	a		
CLASS 3	8.65	.75	.60	a		
CLASS 4	7.91	.75	.60	a		
CLASS 5	7.39	.75	.60	a		
CLASS 6	6.98	.75	.60	a		

Boom lengths including jib: over 150' add $.35; over 185' add $.70; over 210' add $1.00; over 250' add $1.50; over 295' add $2.00.

FOOTNOTE: a. 10 paid holidays; New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day.

CLASSIFICATIONS:

CLASS 1--Shovels, cranes, truck cranes, cherry pickers, dragline, trench hoe, backhoe, 3 drum machine, derricks, pile driver, elevator tower, hoist, gradall, shovel dozer (except when pushing), front end loader (except when pushing), fork lift, auger, boring machine, rotary drill, post hole hammer, post hole digger, pumpcrete machine.

CLASS 2--Sonic or vibratory hammer, grader, scraper more than 21 yds. struck, tandem scraper, conc. pump, bulldozer, scraper 21 yds. struck or less, portable steam boiler, portable steam generator, roller, spreader, tamper, asphalt paver, Mechanics, Maintenance.

CLASS 3--Assistant engineers (firemen).

CLASS 4--Pumps (1-3 grouped), compressor, welding machine (1-3 grouped), generator, conc. vibrator, lighting plant, heater (power driven 1-5), wellpoint system(operating & installing), syphons-pulsometers, conc. mixers, valves controlling permanent plant air or steam, conveyor, Jackson type tamper, single diaphragm pump.

CLASS 5--Oilers on truck cranes & gradalls.

CLASS 6--Oilers (other than truck cranes & gradalls.

N.H. PEO-2-3

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS 1	$8.65	.75	.80	a		
CLASS 2	9.20	.75	.80	a		
CLASS 3	8.53	.75	.80	a		
CLASS 4	7.465	.75	.80	a		
CLASS 5	8.03	.75	.80	a		
CLASS 6	6.73	.75	.80	a		
CLASS 7	6.79	.75	.80	a		

Boom length including jib: over 150'-additional $.35 per hour; over 185'-additional $.70 per hour; over 210'-additional $1.00 per hour; over 250'-additional $1.50 per hour; over 295'-additional $2.00 per hour.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day.

CLASSIFICATIONS:

CLASS 1--Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist, pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, elevating graders, shovel dozers, (when used for digging or loading), front end loaders(when used for digging or loading), mucking machines (when used as in shafts and tunnels), shaft hoists, steam engineers, backhoes, gradalls and cableways.

CLASS 2--Master Mechanics.

CLASS 3--Graders, scrapers, more than 21 yds., struck and tandem scrapers, bulldozers, scrapers, 21 yds., struck or less, grout pumps, portable steam boilers, rollers, spreaders, asphalt pavers, locomotive and tampers, self-propelled or tractor-drawn, Mechanics, maintenance.

CLASS 4--Pumps (s) (1-3 grouped), compressors welding machine(s) (1-3 grouped) generators; lighting plants, heaters (power driven (1-5), syphons, pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, well point systems (operating and installing).

CLASS 5--Assistant Engineers (Firemen).

CLASS 6--Oilers (other than truck cranes and gradalls).

CLASS 7--Oilers on truck cranes and gradalls.

N.H. 5-PEO-4-F

POWER EQUIPMENT OPERATORS
MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS 1	$6.335	.275	.30	a	.02	
CLASS 2	6.285	.275	.30	a	.02	
CLASS 3	6.215	.275	.30	a	.02	
CLASS 4	5.965	.275	.30	a	.02	
CLASS 5	5.755	.275	.30	a	.02	
CLASS 6	5.23	.275	.30	a	.02	
CLASS 7	4.555	.275	.30	a	.02	
CLASS 8	5.18	.275	.30	a	.02	
CLASS 9	4.605	.275	.30	a	.02	

Booms over 150' including jib-additional $.25 per hour.
Booms over 185' including jib-additional $.50 per hour.
Booms over 220' including jib-additional $.75 per hour.
Booms over 275' including jib-additional $1.00 per hour.

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. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day; and Veterans' Day; Provided the employee has worked 3 days during the week in which the holiday falls and is available for work the days preceding the holiday.

CLASSIFICATIONS:
CLASS 1--Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumperete machine, elevating grader, shovel dozer (except when pushing) front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, fork lift.
CLASS 2--Swinger engine.
CLASS 3--Sonic or vibratory hammer, grader, scraper(over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. struck or less).
CLASS 4--Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.
CLASS 5--Assistant engineer (fireman).
CLASS 6--Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer.
CLASS 7--Oiler (other than truck crane and gradall).
CLASS 8--Oiler on scow.
CLASS 9--Oiler on truck crane and gradall.

N.H. 1-TD-1-2-3-K

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CLASS 1	$4.71	.55	.25	a		
CLASS 2	4.94	.55	.25	a		
CLASS 3	5.17	.55	.25	a		

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, plus Washington's Birthday, Veterans' Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first day assigned following the holiday).

CLASSIFICATIONS:
CLASS 1--Two axle equipment.
CLASS 2--Three axle equipment including low beds.
CLASS 3--Special earth hauling equipment other than conventional type on the road trucks and semitrailers trailer dumps.

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Hamilton and Clermont
DECISION NUMBER: OH76-2110
DATE: Date of Publication
Supersedes Decision No. OH76-2006 dated May 28, 1976, in 41 FR 22014
DESCRIPTION OF WORK: Building Construction, (excluding 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	$10.76	.60	.85		.02
BOILERMAKERS	9.25	.60	.80	1.00	.02
BRICKLAYERS and STONEMASONS	11.145	.55	.35		.01
CARPENTERS:					
Carpenters	10.55	.60	.65		.075
Millwrights	10.69	.50	.85		.10
Piledrivermen	10.55	.60	.65		.075
CEMENT MASONS	10.67	.55	.60		.15
ELECTRICIANS:					
Zone 1 - up to 18 miles	11.30	.70	1%+.40		.5%
Zone 2 - 18 miles to 21 miles	11.60	.70	1%+.40		.5%
Zone 3 - 21 miles to 25 miles	11.70	.70	1%+.40		.5%
Zone 4 - over 25 miles	11.85	.70	1%+.40		.5%
ELEVATOR CONSTRUCTORS	11.15	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.805	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.575				
GLAZIERS	10.10		.35		.005
IRONWORKERS:					
Structural and Ornamental	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02
LABORERS: (Demolition)					
Wrecking Laborers	8.77	.55	.40		.05
Jackhammer Man, Burner and Wall Man	8.92	.55	.40		.05
LATHERS	11.145		.25		.025
MARBLE SETTERS	10.585	.55	.35		
MARBLE SETTERS' HELPERS	9.435				
PAINTERS:					
Commercial Brush	10.65		.25		
Industrial Brush	10.80		.25		
Commercial Spray	11.05		.25		
Industrial Spray	11.20		.25		
LINEMEN	11.30	.70	1%+.40		.5%
PIPEFITTERS	10.80	.70	.975		.06
PLASTERERS	11.445		.50		.02
PLUMBERS and GAS FITTERS	10.92	.65	.90		.05
ROOFERS	11.47		.85		.01
SHEET METAL WORKERS	10.585	.40	.70		.02

DECISION NO. OH76-2110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESILIENT FLOOR LAYERS	$8.95	.45	.55		.05
SPRINKLER FITTERS	12.05	.60	.90		.08
TERRAZZO WORKERS	10.635	.45	.35		
TERRAZZO HELPERS and GRINDERS	9.385				
TILE SETTERS	10.635	.45	.35		
TILE SETTERS' HELPERS	9.535				

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 2% for less than 5 years.

DECISION NO. OH76-2110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$9.30	.55	.40		.05
Group 2	9.40	.55	.40		.05
Group 3	9.45	.55	.40		.05
Group 4	9.50	.55	.40		.05
Group 5	9.65	.55	.40		.05
Group 6	9.80	.55	.40		.05
Group 7	10.05	.55	.40		.05

Group 1: Common Laborers, Cement Masons Helpers, Hand Operated Mechanical Mule, Mechanical Sweeper, Signal Man.

Group 2: Bottom Man, Pipelayer

Group 3: Burning Torch Operator, Jackhammer, Mechanical and Air Tamper Operator, Mechanical Concrete Buggies, power operated mechanical mule, Concrete Pump hose Man, Vibrator Man

Group 4: Plasterer's Tender, Mason Tender, Stone Mason Tender, Bottom Jackhammer Man

Group 5: Plaster Mixer Pump Operator

Group 6: Tunnel Laborer

Group 7: Gunnite Nozzle Operator

DECISION NO. OH76-2110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group A	$11.11	.46	$1.00		.11
Group B	10.95	.46	1.00		.11
Group C	10.59	.46	1.00		.11
Group D	9.81	.46	1.00		.11
Group E	9.48	.46	1.00		.11
Group F	8.03	.46	1.00		.11

Group A: A-frame, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum) mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat

Group B: Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines power grader, power scoops, power scrapers, push cat

Group C: Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under

DECISION NO. OH76-2110

POWER EQUIPMENT OPERATORS: (Cont'd)

Group D: Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator

Group E: Backfillers and tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concerte spreading machine, crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 1/2" discharge, hydro seeders, self propelled power spreader, self-propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

Group F: Oiler, helper, signalman, inboard and outboard motor boat launch, light plant operator, power driven heaters (oil fire), powered boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Lawrence & Mercer
DECISION NO.: PA76-3246 DATE: Date of Publication
Supersedes Decision No. PA76-3156, dated March 26, 1976, in 41 FR 12868.
DESCRIPTION OF WORK: Building Construction (excluding 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	$11.04	.35	.50		.02
Boilermakers	9.815	7.5%	7%		.01
Bricklayers & Stonemasons:					
Lawrence County	9.52	.45	.67		
Mercer County	9.75	.60	.50		.02
Carpenters:					
Lawrence County	9.73	6%	8%	6%	
Mercer County	9.81	.87	.81		.02
Cement masons:					
Lawrence County	10.61				
Mercer County	9.93	.60	1.59		
Electricians:					
Lawrence County	10.10	8%	1%+.19	1.00	1½%
Mercer County	11.45	.35	1%+.45		.01
Elevator Constructors	9.31	.445	.29	3%+b+c	.02
Elevator Constructors Helpers	70%JR	.445	.29	3%+b+c	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Glaziers	10.37	.40	.20		.01
Ironworkers, Structural, Ornamental & Reinforcing	9.77	.40	.85		.05
Laborers:					
Laborers, carryable, pumps, wast brick buggy or similar, vibrator operators, walk behind fork lift or similar (non self-propelled) stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	8.03	.72	.60		
Wast brick buggy or similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) vagon drill runners' helper, (including drill mounted on truck, track					

DECISION NO. PA76-3246

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers' (Cont'd) or similar), blaster's helper, all operators of compacting equipment, pipe layer, burner, jackhammer man concrete buster	8.115	.72	.60		
Hod Carrier, scaffold builder, bell and bottom man on furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used, including starting and stopping) grout machine feeder and pump operator and concrete saw operator, wagon drill operators	8.28	.72	.60		
Gunnite nozzleman	8.53	.72	.60		
Blaster	8.73	.72	.60		
Landscaping:					
Landscape Laborers	6.05	.40	.50		
Skilled Landscape Laborer	6.20	.40	.50		
Landscape Tractor Operator	6.55	.40	.50		
Lead Burners	9.25	.35		a	.01
Line Construction:					
Linemen, dynamite man, heavy equipment operator	10.00	.20	1%		3/8 of 1%
Winch truck operator	7.10	.20	1%		3/8 of 1%
Groundman	6.80	.20	1%		3/8 of 1%
Marble Setters:					
Lawrence County	9.52	.45	.67		
Mercer County	10.615				
Marble Setters helpers:					
Lawrence County	7.95		.10		
Mercer County	9.675				
Millwrights:					
Lawrence County	8.79	5%	3%+.25	19%	1/2%
Mercer County	10.60	.87	.80		.02
Painters:					
Commercial:					
Brush & Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial:					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		

DECISION NO. PA76-3246

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledrivermen:					
Lawrence County	$10.24	5%	10%		50%
Mercer County	10.60	.87	.80		.02
Plasterers:					
Lawrence County	10.96				
Mercer County; Shenango, Sandy, Lake & Redonia Twps.	10.96				
Remainder of County	9.55	.60	.50		.02
Plumbers & Steamfitters:					
Lawrence County	11.09	.56	.51		.05
Mercer County	11.00	.45	.60		.05
Roofers	9.72	.60	.50		.01
Sheet Metal Workers:					
Lawrence County	9.58	.75	.90		.03
Mercer County	10.48	.60	.60		.01
Soft Follo Layers:					
Lawrence County	9.28	6%	6%	6%	.5%
Mercer County	9.27	.87	.80		.02
Sprinkler Fitters	11.61	.60	.90		.08
Terrazzo Workers & Tile Setters:					
Lawrence County	9.52	.45	.67		
Mercer County	10.615				
WELDERS - Receive rate of craft					

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. 8 paid holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the empoloer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

DECISION NO. PA76-3246

PA-2-TD-1-G

TRUCK DRIVERS
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	$6.96	6.5%	5.6%	a	
Class 2	7.01	6.5%	5.6%	a	
Class 3	7.03	6.5%	5.6%	a	
Class 4	7.12	6.5%	5.6%	a	
Class 5	7.05	6.5%	5.6%	a	
Class 6	7.32	6.5%	5.6%	a	
Class 7	7.14	6.5%	5.6%	a	
Class 8	7.30	6.5%	5.6%	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

CLASSIFICTIONS DEFINITIONS

Class 1: Warehouseman , Chauffeur, and Ambulance Driver, Service Truck (pickup, Jeep, Busses, Station Wagon, Panel truck, Escort Vehicle, including Fuel and Water Trucks)

Class 2: Dump and Flat Top (including Fuel and Water Trucks, Fork Lift in Warehouse or job site storage area and single Axle Trucks with power tailgate); Distributor Truck over 33,000 lbs. gross weight (Oil, Tar Asphalt products Two man operation, Both men)

Class 3: Transit Mix, Single Axle

Class 4: Transit Mix, Tandem

Class 5: Heavy Duty Tractor and Trailer with High Bed, 4 wheels

Class 6: Heavy Duty Tractor and Trailer with Low Bed, 6 to 16 Wheels and Pole Trailer and Wide Load

Class 7: Distributor Truck up to 33,000 lbs. gross weight (Oil, Tar Asphalt products) One Man Operation; Truck with Dolly and Scissor Truck; Truck with Dump Trailer or Tandem, including Fuel and Water, Tandem Axle Truck with power Tailgate and Scissor Truck; Euclids or Equivalent, Tri-axle including Mixer, drivers towing equipment

Class 8: Winch Truck and Form Truck

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.775	.65	.80		.09
CLASS 1-A	10.025	.65	.80		.09
CLASS 1-B	11.275	.65	.80		.09
CLASS 1-C	11.525	.65	.80		.09
CLASS 2	10.625	.65	.80		.09
CLASS 3	9.80	.65	.80		.09
CLASS 3-A	10.30	.65	.80		.09
CLASS 4	9.80	.65	.80		.09
CLASS 5	9.05	.65	.80		.09
CLASS 6	8.80	.65	.80		.09
CLASS 6-A	8.90	.65	.80		.09
CLASS 6-B	9.05	.65	.80		.09
CLASS 6-C	9.30	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal kochring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (conic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft, or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumperete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - . Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES, Bucks, Chester, Delaware, Montgomery & Philadelphia

DECISION NO.: PA76-3247

DATE: Date of Publication

Supersedes Decision No.: PA76-3172, dated May 28, 1976, in 41 FR 22016.

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$11.72	.70	.75		.06
ZONE 2	11.10	.70	.75		.025

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia, and Remainder of Bucks County

ZONE 2 - Bridgeton, Durham, Lower Makefield, Middletown Falls, Morristown, New Hope, Newton, Nockamixon, Plumstead, Riegelsville, Solebury, Tullytown, Tinicum, Upper Makefield and Yardley Townships in Bucks County

BOILERMAKER	11.05	.65	1.00		.01
BRICKLAYERS					
ZONE 1	10.38	1.05	1.00		.01
ZONE 2	10.46	.62	1.50		.01
ZONE 3	10.56	1.07	.85		.02

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Bucks, Chester, Philadelphia Counties, Radnor and Haverford Township in Delaware County, Lower Marion, Abington, Upper Moreland and Cheltenham Townships in Montgomery County

ZONE 2 - Remainder of Delaware County

ZONE 3 - Remainder of Montgomery County

CARPENTERS	9.77	1.88	1.30		.12

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE 1	$10.00	1.19	1.25		
ZONE 2	8.70	.58	.42		
ZONE 3	9.69		.50		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bucks, Delaware and Philadelphia Counties, Remainder of Chester County and Remainder of Montgomery County

ZONE 2 - Oxford, Kennett Square, Avondale and Longwood Townships in Chester County

ZONE 3 - Pennsburg and Pottstown Townships in Montgomery County

DRYWALL FINISHERS	9.60	.89	.50	.85	.03
ELECTRICIANS:					
Up to and including three stories	11.43				
Four story garden type apartments					
ZONE 1	12.12	6%	1%+.49		.24
ZONE 2	10.60	.35	1%		.02
ZONE 3	9.99	.53	1%		.03
ZONE 4	10.37	9½%	1%+.7%		½ of 1%
ZONE 5	11.71	4.4%	1%+3%		½ of 1%
ZONE 6	11.55	4.4%	1%+2.6%		
ZONE 7	12.15	5%	1%+.40		.10

DECISION NO. PA76-3247

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Delaware & Philadelphia Counties, Springfield, Glenside, Jenkingtown Townships in Montgomery County, starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad bridge to Route 09113, north 09113 to Route 152, north along Route 152 to the Humeville Road, east on Humeville Road to Route 344, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 113, north on TR 113 to TR 232 at Anchor Inn, Northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded. Starting at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611, south on 611 to the spur of Route 270, northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041, southwest on 09041 to the Montgomery County line Remainder Townships in Bucks County

ZONE 2 - East Rick Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships west of a line following State Highway 212 from Northampton County south to route 09071 along 09071 to State Highway 212, along Highway 212 to route 09068 and along 09068 to State Highway 313, Township in Bucks County, Upper Hanover Township in Montgomery County

ZONE 3 - West Clan, West Brandywine, Honey Brook, Wallace, West Natmeal, East Natmeal, Warwick, South Coventry, Valley and Coatesville Townships in Chester County, Pottsgrove, Upper Pottsgrove, Douglas and Pottstown Townships in Montgomery County

ZONE 4 - Oxford, Kenneth Square, Avondale and Longwood Townships in Chester County

DECISION NO. PA76-3247

AREA COVERED BY ELECTRICIANS ZONES (CONT'D)

ZONE 5 - Parkersburg, West Grove & West Chester Townships in Chester County

ZONE 6 - Remainder of Chester and Montgomery Counties

ZONE 7 - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the PA., Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152, north along 152 to the Hulmeville Rd., east on the Hulmerville To Route 344, horth on Route to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north, TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, nor north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Borough of New Hope and Briston are included, Townships and or Boroughs in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	$12.09	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	8.46	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	6.045				
GLAZIERS					
ZONE 1	10.08	.45	.25		.01
ZONE 2	8.89	.40	.30		.01

DECISION NO. PA76-3247

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Delaware and Philadelphia Counties, Remainder of Bucks, Chester and Montgomery Counties

ZONE 2 - Milford, West Rockville, Rickland, E. Rockville, Haycock, Durham, Springfield, Richlandtown, Sqoherton, Nockamixon Townships in Bucks County, Warwick, S. Coventry, E. Coventry, N. Coventry, Spring City and Royersford Townships in Chester County, Pottstown, Lower Pottsgrove, Limrick, Lower Frederick, Upper Salford, Sounderton, Greenland, Upper Hanover, New Hanover, Douglas, Marlboro Twps. in Montgomery County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
ZONE 1	$10.36	.79	1.11		.05
ZONE 2	10.53	.79	1.11		.05
ZONE 3					
Structural & ornamental	11.67	.84	1.21		.04
Reinforcing	11.42	.84	1.46		.01

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Bucks County

ZONE 2 - Chester County

ZONE 3 - Delaware, Montgomery and Philadelphia Counties

DECISION NO. PA76-3247 ...

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
CLASS I	$ 7.95	.90	.65		
CLASS II	8.05	.90	.65		
CLASS III	8.10	.90	.65		
CLASS IV	8.25	.90	.65		
CLASS V	8.35	.90	.65		
CLASS VI	7.89	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non-metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard workers

LANDSCAPE LABORERS					
CLASS I	6.60	.95	.65	c	
CLASS II	7.10	.95	.65	c	

DECISION NO. PA76-3247

CLASSIFICATIONS DEFINITIONS

CLASS I - Landscape Laborers

CLASS II - Farm tractor driver, hydroseeder nozzle man, and mulcher nozzle man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.61	.225	.10		
ZONE II	9.15	.50	.15		.01
ZONE III	7.69	.40	.25		
ZONE IV	7.75	.25	.25		.02

AREAS COVERED BY LATHERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE II - Coatesville & lower part of Chester County

ZONE III - Milford, Trumbersville, Richland, Quakertown, Springfield, Durham, Riegelsville, Bridgetown, Noxkamixon, Tinicum, Plumstead, Dublin, Bedminister, Haycock, East Rockhill, Perkasie, Sellersville, West Rockhill Townships in Bucks County

ZONE IV - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown Townships in Bucks County

DECISION NO. PA76-3247

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS	$ 9.25	.35		d	.01
LINE CONSTRUCTION					
Linemen	13.09	.30	1%		1%
Groundmen	7.85	.30	1%		1%
Winch truck operator	9.61	.30	1%		1%.
MARBLE SETTERS	9.30	.77	.75		
MILLWRIGHTS	10.27	1.88	1.30		.12
PAINTERS:					
ZONE 1					
Brush	10.920	.825	.40	.40	.06
Spray, steel & swing	9.295	.825	.40	.40	.06
Roller	10.920	.825	.40	.40	.06
ZONE II					
Commercial, brush	9.05	.65	.50		
Commercial, spray	9.40	.65	.50		
ZONE III					
Brush	8.40	.60	.45		
Steel and spray	9.45	.60	.45		
Roller	8.40	.60	.45		
ZONE IV					
Brush	9.64	.55	.60	.75	
Steel	10.39	.55	.60	.75	

AREA COVERED BY PAINTERS ZONES

ZONE I - Bucks & Phiadelphia Counties: Randnor, Haverford, Newton, Maple, Springfield, Upper Darby, Barby, Ridley, Tinicum & Yeodon Townships in Delaware County, Cheltenahm, Abington, Upper and Lower Moreland, Springfield, Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper Sputhampton, Lower Southampton Townships in Montgomery County

ZONE II - Chester County and R emainder of Delaware County

ZONE III - Pottstown, Pottsgrove, New Hanover and Douglas Townships in Montgomery County

ZONE IV - Remainder of Montgomery County

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$10.42	1.88	1.30		.12
POINTERS, CAULKERS AND CLEANERS	9.25	.45	.50		
PLASTERERS:					
ZONE I	9.47	.53			.01
ZONE II	9.71		.53		.01
ZONE III	8.97	.65			.01
ZONE IV	9.45				.01

AREA COVERED BY PLASTERERS ZONES

ZONE I - Bucks & Philadelphia Counties; Remainder of Chester County, Remainder of Montgomery County

ZONE II - Pennsburg Township in Montgomery County

ZONE III - Longwood, Kennett Square, Avondale and Oxford Townships in Chester County

ZONE IV - Delaware County

PLUMBERS:					
ZONE I	11.96	.57	1.00		.12
ZONE II	8.50	.485	.82		.035
ZONE III	10.02	.57	.92		.08

AREA COVERED BY PLUMBERS ZONES

ZONE I - Delaware & Philadelphia Counties; Remainder of Bucks County: Tedyffrin, E. Whiteland, W. Whiteland, Easttown, Willistown, E. Goshen, W. Goshen, W. Chester, E. Bradford, Westtown, Birmingham, Twps. & Thornbury City Townships in Chester County, Lower Marion, Horsham, Upper Dublin, Moreland, Lower Moreland, Abington, Springfield and Cheltenham Townships in Montgomery County

ZONE II - Remainder of Chester & Montgomery County

ZONE III - Milford, Trumbaversville, West Rockhill, Sellerville, Perkasie, East Rockhill, Richland, Quackertown, Haycock, Nockamixon, Bridgetqn, Durham, Riegelsville Townships in Bucks County

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
ZONE I					
Composition, damp & waterproofers	$11.36	1.20	.82	a	
Roofers Assistant	5.20	1.55	.82	a	
Slate, tile and asbestos	10.00	1.00	.50		
Asphalt shingle	8.54	1.00	.50		
ZONE II					
Composition & slate	8.35	.25	.25		
Helpers	4.63	.25	.25		
ZONE III					
Composition roofers	9.70	.40	.50		
ZONE IV					
Composition, damp & waterproofing	10.60	.45	.25	f	
Slate, tile & asbestos	11.15	.45	.25	f	
Precast slab	11.40	.45	.25	f	

AREA COVERED BY ROOFERS ZONES

ZONE I - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE II - Milford, Trumbbaversville, Richland, Quakertown, Springfield, Durham, Reigllville Townships in Bucks County

ZONE III - Solesbury, New Hope, Upper Makefield, Wrightstown, Newtown, Yardley, Lower Makefield, Morrisville, Falls, Tullytown and Bistol Townships in Bucks County

ZONE IV - Parkersbury Township in Chester County

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$11.84	1.01	.65		.03
SOFT FLOOR LAYERS	8.58	1.58	1.30		.12
SPRINKLER FITTERS					
ZONE I	11.61	.60	.90		.08
ZONE II	12.04	.60	.90		.10

/ AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE I - Bucks, Chester, Delaware & Montgomery Counties

ZONE II - Philadelphia County

STEAMFITTERS:					
ZONE I	11.41	.67	1.45		.11

AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Bucks, Delaware, Philadelphia Counties and Remainder of Montgomery County

STONE MASONS					
ZONE I	8.70	.77	.75		
ZONE II	10.51	.67	.60		.01
ZONE III	10.75	.95	.78		.01
ZONE IV	9.30	.77	.75		

AREA COVERED BY STONE MASONS ZONES

ZONE I - Delaware & Philadelphia Counties; Remainder of Bucks County

ZONE II - Montgomery County

ZONE III - Chester County

ZONE IV - Bristol Township in Bucks County

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$ 8.99	.77	.75		
TILE SETTERS	9.25	1.10	.90		.13
WELDERS - 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.

Footnotes:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F.

c. Paid Holidays: July 4th; Labor Day and Thanksgiving Day.

d. Paid holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday

e. Paid Holidays: Election Day.

f. Paid Holidays: Labor Day and Election Day.

DECISION NO. PA76-3247	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$11.91	5.5%	9.5%	a	1.2%
CLASS II	11.65	5.5%	9.5%	a	1.2%
CLASS III	10.78	5.5%	9.5%	a	1.2%
CLASS IV	10.57	5.5%	9.5%	a	1.2%
CLASS V	10.26	5.5%	9.5%	a	1.2%
CLASS VI	10.09	5.5%	9.5%	a	1.2%
CLASS VII	9.58	5.5%	9.5%	a	1.2%
CLASS VIII	8.84	5.5%	9.5%	a	1.2%

CLASSIFICATIONS DEFINITIONS

CLASS I - Handling steel and stone in connection with erection; cranes doing hook work; any machines handling machinery; cable spinning machines; Helicopters; machines similar to the above

CLASS II - Engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes; cableways; draglines; keystones, all types of shovels; derricks; trench shovels; trenching machines; pippin type backhoes; hoist with two towers; pavers 21E and over; all types overhead cranes; building hoists - double drum (unless used as single drum); mucking machines in tunnel; gradalls; front-end loaders over 3 cu. yd., boat captain; tandem scraper; tower type crane operation, erecting, dismantling, jumping or jacking; drill self-contained (drillmaster type); fork lift (20 ft. and over), mortar patrols (fine grade), batch plant with mixer: Machines similar to the above

CLASS III - Conveyors (except building conveyors), building hoists (single drum), scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing); caterpillar-type tractors with frontend overhead loaders and rubber-tired loaders 2 c.y. up to & including 3 c.y., maintenance engineers with tools; spreaders, high or low pressure boilers, concrete pumps, well drillers, fork-lift trucks of all types; bulldozers D-7 or equivalent and over; ditch witch type trencher, motor patrol; machines similar to the above

CLASS IV - Concrete breaking machines, rollers and machines similar to the above

DECISION NO. PA76-3247

CLASSIFICATIONS DEFINITIONS (CONT'D)

CLASS V - All bulldozers under D-7, tractors including rubber-tired type with front and overhead loaders under 2 c.y., seaman pulverizing mixer, welders and maintenance engineers, fireman on power equipment, maintenance engineer (power boat), and machines similar to the above

CLASS VI - Conveyors (building), welding machines, heaters, wellpoints, compressors, farm tractors, form line graders, road finishing machines, pumps, power broom (self contained), seed spreader and machines similar to the above

CLASS VII - Fireman

CLASS VIII - Oilers and deck hand (personnel boats)

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

DECISION NO. PA76-3247

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	$7.92	.6425	.625	a+b	
CLASS II	8.02	.6425	.625	a+b	
CLASS III	8.22	.6425	.625	a+b	

CLASSIFICATIONS DEFINITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type, off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Ross) carrier, lowbed trailers

FOOTNOTES:

a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and (5) personal holidays foe employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

[FR Doc.76-26979 Filed 9-16-76;8:45 am]

federal register

FRIDAY, SEPTEMBER 17, 1976

PART VIII:

CIVIL AERONAUTICS BOARD

FEDERAL DEPOSIT INSURANCE CORPORATION

INTERSTATE COMMERCE COMMISSION

PRIVACY PROTECTION STUDY COMMISSION

TENNESSEE VALLEY AUTHORITY

■

PRIVACY ACT OF 1974

Systems of Records

CIVIL AERONAUTICS BOARD

(Docket No. 28083)

PRIVACY ACT OF 1974
Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4), the Civil Aeronautics Board hereby gives notice that the systems of records identified in Notices published in the Federal Register at 40 FR 33181 and 40782, as amended at 41 FR 5864 and 41 FR 6056 continue in effect.

August 30, 1976.

John E. Robson,
Chairman.

CAB—1

System name: Agreements between carriers for performance of services by specified persons—CAB.

System location: Agreements Division, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Individuals who may be specified for the performance of services in agreements filed with the CAB between an air carrier and another carrier for cooperative working arrangements which affect air transportation.

Categories of records in the system: Contains the name and/or address of the individual and the service which is performed.

Authority for maintenance of the system: Section 412 of the Federal Aviation Act, 49 U.S.C. 1382, Part 261 of CAB Regulations (14 CFR 261).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Agreements between carriers are public records available for any use by any person. Used by CAB to determine whether agreements should be approved or disapproved, and for any other regulatory purpose including use in evidence in proceedings before the Board and the Courts. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order thereunder or any violation of any other federal law or requirement.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Maintained in file folders by number assigned to each agreement. Index file is maintained of names of individuals mentioned in agreements which is cross-referenced to the agreement number. Maintained in areas where CAB personnel are present when office doors are not locked. Agreements maintained by CAB for five years after approval or disapproval, then transferred to a federal records center where they are maintained for five years and then destroyed.

System manager(s) and address: Chief, Agreements Division, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Contesting record procedures: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Air carrier filing the agreement.

CAB—2

System name: Applications by air carriers for approval of the holding by their officers and directors of similar positions in certain other carriers and businesses—CAB.

System location: Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Officers, directors, members and stockholders holding a controlling interest in an air carrier.

Categories of records in the system: Applications by air carriers for CAB approval for the holding with an air carrier of the position of officer, director, member or stockholder holding a controlling interest, and the holding of a similar position with another air carrier, another common carrier or business engaged in a base of aeronautics.

Authority for maintenance of the system: Section 409 of the Federal Aviation Act, 49 U.S.C. 1379.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Applications and filings related thereto are public records available for any use to any person. Used by CAB to determine whether the interlocking relationship should be approved or disapproved, for maintaining surveillance over industry relationships, and for any other regulatory purpose including use in evidence in proceedings before the Board and the courts. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order thereunder or any violation of any other applicable federal law or requirement.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in docket binder by docket number assigned to application. Retrievability—index file is maintained of names of individual officers, directors, members or stockholders holding a controlling interest in an air carrier for whom approval of interlocking relationships is requested which is cross-referenced to the docket numbers. Safeguards—maintained in areas to which access is controlled by or restricted to CAB personnel and which are locked after office hours. Retention and disposal—applications are maintained on file with the Board for two years after their disposition by the Board, and are then transferred to a federal records center where they are maintained for eight years and then destroyed.

System manager(s) and address: Chief, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Air Carriers filing the application.

CAB—3

System name: Consumer complaint records and files—CAB.

System location: Office of the Consumer Advocate and Data Processing Division, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Individuals who as consumers address complaints or requests for assistance to the CAB concerning services provided or offered in air transportation, and persons against whom such complaints or requests are directed.

Categories of records in the system: Contains the name and usually the address of the complainant, the name of the person complained against and the subject and varying details of the complaint.

Authority for maintenance of the system: Sections 204 and 1002 of the Federal Aviation Act, 49 U.S.C. 1324, 1482.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files containing consumer complaints and reflecting their disposition are public files available for any use to any person. Used by CAB in an attempt to informally resolve disputes between consumers and carriers and agents, for maintaining surveillance over industry practices and arrangements, for statistical purposes and for other regulatory purposes including use in evidence in proceedings before the Board and in the courts. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order issued thereunder or any violation of any other applicable federal law or requirement.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—complaints are assigned a number and are maintained in file folders by numerical sequence. Retrievability—the number assigned to the complaint, the name of the complainant, the name of the person complained against, and the subject matter of the complaint are recorded in the CAB's Data Processing System in such manner as to permit retrieval in the name of the complainant or person complained against. Safeguards—maintained in areas to which access is controlled by or restricted to CAB personnel and which are locked after office hours. Retention and disposal—files are maintained for one year after the complaint is closed, and then transferred to a federal records center where they are maintained for four years and then destroyed.

System manager(s) and address: Director, Office of Consumer Advocate, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Contesting record procedures: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The complainant and person complained against.

CAB—4

System name: Correspondence etween Civil Aeronautics Board and persons outside the Board—CAB.

System location: Communications Services Section, Office of Facilities and Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Individuals receiving certain replies in response to their correspondence to the Board.

Categories of records in the system: Central correspondence files which contain the name and address of some individuals writing to the Board and the Board's reply.

Authority for maintenance of the system: Section 204 of the Federal Aviation Act, 49 U.S.C. 1324.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by CAB in answering the inquiries involved, and may be used for any regulatory purpose including use in evidence in proceedings before the Board and the courts. Relevant records in this system of records may be disclosed to any person if required under "freedom of information" or other laws governing access to materials in the Board's possession, and may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order thereunder or any violation of any other federal law or requirement.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—records consist of incoming letter and CAB reply maintained in central correspondence or subject matter files. Retrievability—correspondence in the central correspondence file is maintained in cumulative files sequenced in alphabetical order of addressee. Correspondence control slips bearing the name of some persons from whom letters are recieved are maintained in alphabetical sequence, and some items of correspondence also may be located by reference to these slips. Safeguards—records are maintained in file folders in areas to which access is restricted to Communication Services Section Personnel and which are locked after office hours. Retention and disposal—the records of correspondence signed by the Chairman are maintained by the CAB for five years and then transferrred to a federal records center where they are maintained for fifteen years and then offered to National Archives. The records of correspondence signed by other CAB officials are maintained at the CAB for two years and are then destroyed by burning.

System manager(s) and address: Chief, Communications Services Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Contesting record procedures: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals writing to the CAB, and the CAB.

CAB—5

System name: Employee payroll and leave and attendance records and files—CAB.

System location: Office of Comptroller and Data Processing Division, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: CAB employees.

Categories of records in the system: Records consist of manual files and computer retrievable data containing payroll-related information for CAB employees. Payroll and leave and attendance records and information includes many records or information also maintained in the employee's Official Personnel Folder and related files maintained in accordance with Civil Service Commission regulations and of which notice has been given by the Commission in its notice of government-wide systems of personnel records. Payroll and related information consists of various forms and computer-retrievable data which discloses on a biweekly, year-to-date, and in some cases an annual basis, payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances; tax and retirement deductions; life insurance and health insurance deductions; savings allotments; savings bond and charity deductions; mailing addresses and home addresses.

Authority for maintenance of the system: Section 203 of the Federal Aviation Act, 49 U.S.C. 1323; Federal Personnel Manual and Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare payroll and to meet government payroll record-keeping and reporting requirements, and for retrieving and supplying payroll and leave information as required for agency needs. Other routine uses for certain records contained in this system of records are specified in the Civil Service Commission notice of government-wide systems of personnel records: "C.S.C.—General Personnel Records (Official Personnel Folder and records related thereto)." Relevant records in this system of records may be referred, as a routine use, to the Department of Justice or other appropriate federal agency for investigating or prosecuting any violation of any federal law or requirement thereunder.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—the records maintained by the Office of Comptroller are kept in file folders or on time and attendance cards, and those maintained by the Data Processing Division are maintained on magnetic tape and/or disk. Retrievability—magnetic tapes are indexed by social security number, manual files are indexed by name. Safeguards—files are kept in areas to which only authorized CAB personnel have access and which are locked after business hours. Retention and Disposal—in accordance with Internal Revenue Service and General Services Administration requirements for financial/payroll-related records.

System manager(s) and address: Comptroller and Directors, Bureau of Accounts and Statistics, Office of Personnel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Contesting record procedures: Director, Office of Personnel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Provided by CAB employees.

CAB—6

System name: Employee reports of financial interests and employment—CAB.

System location: Office of Personnel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428

Categories of individuals covered by the system: CAB employees.

Categories of records in the system: CAB Form 141—"Confidential Report of Employment and Financial Interests" required of certain employees contains a statement of the financial interests of the employee and the members of his immediate family and the employment of the immediate family or any other employment by the CAB employee; CAB Form 16—"Employee's Report as to Pecuniary Interests in Civil Aeronautics Enterprises" required of all employees contains similar information with respect to civil aeronautics enterprises.

Authority for maintenance of the system: Sec. 370.735072, 73 (14 CFR 370.375) of the CAB Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by authorized CAB personnel for ascertaining conflicts or apparent conflicts of interest and recommending appropriate action to the employee or to the CAB. In the event that this system of records maintained by CAB to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in individual file folders. Retrievability—maintained in alphabetical order. Safeguards—kept in closed safe with combination lock except when being used by authorized CAB personnel who are instructed as to their confidentiality and permitted use. Retention and Disposal—maintained by CAB until employee leaves the Board and then destroyed by burning.

System manager(s) and address: Director, Office of Personnel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428

Contesting record procedures: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee filing the report.

CAB—7

System name: Employee travel records and files—CAB.

System location: Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Travel vouchers filed by CAB employees and related documents.

Authority for maintenance of the system: Section 204 of the Federal Aviation Act, 49 U.S.C. 1324.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available for any use by any person. Used by CAB for purposes of providing reimbursement to employees for travel expenses and/or record of official travel. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice or other appropriate federal agency for investigating or prosecuting any violation of any federal law or requirement thereunder.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in individual folders for each employee. Retrievability—files are maintained in alphabetical order. Safeguards—maintained in areas to which access is controlled by or restricted to CAB personnel and which are locked after business hours. Retention and Disposal—in accordance with General Services Administration requirements for financial/payroll related records.

System manager(s) and address: Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Contesting record procedures: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: CAB employee executing vouchers or employee auditing voucher.

CAB—8

System name: Investigatory material compiled for law enforcement purposes—CAB.

System location: Bureau of Enforcement, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Users or observers of air transportation services; officers and employees of persons offering or providing air transportation services.

Categories of records in the system: Reports to CAB from sources outside the CAB of violations or suspected violations of laws administered or thought to be administered by CAB; reports of investigations and other materials compiled by CAB staff with respect to possible violations of laws administered by CAB.

Authority for maintenance of the system: Secs. 204, 901, 902, 903, 1002, 1007 of the Federal Aviation Act; 49 U.S.C. 1324, 1471, 1472, 1473, 1482, 1487; Sec. 11 of the Clayton Act, 15 U.S.C. 21; Sec. 108 of the Consumer Protection Act; 15 U.S.C. 1607.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Materials used by CAB staff for informal enforcement purposes and for determining whether to institute or to recommend institution of proceedings for enforcement of statutes edministered by CAB. A record from this system of records may be disclosed as a routine use for purposes of evidence or discovery in any civil, criminal or regulatory proceeding before a court, the CAB, or other agency for enforcement of any federal statute or requirement thereunder administered by the CAB. In the event that this system of records maintained by CAB to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or a particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records also may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; or may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in file folders in file cabinets. Retrievability—investigatory material is

maintained either in file folders to which numbers are assigned and maintained in numerical sequence or in subject matter files. Cross-index files are maintained in alphabetical order which contain the name of the person who reported an alleged violation, the name of the person alleged to have committed the violation or who is the subject of investigation, and the file number or name in which the investigatory material is contained. Safeguards—kept in locked cabinets in areas to which only authorized CAB personnel have access and which are locked when persons in charge of the files are absent. Files available only to authorized CAB personnel who are instructed concerning their use. Retention and Disposal—maintained by CAB for three years after file is closed and then transferred to a federal records center where they are maintained for seven years and then destroyed.

System manager(s) and address: Director, Bureau of Enforcement, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The following system of records has been exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G)(H) and (I) and (f) of section 552a of the Privacy Act since effective law enforcement otherwise would be hampered. The exemption rule is contained in sec. 310a.14 of the CAB Regulations (14 CFR 310a.14, —F.R.—).

CAB—9

System name: Procurement records and files—CAB.

System location: General Services Section, Office of Facilities and Operations; Office of Comptroller; Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: Individuals who provide or may provide supplies or services to the Board by contract.

Categories of records in the system: Bids, offers, contracts, purchase orders, records of performance and payment.

Authority for maintenance of the system: Sec. 203 of the Federal Aviation Act, 49 U.S.C. 1323.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Procurement records and files are used by the Board as the bases for payment of the supplies and service obtained, and as the record relating to their procurement, performance and payment. Vouchers filed by individuals receiving payment for supplies or services, and offers, bids, contracts or purchase orders, are available for any use to any person. In the event that this system of records maintained by CAB to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order pursuant thereto. A record from this system of records also may be disclosed as a "routine use" to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; or may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a secutiry cleanance, the reporting of a investigation of an employee, the letting of a contract, or the issuance of a license grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in file cabinets. Retrievability—records in the Comptroller's Office consist of vouchers filed by the name of each person receiving payment for supplies or services. Records in the General Services Section are maintained by order number of contract number of the vendor in files bearing the name of the vendor. The pertinent file containing information relating to a named individual may be ascertained through reference to the voucher file, to the order master file or the contract index. Safeguards—kept in areas to which only authorized CAB personnel have access and which are locked when persons in charge of files are absent. Retention and Disposition—records relating to expenditures of 2500 or more are maintained by the Board for two years after final payment after which they are transferred to a federal records center where they are maintained for four years and destroyed. Records relating to expenditures of less than

2500 are maintained by the Board for three years after final payment and then destroyed by burning.

System manager(s) and address: Director, Office of Facilities and Operations, and Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. a written request containing the individuals return address, printed or typed name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals bidding for or entering into contracts for supplies and services and CAB personnel as a result of their experience with the vendor or as ascertained by them through inquiry to sources outside the Board.

CAB—10

System name: Property accountability records—CAB.

System location: General Services Section, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: CAB employees.

Categories of records in the system: 3 inch by 5 inch CAB Form 388, executed by each employee to whom accountable government property is issued which contains the employee's name, reference number and property charge to him.

Authority for maintenance of the system: Section 204 of the Federal Aviation Act, 49 U.S.C. 1324.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for control of accountable property.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in cardboard file fox. Retrievability—maintained in alphabetical order. Safeguards—maintained in areas where CAB personnel are present when office doors are not locked. Retention and Disposal—each card is maintained until property is returned or a new card is filled out.

System manager(s) and address: Director, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a written request bearing the individual's return address, printed or typewritten name and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: CAB employee executing form.

CAB—11

System name: Members of Congress biographical information and correspondence—CAB

System location: Office of Community and Congressional Relations, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428.

Categories of individuals covered by the system: Individuals who are current Members of Congress.

Categories of records in the system: Biographical information, including committee assignments and voting records, from public sources such as the Congressional Quarterly, Congressional Directory, and extracts from the Congressional Record and various

aviation publications; and copies of correspondence between Members of Congress and the CAB which are duplicates of those maintained in the "Correspondence between Civil Aeronautics Board and persons outside the Board—CAB" system of records and subject to that Notice of System of Records.

Authority for maintenance of the system: Section 204 of the Federal Aviation Act, 49 U.S.C. 1324.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by CAB staff to answer staff and Congressional inquiries, and may be used for any regulatory purpose including evidence in proceedings before the Board and the courts. Relevant records in this system of records may be disclosed to any person if required under "freedom of information" or other laws governing access to materials in the Board's possession.

Disclosure from the record of an individual may be made to a congressional offiee, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders. Indexed by name of Member of Congress.

Safeguards: Folders are located in lockable metal file cabinets in an area to which access is controlled by CAB personnel and which is locked after business hours.

Retention and disposal: Biographical material is retained during the time an individual is a Member of Congress and then destroyed; duplicate correspondence is retained through the current session of Congress and is then destroyed.

System manager(s) and address: Director, Office of Community and Congressional Relations, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Published Congressional reference materials, aviation publications, members of Congress writing to the CAB, and the CAB.

CAB—12

System name: Mailing lists of persons requesting CAB informational, technical, or statistical material - CAB.

System location: Publications Services Section, Office of Facilities and Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428.

Categories of individuals covered by the system: Individuals who have requested that they be placed on a CAB mailing list, including regular publication customers.

Categories of records in the system: CAB Form 103—"Subscription and Publications Order" containing name, address, item(s) requested, and amount of order; and requests for materials for which no charge is made containing name, address, and item(s) requested.

Authority for maintenance of the system: Section 204 of the Federal Aviation Act, 49 U.S.C. 1324.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by CAB staff to send items requested, and may be used for any regulatory purpose including use in evidence in proceedings before the Board and the courts.

Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders, address card files, and metal addressograph plates.

Retrievability: Folders indexed by name, cards and addressograph plates filed alphabetically by name.

Safeguards: Stored in metal cabinets in an area to which access is controlled by and restricted to CAB personnel and which is locked after business hours.

Retention and disposal: CAB Form 103 is retained until the end of each calendar year and then destroyed; address card files and metal addressograph plates retained until the individual requests removal from the mailing list and then destroyed; requests for materials for which no charge is made are kept for up to one year after the material is sent and then destroyed.

System manager(s) and address: Chief, Publications Services Section, Office of Facilities and Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N. W., Washington, D. C. 20428 a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual or person requesting the material.

CAB—13

System name: Holders of CAB Reports sets—CAB.

System location: Library, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: CAB employees.

Categories of records in the system: 3' x 5' CAB Form 51, executed by each employee to whom CAB Reports are charged. This form contains the following information: the employee's name, reference number, and volumes that have been charged out to him.

Authority for maintenance of the system: Section 204(a) of the Federal Aviation Act, 49 U.S.C. 1324(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for controlling the issuance of sets of CAB Reports to the Board's staff. Relevant records in this system of records may be referred, as a routine use to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order issued thereunder or any violation of any other applicable federal law or requirement. Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in metal file drawer.

Retrievability: Maintained in alphabetical order.

Safeguards: Maintained in areas where Library personnel are present when office doors are not locked.

Retention and disposal: Each card is retained until volumes are returned or a new card is filled out.

System manager(s) and address: Librarian, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Notification procedure: By mailing or delivering to the Office of Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, a written request bearing the individual's return address, printed or typewritten name and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: CAB employee executing form.

CAB—14

System name: Employees holding employee parking permits—CAB.

System location: Office of Facilities and Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: CAB employees who have been assigned employee parking permits or are members of an employee carpool.

Categories of records in the system: Alphabetical listing showing the names of all CAB employees who have been assigned and cur-

rently hold employee parking permits. Also, an alphabetical listing of all CAB employees that indicates the employee carpool (if any) of which they are regularly members.

Authority for maintenance of the system: Section 204(a) of the Federal Aviation Act, 49 U.S.C. 1324(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as a device for identifying and controlling the assignment of employee parking permits in the Universal Building Garage. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order issued thereunder or any violation of any other applicable federal law or requirement. Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Listing of CAB employees holding parking permits maintained in a file folder, listing of all CAB employees indicating carpool membership maintained in CAB phone directory.

Retrievability: Maintained in alphabetical order, by parking permit number and by type of category of parking permit.

Safeguards: Maintained in a file folder in the Director's office where access is limited to the immediate staff of the Director, Office of Facilities and Operations.

Retention and disposal: Listings are retained until such time as a new listing is prepared, or the employee is no longer a member of a carpool.

System manager(s) and address: Director, Office of Facilities and Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: CAB employees applying for an employee parking permit.

CAB—15

System name: Employees holding security clearances—CAB.

System location: Office of Personnel and Communications Services Section, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Categories of individuals covered by the system: CAB employees holding security clearances.

Categories of records in the system: CAB Form 423, Request for Authority for Access to Classified Information in duplicate. This form contains the following information: the employee's name, title, organizational unit and reference number, level of authorization requested, duration of authorization, frequency of access required, a description of the employee's duties requiring access to classified information, the location and source of classified information to be used, the names of other employees in the organizational unit currently authorized access to classified information and the level of such authorization, an endorsement by the head of the office or bureau that the employee be given access to classified information and a brief statement of the reasons therefor, and an authorization granting access to classified information and indicating the level of authorization granted. CAB Form 133, Security Briefing Statement in duplicate which contains an acknowledgment that the employee has been given a security briefing by an officer of the Board and understands his responsibilites regarding the use and transmission of classifed information and material in accordance with the provisions of Executive Order 11652, the employee's name and signature, name and signature of the Board officer conducting the security briefing, and the date the form was signed by the employee and the officer conducting the briefing. CAB Form 134, Security Termination Statement in duplicate, which contains an acknowledgment that the employee has been given a security debriefing and reminded of his responsibilites under Executive Order 11652 regarding the future disclosure of classified information or material to unauthorized persons, the employee's name and signature, the name and signature of the Board officer conducting the security debriefing, and the date the form was signed by the employee and the officer conducting the debriefing.

Authority for maintenance of the system: Section 204(a) of the Federal Aviation Act, 49 U.S.C. 1324(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to identify CAB employees who have been granted access to classified information and material required in the performance of their work. Used to schedule security briefings at the time the employee is granted access to classified information and material as well as schedule security debriefings prior to the employee's separation from the agency or loss of his security clearance. Used to check on employee compliance with the provisions of Executive Order 11652 regarding the use of classified information and material. Relevant records in this system of records may be referred, as a routine use, to the Department of Justice for investigating or prosecuting any violation of the Federal Aviation Act or of any regulation or order issued thereunder or any violation of any other applicable federal law or requirement. Disclosure from the record of an individual may be made to a congressional office, in response to an inquiry which such congressional office presents as being made on behalf of, and at the request of, that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: One copy of each form maintained in individual file folders in the Office of Personnel and the Communications Services Section.

Retrievability: Maintained in alphabetical order.

Safeguards: Maintained in a safe by the Personnel Security Officer in the Office of Personnel in an area to which access is limited to authorized Board employees, maintained in a safe inside a security vault by the Communications Services Section to which access is limited to authorized Board personnel.

Retention and disposal: Records are maintained by the Personnel Security Officer until the employee leaves the Board and then sent along with Civil Service Security information to the Civil Service Commission, where they are disposed of in accordance with Civil Service Commission procedures. Records are maintained by the Communications Services Section until the employee leaves the agency, no longer has access to classified information, or is denied access to classified information by his immediate office or the Board, and then destroyed by burning.

System manager(s) and address: Security Officer, Office of Personnel and Chief, Communication Services Section, Office of Facilities and Operations, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Notification procedure: By mailing or delivering to the Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, a written request bearing the individual's return address, printed or typewritten name, and signature.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Form 423, the employee's supervisor and the Personnel Security Officer; Forms 133 and 134, the employee and the Board officer conducting the briefing or debriefing, as the case may be.

[FR Doc.76-25836 Filed 8-30-76;4:32 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice that the systems of records identified in notices published in the Federal Register at 40 FR 39079, 46288, 56479, continue in effect. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974, 88 Stat. 1896.

By order of the Board of Directors, August 17, 1976.

Federal Deposit Insurance Corporation,

Hoyle L. Robinson,
Assistant Executive Secretary.

FDIC/1

System name: Attorney—Legal Intern Applicant System—FDIC.

System location: Office of the General Counsel, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Applicants for the position of attorney or legal intern with the General Counsel's office of the FDIC.

Categories of records in the system: Contains correspondence from the applicants and individuals whose names were provided by the applicants as references, applicants' resumes, application forms, and, in some instances, comments of individuals who interviewed applicants.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of information may be made in requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Maintained in locked metal file cabinet.

Retention and disposal: Records of unsuccessful applicants are retained two years after their submission; records of successful applicants are retained four years after the successful applicant leaves the employ of the FDIC.

System manager(s) and address: General Counsel, Legal Division, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the applicants, references supplied by the applicants, current and/or former employers of the applicants, and FDIC employees who interviewed the applicants.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(b) of the FDIC's Rules and Regulations, investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under a promise of confidentiality.

FDIC/2

System name: Bank Irregularity Record System—FDIC.

System location: Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Directors, officers and employees of FDIC insured State nonmember banks who have been involved in reported irregularities at such banks. Customers of FDIC insured State nonmember banks, and other individuals, who have been involved in reported irregularities at such banks.

Categories of records in the system: Contains interagency correspondence, intra-agency memoranda and reports of investigation. May contain newspaper clippings. May contain Federal or State criminal law enforcement agency investigatory and/or arrest and conviction reports.

Authority for maintenance of the system: Sec. 5, 6, 9, 18 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1819, 1828, 1829).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on file cards and in file folders.

Retrievability: Indexed by name.

Safeguards: Index cards and file folders are maintained in lockable metal cabinets.

Retention and disposal: Permanent retention with periodic review of contents of record and destruction, by shredder, of excess or outdated information.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429. Inquiries must provide the full name of the inquirer. All inquiries must include a notarized statement attesting to the identity of the inquirer.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: FDIC insured banks. Federal and State banking supervisory authorities. Newspapers. Federal and State criminal law enforcement and prosecutory agencies.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(a) of the FDIC's Rules and Regulations, investigatory material compiled for law enforcement purposes, concerning irregularities committed by officers, directors or employees of FDIC insured State nonmember banks, is exempted from the accounting provisions of section 310.10(d)(2) of the FDIC's Rules and Regulations and may be withheld from disclosure to the extent that such disclosure may interfere with the investigation and preparation of any civil, criminal, or administrative law enforcement proceedings. Federal criminal law enforcement investigatory reports maintained as a part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

FDIC/3

System name: Board of Directors' Actions System—FDIC.

System location: Office of the Executive Secretariat, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Individuals who have been subject to administrative actions by the FDIC Board of Directors.

Categories of records in the system: Contains minutes of the FDIC Board of Directors' meet ings, intra-agency memoranda, orders of the Board of Directors, and correspondence with the subject individual.

Authority for maintenance of the system: Sec. 2, 8 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1812, 1818, 1829); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Intra-agency uses only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file index and minute ledger.

Retrievability: Card files indexed alphabetically by name.

Safeguards: Card files are stored in lockable metal filing cabinets, minute ledgers are stored in vault.

Retention and disposal: Permanent.

System manager(s) and address: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Intra-agency records.

Systems exempted from certain provisions of the act: None.

FDIC/4

System name: Changes in Bank Control Ownership Records—FDIC.

System location: Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Individuals who have been involved in the change of bank control ownership in FDIC insured banks and/or have obtained loans from insured banks, when such loans are secured by 25 percent or more of the outstanding stock of an insured bank.

Categories of records in the system: Contains the name of the individual seller or purchaser of shares of stock, the number of shares of stock involved and outstanding, the name of the bank whose control has changed, the purchase price of the stock, the names of beneficial owners if the shares are registered in another name, the total number of shares owned by the seller, purchaser, or beneficial owner both before and after the transaction. In the case of loans, contains the name and location of the lending bank, the name and address of the borrower, the amount of the loan and the name of the bank issuing the stock securing the loan and the number of shares securing the loan.

Authority for maintenance of the system: Sec. 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The name of the bank whose control has changed, the seller and purchaser, and the number of shares involved may be distributed to periodicals for publication. In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of civil, criminal or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and on index cards.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal filing cabinets.

Retention and disposal: Permanent retention.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The bank in which control has changed and the bank which makes a loan secured by 25 percent or more of the outstand ing voting stock of an insured bank.

Systems exempted from certain provisions of the act: None.

FDIC/5

System name: Consumer Complaint and Inquiry Records—FDIC.

System location: Office of Bank Customer Affairs, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Consumers who have filed complaints or inquiries concerning unfair trade practices by FDIC insured State nonmember banks.

Categories of records in the system: Contains consumers' names and the nature of their complaints. Contains correspondence between the FDIC and the consumer, and may contain correspondence between the FDIC and the bank in question and/or Federal or State bank supervisory authorities. May contain copies of supporting documents supplied by the complainant and intra-agency memoranda.

Authority for maintenance of the system: Sec. 202 of Title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)); Sec. 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are compiled and used for investigation and resolution of consumer inquiries and complaints. Resolution may necessitate disclosure to the institution which is the subject of the complaint. Transmittal may be made to the Federal or State supervisory authority that has direct supervision over the financial institution that is the subject of the complaint. In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings. In the event the initial inquiry is a result of a Congressional inquiry, disclosure of the outcome of the investigation and other pertinent information will be made to the inquiring Congressional office.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and on 3 x 5 inch cards.

Retrievability: Cards are indexed by complainant's name.

Safeguards: Maintained in lockable metal filing cabinets.

Retention and disposal: Records are retained for five years after resolution or answer of the complaint and then destroyed by shredder.

System manager(s) and address: Director, Office of Bank Customer Affairs, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Individual on whom the record is maintained. Institutions that are the subject matter of the complaint. The appropriate agency, whether Federal or State, with supervisory authority over the institution, and Congressional offices that may initiate the inquiry.

Systems exempted from certain provisions of the act: None.

FDIC/6

System name: Employee Confidential Statements of Employment and Financial Interests—FDIC.

System location: Office of the Chairman, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Employees of the FDIC as enumerated in 12 C.F.R. 336.735-31, including all heads, associate heads or assistant heads of a Division or Office of the FDIC, all advisers or assistants to the FDIC Board of Directors, all Regional Directors and all Assistant Regional Directors.

Categories of records in the system: Contains employee's title, date of appointment, outside employment and financial interests, creditors, character of indebtedness, and interests in real property.

Authority for maintenance of the system: Sec. 402 of Exec. Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees" (May 8, 1965).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that information contained in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the

relevant records in the system of records may be referred, as a routine used to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of litigation, the records may be presented to the appropriate court, magistrate or tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Stored in locked metal file cabinets.

Retention and disposal: Indefinite retention.

System manager(s) and address: Deputy to the Chairman, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

FDIC/7

System name: Employee Education System—FDIC.

System location: Office of Education, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: All present and former FDIC employees.

Categories of records in the system: Contains the educational history of employees prior to their employment with the FDIC, and educational progression of employees while employed by the FDIC. Information includes employee's schools of attendance, courses completed or enrolled in, dates of attendance, tuition fees and expenses, and may include per diem and travel expenses.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order No. 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Intra-agency uses only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and computer discs.

Retrievability: File folders—alphabetically by name; computer discs—social security number.

Safeguards: File folders are stored in lockable metal cabinets, computer discs are accessed by only authorized personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained and the training institute in which the employee is enrolled.

Systems exempted from certain provisions of the act: None.

FDIC/9

System name: Examiner Training and Education Records—FDIC.

System location: Division of Bank Supervision Training Center, FDIC, 1701 N. Fort Myer Drive, Arlington, Virginia 22209.

Categories of individuals covered by the system: FDIC assistant examiners who have been candidates for determination of progress to become a commissioned bank examiner (Progress Evaluation Candidates). FDIC examiners who attend, or have attended, graduate school of banking (Graduate School of Banking Students).

Categories of records in the system: Progress Evaluation Candidates—contains a statement of the candidate's education, home address, date and place of birth, and experience, a Report of Evaluation of a Progress Evaluation Panel, the consolidated findings of each Progress Evaluation Panel member, the candidate's case studies, basic work papers, and responses, and, in the case of an unsuccessful candidate, the candidate's complete work papers and responses, as well as the individual findings of each Progress Evaluation Panel member.

Graduate School of Banking Students—contains the student's name, enrollment data, record of attendance, record of completion or graduation and general correspondence between the FDIC and the student's school of enrollment.

Authority for maintenance of the system: Sec. 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Intra-agency uses only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All categories are stored in file folders.

Retrievability: All categories are indexed by name.

Safeguards: All categories are maintained in lockable metal filing cabinets.

Retention and disposal: Progress Evaluation Candidates records maintained two years for the successful candidate and then destroyed by shredder, records of unsuccessful candidate retained until the candidate's successful completion or until the candidate leaves the FDIC's employ. Graduate School of Banking student records are permanently retained.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429. Inquirers must provide their full name and identify the category or categories of which they are inquiring.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Progress Evaluation Candidates—the candidate, the candidate's personnel record, and members of the candidate's Progress Evaluation Panel. Graduate School of Banking Students—the student, the student's school, and the student's personnel record.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(c) of the FDIC's Rules and Regulations, testing material used solely to assess individual qualifications for appointment or promotion, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation or examination process, may be withheld from disclosure.

FDIC/10

System name: Graduate Fellowship Applications—FDIC.

System location: Division of Research, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Applicants for FDIC fellowships for graduate study in banking, finance and economics.

Categories of records in the system: Contains correspondence from applicants and from individuals whose names were provided by the applicants as references, application forms, applicants' grade transcripts, samples of written work, and, in some instances, comments of individuals who interviewed applicants.

Authority for maintenance of the system: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is for intra-agency use only. Disclosure of information on the applicant may be made in requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Maintained in metal file cabinets with a combination lock.

Retention and disposal: Supporting documents in applications of unsuccessful applicants are retained for 3 years after their review and then destroyed, applications of unsuccessful candidates and complete files of fellowship winners are retained indefinitely.

System manager(s) and address: Director, Division of Research, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Information is obtained from the applicants, references supplied by the applicants, college documents, current and/or former employers, and FDIC employees who interviewed the applicants.

Systems exempted from certain provisions of the act: None.

FDIC/11

System name: Legal Compliance and Enforcement Records—FDIC.

System location: Office of the General Counsel, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: Directors or officers of FDIC insured State nonmember banks who have been the subject of an indictment, informa tion or complaint for a felony involving dishonesty or breach of trust. Directors or officers of FDIC insured State nonmember banks who are suspected of committing violations of law, rule or regulation, or of a final cease-and-desist order, or of committing acts, omissions or practices constituting a breach of fiduciary duty. Individuals who have sought FDIC consent to serve as an officer, director, or employee of a FDIC insured State nonmember bank after having been convicted of a crime involving dishonesty or breach of trust.

Categories of records in the system: Contains the indictment, information, or complaint filed against the subject individual, and any court order or resolution of such indictment, information, or complaint. Contains newspaper clippings on subject individuals. Contains affidavits of the subject individual and bank employees. Contains intra-agency memoranda and general correspondence between the FDIC and the subject individual and/or his/her attorney. Contains final administrative orders issued by the FDIC.

Authority for maintenance of the system: Sec. 8 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1829).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for purposes of discovery and the presentation of evidence.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in a file folder and on computer discs.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal filing cabinets in a secured room, computer discs are accessed by only authorized personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: General Counsel, Legal Division, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429. Inquirers must provide their full name and the name of the bank with which they were associated. Inquiries must include a notarized statement attesting to the individual's identity.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Individual on whom the record is maintained. The employer of the individual, newspaper articles, and individuals interviewed during the investigation. Federal and State prosecuting authorities and Federal and State financial institution supervisory authorities.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(a) of the FDIC's Rules and Regulations, investigatory material compiled as a part of this system for law enforcement purposes is exempted from the accounting provisions of section 310.10(d)(2) of the FDIC's Rules and Regulations and may be withheld from disclosure, to the extent that such disclosure may interfere with the investigation and preparation of any civil, criminal or administrative law enforcement proceedings.

FDIC/12

System name: Payroll and Employee Financial Records—FDIC.

System location: Personnel Branch, FDIC, 1709 New York Avenue, N.W., Washington, D. C. 20429 (See APPENDIX A for the location of FDIC Regional Offices.)

Categories of individuals covered by the system: All current and former FDIC employees.

Categories of records in the system: Consists of various forms and computer retrievable data which disclose employee: mailing address and home address; rate and amount of pay, leave, and hours worked, and leave balances; life insurance, health insurance and retirement deductions; tax exemptions; and payroll deduction authorizations.

Authority for maintenance of the system: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information developed from these records is routinely provided to State, City and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social Security Administration, and, to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers and charity funds. Records are periodically made available for inspection to auditors employed by the Government Accounting Office. Relevant records in this system of records may be referred, as a routine use to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting any violation of law, rule or regulation. In the event of litigation, relevant records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, record cards and computer discs.

Retrievability: File folders and records cards indexed by name; computer discs are indexed by social security number.

Safeguards: File folders and record cards are stored in lockable metal cabinets; computer discs are accessed only by authorized personnel.

Retention and disposal: Year-end trial balances (the individual earnings record) are retained during employment and then transferred to the Federal Records Center, where the records are maintained indefinitely. Deduction authorizations and documents used to develop the records are retained for the period of use and up to an additional three years after which they are disposed of by shredding or burning.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, 550 17th Street,N.W., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

FDIC/13

System name: Savings Bond Payroll Deduction Systems—FDIC.

System location: Accounting and Budget Branch, FDIC, 1709 New York Avenue, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: All current and former FDIC employees who have authorized payroll deductions for the purchase of United States Savings Bonds.

Categories of records in the system: Consists of the name and address of the employee, the amount of the employee's salary to be withheld, the denomination of bond to be purchased and the series of bond, the owner's name, address and social security number, the designated co-owner or beneficiary and their social security number.

Authority for maintenance of the system: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this system is routinely transmitted to the United States Treasury Department for the preparation of savings bonds.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards and computer discs.

Retrievability: File folders and record cards are indexed by name, computer discs are indexed by social security number.

Safeguards: File folders and record cards are stored in lockable metal cabinets, computer discs are accessed only by authorized personnel.

Retention and disposal: Records are retained for two years and then destroyed.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

FDIC/14

System name: Travel Voucher System—FDIC.

System location: Accounting and Budget Branch, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Categories of individuals covered by the system: FDIC employees who travel on official business.

Categories of records in the system: Contains records relating to employees' claims for reimbursement of official travel expenses including travel authorizations, advances, and vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied, and amounts paid.

Authority for maintenance of the system: Sec. 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1820(a)); Travel Expense Act of 1949 (5 U.S.C. 5701-5709); Exec. Order 9397, 'Numbering System for Federal Accounts Relating to Individual Persons' (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are periodically made available for inspection to auditors employed by the Government Accounting Office. In the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. In the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and computer discs.

Retrievability: Files indexed by name, computer discs by social security number.

Safeguards: File folders stored in a lockable room, computer discs are accessed by only authorized personnel.

Retention and disposal: Records are maintained for seven years, then file folders are shredded and computer discs are erased.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D. C. 20429. Inquirers must provide their full name and social security number.

Record access procedures: Same as "Notification" above. HQ Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

FDIC—15

System name: Unofficial Personnel System—FDIC.

System location: Personnel Branch, FDIC.
1709 New York Ave., N.W.
Washington, D.C. 20429.

In addition records are maintained at the Division or Office levels in the FDIC Washington office and at the FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

Categories of individuals covered by the system: All current and former FDIC employees.

Categories of records in the system: This system consists of general personnel-related records, that are maintained in addition to the Civil Service Commission's published "General Personnel Records," CSC/GOVT-3, notice. These records may contain information on individuals relating to: birthdate; Social Security Number; past and present salaries, grades, and position titles; home address and telephone number; emergency contacts, addresses and telephone numbers; employment history; original application and resume; statement of bank loans and stock ownership; record of equipment and material issued to the individual; record of leave and time-and-attendance; written notes or memoranda on employee performance; counseling; and, data documenting reasons for personnel actions, decisions or recommendations made about an employee.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Primarily maintained to be used by employee's supervisor for preparation of general personnel actions; however, disclosure may be made to financial and credit institutions for loan and credit "reference" purposes (solely to verify the employee's employment with the FDIC, date of employment and pay grade), to the Civil Service Commission in the event of any grievance procedures, or, in the event of any litigation, to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on file cards and in file folders.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal cabinets.

Retention and disposal: Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the Division or Office which compiled and maintained the information.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for Corporation level records. For FDIC Division or Office levels, the Head of the appropriate Division or Office; for FDIC Regional Offices, the Regional Director. (See Appendix A for the location of FDIC Regional Offices.)

Notification procedure:

Executive Secretary, Records Unit, FDIC
550 17th St., NW.
Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Individuals to whom the records pertain, and their immediate supervisors or persons at other supervisory levels.

Systems exempted from certain provisions of the act: None.

APPENDIX A

FEDERAL DEPOSIT INSURANCE CORPORATION REGIONAL OFFICES

Atlanta Regional Office, FDIC
2 Peachtree Street, NW.
Suite 3030
Atlanta, Georgia 30303

Boston Regional Office, FDIC
2 Center Plaza, Room 810
Boston, Massachusetts 02108

Chicago Regional Office, FDIC
Sears Tower, 233 S. Wacker Dr.
Suite 6116
Chicago, Illinois 60606

Columbus Regional Office, FDIC
37 West Broad Street
Suite 600
Columbus, Ohio 43215

Dallas Regional Office, FDIC
300 North Ervay Street
Suite 3300
Dallas, Texas 75201

Madison Regional Office, FDIC
1st Wisconsin Plaza
1 South Pinckney St.
8th Floor
Madison, Wisconsin 53703

Memphis Regional Office, FDIC
165 Madison Avenue
Suite 1010
Memphis, Tennessee 38103

Minneapolis Regional Office, FDIC
730 Second Avenue, South
Suite 266
Minneapolis, Minnesota 55402

New York Regional Office, FDIC
345 Park Avenue
21st Floor
New York, New York 10022

Omaha Regional Office, FDIC
1700 Farnam Street
Suite 1200
Omaha, Nebraska 68102

Philadelphia Regional Office, FDIC
5 Penn Center Plaza
Suite 2901
Philadelphia, Pennsylvania 19103

Richmond Regional Office, FDIC
908 E. Main Street
Suite 435
Richmond, Virginia 23219

St. Louis Regional Office, FDIC
720 Olive Street
Suite 2909
St. Louis, Missouri 63101

San Francisco Regional Office, FDIC
44 Montgomery Street
Suite 3600
San Francisco, California 94104

7251

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INTERSTATE COMMERCE COMMISSION

PRIVACY ACT OF 1974

Systems of Records

Notice is hereby given that the Interstate Commerce Commission is reaffirming the Notices of Systems of Records previously published in the "Federal Register" of Monday, September 22, 1975, pages 43695 through 43698. One additional routine use is established to be effective 30 days after publication (October 18, 1976), for all systems of records, in accordance with guidance issued by the Office of Management and Budget. The specific adition to the routine use is "Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

John P. Kratzke,
Privacy Officer.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

ICC—I

System name: Operating personnel files (Nonpermanent records), ICC

System location: ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Working papers and documents developed during the course of an individual's employment which are not permanently retained. These will include the Standard Form 7B (OF 4B), Employee Record Card, and nonofficial records generally limited to information on experience, education, training, special qualifications and skills, position descriptions, performance appraisals and conduct. The Regional Managers' files may contain duplicate copies of official documents (SF 171, SF 50, etc.)

Authority for maintenance of the system: Federal Personnel Manual Supplement 293-31

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the use of operating officials as a source of data to initiate requests for personnel actions, to plan and schedule employee training, to counsel employees on their performance, to establish a basis for proposing commendations or disciplinary actions, and to carry out their personnel management responsibilities in general. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statue, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file cabinets under directcontrol of responsible official.

Retention and disposal: Retained until employee leaves the agency through transfer or other separation and then forward to the Personnel Office where it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder, and then is destroyed.

System manager(s) and address:

Administrative Officer (Assistant), ICC
Headquarters Bureaus and Officers, Washington, D.C.
Regional Managers and Officer-in-charge—Detached Offices

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employees and their supervisors

Systems exempted from certain provisions of the act: None

ICC—II

System name: National Defense Executive Reserve files, ICC

System location: Recruitment and assignment files Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423 Appointment files Personnel Office, Interstate Commerce Commission, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423

Categories of individuals covered by the system: Letters and/or memorandums addressed to members of the Commission's National Defense Executive Reserve or to staff involving recruitment of reservists.

Categories of records in the system: Letters, Memorandum or NDER Forms 1,2, and 3, or Form BOp D11 concerning reservists' assignments or responsibilities in connection with the National Defense Executive Reserve program, letters of appointment and statement of understanding.

Authority for maintenance of the system: EO 11179 and EO 11490

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining management control system of the Commission's membership and staff responsibilities in connection therewith and of individuals selected to participate in the National Defense Executive Reserve program. The information in this system of records will be exchanged as a matter of routine use with the Federal Preparedness Agency, General Services Administration, in connection with both agencies' responsibilities for administering the National Defense Executive Reserve and Emergency Preparedness programs, assigned by Executive Orders Nos. 11179, dated September 22, 1964, and 11490, dated October 30, 1969. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulations, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and card file, 3 inch x 5 inch cards, basic control of quarterly computer printouts, membership listing of National Defense Executive Reserves, listing names, addresses and employment information about each reservist.

Retrievability: Files maintained by individual name.

Safeguards: Kept in locked file cabinets under control of responsible official.

Retention and disposal: Permanent for card file; correspondence and rosters, etc., three-year active file and then destroyed.

System manager(s) and address:

Recruitment and assignment files
Bureau of Operations
Assistant to the Director
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423
Appointment files

Director of Personnel
Interstate Commerce Commission
12th and Constitution Avenue, Northwest Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—III

System name: Health Unit Medical Records, ICC

System location: Occupational Health Unit, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Contains employee's Name, date of birth, address, telephone number, Bureau or Office where employed, name of person to contact in case of emergency, name of employee's personal physician. Nurse's Notes visits and treatment in the Health Unit, records pertaining to blood donations and individual records of physcial examinations, laboratory test results, x-rays and other individual health records with pertinent medical opinions.

Authority for maintenance of the system: Federal Personnel Manual Supplement 792-1

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintained expressly for the well-being of employees in relation to work assignments. For use of Director of Personnelin providing counseling services to employees and agency officials. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto. The information contained in thie system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearence process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file, with access only by the Occupational Health Nurse and/or Physician.

Retention and disposal: Retained until one year after the employee leaves the agency, and then destroyed. Upon separation, will be given to employee at his request or to his personal physician, if so desired.

System manager(s) and address:

Occupational Health Nurse
Room 1414
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—IV

System name: Automated Personnel and Payroll System, ICC

System location: Section of Systems Development, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Contains the name, social security number, employee number, date of birth, employment status, leave status, pay status, tax status, insurance status, saving bond and charity deductions, time and attendance data, and the organization of each ICC employee.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: File is used for the: Transfer of information to the Internal Revenue Service for wage, levy and tax requirements—transfer of information to the Treasury Department for completion of payroll processing—transfer of information to the American Federation of Government Employees, Graphic Arts International Union, and the Professional Association of the ICC for the processing of union dues—transfer of information to state and city revenue offices for tax unemployment processing—transfer of information to the Civil Service Commission for personnel requirements—employee separation and retirement processing—employee time attendance accounting—employee salary payment and deduction control—employee bond, charity and health benefits processing—employee leave control—employee parking assignment control—employee telephone directory—employee personnel action processing and contro)—Commission budget planning, monitoring and control—creation of internal management reports, summaries and work files which are located throughout the agency.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statue or particular program statue, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing implementing the statue, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance as set forth in legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape.

Retrievability: Indexed by social security number.

Safeguards: Stored in secure computer facility under the supervision of the tape librarian.

Retention and disposal: Fifty-two week retention for files. A five-year retention period for year-end files. At the end of each of these periods, files are destroyed.

System manager(s) and address:

Chief Section of Systems Development
RoomB-411
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C.

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—V

System name: Case Status System (Formal Case Control),ICC

System location: Section of System Development, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: Administrative Law Judges and Attorney-Advisers who have been assigned to work on cases before the Commission—parties of record and parties to be advised of all proceedings.

Categories of records in the system: Contains the various processing stages that a case passes through as it is reviewed by the Commission—contains Administrative Law Judge and Attorney-

Adviser names who are responsible for various processing stages of the case—contains the names of parties of record and parties to be advised of all proceedings—contains hearing locations, when applicable—contains carrier identity.

Authority for maintenance of the system: Commission directive

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provides identification of all pending cases before the Commission—identifies older cases to expedite processing—identifies cases which normal time allowances—provides an are being processed within inventory of pending cases by stage of processing—indentifies the responsible Administrative Law Judge or Attorney-Adviser and organizational unit responsible for various stages of case processing—identifies parties of record and parties to be advised of all proceedings for a given case—used to produce management reports located throughout the agency. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape and computer disk files.

Retrievability: Indexed by case and carrier identity and Administrative Law Judge or Attorney-Adviser name.

Safeguards: Stored in secure computer facility. Data base access is under the supervision of a data base administrator.

Retention and disposal: Records are maintained on each case until it has been decided. The record is then transferred to an inactive hisrory file for permanentretention.

System manager(s) and address:

Chief, Section of System Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Carrier(s) involved, and commission staff.

Systems exempted from certain provisions of the act: None

ICC—VI

System name: Correspondence and Management Control, ICC

System location: ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Names of assignments with a control slip, including due dates for either individuals or sections within various organizational elements of the Commission covering letters, memoranda, or other inquiries for which responsibility to reply exists, normal business production transactions, time frames on special projects, and all aspects of overall correspondence and work load control, as well as individual signed records for government property accountability.

Categories of records in the system: The overall Commission performance monitoring system incorporates a series of subsystems which identify the various measurements of productivity which are implicit in the operation of the Commission. Maintenance of records on the performance and the production of Branches, Sections, Offices and individual employees is necessary to enable the Commission to effectively manage its work load. These records include the names of individuals assigned to specific activities, the dates of assignments, dates products recieved, name of signer for correspondence which is going out, and general evaluation criteria of the individual performance of the element being monitored.

Authority for maintenance of the system: 49 U.S.C. 12, 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of the production of the total employee force of the Interstate Commerce Commission and assurance that productivity is achieved by the employees assigned individual organizational elements. Additionally, to maintain a suspense on specific actions being levied upon an individual to assure that the response is timely, as well as qualitative. Used for control of government property assuring individual accountability.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legistative coordination and clearence process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both card, suspense special forms, and computer-related assignment records are maintained to control the overall system. Maintained in sequence by the organizational element and/or the individual assigned to a specific task, as well as cross-referenced by the number of the task involved.

Safeguards: Maintained at supervisory levels on an informal basis with access prohibited outside of the Commission.

Retention and disposal: One-year active operation and subsequently destroyed.

System manager(s) and address:

Managing Director
Interstate Commerce Commission
Room 2118
12th and Constituti on Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—VII

System name: Consumer Complaint System, ICC

System location: Public Information and Consumer Affairs Ofice, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423 Headquarters ICC Bureau and Offices and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Letters received from consumers and/or shippers regarding the operation of the ICC or carriers subject to its regulations.

Categories of records in the system: These records include letters on virtuall every subject

Categories of records in the system: These records include letters on virtually every subject. They are concentrated in three areas: complaints from individual consumers on household goods shipments, complaints from travelers on rail passenger facilities, and complaints from passenger on motor passenger facilities. Additionally, information on general subjects of the operation of the Interstate Commerce Commission and, specifically, shipper complaints against carrier practices and/or tariffs are included in overall complaint files. Files generally are accessed by name of individual complaining or subject of the complaint or name of the carrier against which the complaint is tendered. Notice is given that when

complaints generate an investigative file portions of this overall file are extracted and emempted under the provisions and notice provided in the publication of ICC VIII, Preliminary Investigative Files, and ICC IX, Enforcement Files.

Authority for maintenance of the system: 49 U.S.C. 12, 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to complaints from individuals, to correlate information received from individuals to assure policies are developed supporting the overall public interst in the regulatory process, to provide information to carries relative to shortcomings they are experiencing, and take informal compliance action, as well as to transfer the files to formal investigative or enforcement action, when justified. This is a public file available for public review under the terms of the Freedom of Information Act. Individuals submitting special complaint correspondence to the Commission, unless identifying their desire to remain anonymous, will not be protected from discosure of the information contained within the complaint letter. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potenetil violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal. state, local or foreign, charged with the responsibility of investigating or prosecuting such violation orcharged with enforcing or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In conventional file cabinets, alphabetically, by sender, and potentially by subject of complaint, dispersed for filing to office having primary operational use.

Retrievability: Maintained in alphabetical order, by complainant, with potential cross-index for identification of entity against which the complaint has been made, and further cross-reference by subject of complaint.

Safeguards: Minimal, since the files are public in nature.

Retention and disposal: Maintained for approximately two years and then destroyed.

System manager(s) and address:

Public Information Officer, ICC
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Consumers and/or shippers

Systems exempted from certain provisions of the act: None

ICC—VIII

System name: Preliminary Investigative Files, ICC

System location: Bureau of Operations Interstate Commerce Commission 12th and Constitution Avenue, Norhtwest Washington, D.C. 20423, and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Suspected violators of the Interstate Commerce Act or ICC orders or regulations.

Categories of records in the system: These files contain information indicating or alleging that an individual or entity could be in violation of the Interstate Commerce Act. Such records could be arrest records from the various states received pursuant to Public Law 89-170, which allows cooperative agreements between the states and this Commission in the provision of information. For example, these files could contain warning letters involving alleged violations, miscellaneous coorespondence, newspaper clipings, records of contacts with entities or individuals by Commission personnel, copies of preliminary investigation reports, and prior enforcement actions taken by the Interstate Commerce Commission or the courts because of violations of the Interstate Commerce Act.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used employees of the Interstate Commerce Commission to administer the Act, increase compliance with orders, regulations and statutes for the regulationof surface transprotation, and initiate appropriate enforcement action.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name of entity of individual.

Safeguards: Kept in locked file cabinets under direct control of responsible official

Retention and disposal: Maintained for a minimum of five years and then destroyed.

System manager(s) and address:

Washington, D.C.:
Director, Bureau of Operations
Room 7115
Interstate Commerce Commission
12th and Constitution Ave. N. W.
Washington, D.C. 20423

Regional Detached Offices:
Regional Managers (49 CFR 1001)

Field Offices:
Officers in Charge (49 CFR 1001)

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Author of letters

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a), except Subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6),(7), (9), (10), and (11), and (1). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2), this file is exempted from Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in U.S.C. 552(b)(7).

ICC—IX

System name: Ivestigative and Enforcement Records, cross-indexed, ICC

System location: Bureau of Enforcement (cross-indexed and central file) Interstate Commerce Commission 12th and Constitution Avenue, Northwest Washington, D.C. 20423, and ICC Regional Offices (investigative files with assigned geopraphical jurisdiction)

Categories of individuals covered by the system: Individual, corporation, partnership or sole proprietorship, subject to enforcement actions being taken by the Interstate Commerce Commission as a result of preliminary investigations.

Categories of records in the system: The central cross-index contains the name and address of individual, partnership, corporation, or sole proprietorship, and includes a cross-reference to the enforcement file containing the investigative reports, as well as other information gathered as part of the criminal prosecution and/or civil forfeiture action. The basic cross reference file does not contain significant information other than the name and address of the entity involved, but the cross-reference to the investigative file, which is maintained by case number, does provide access based upon individual name, Individual investigative and enforcement files are maintained by Enforcement file number, both at Headquarters and Regions.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to monitor and control the progress of enforcement actions, both within the Commission for civil forfeitures and in relationship with the Department of Justice on those actions that are going through the courts. The central cross index is the only practical method for access to the appropriate file based upon any individual identifier. Actual file information is used for prosecution of civil and criminal actions. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on folding 5 inch by 8 inch index cards.

Retrievability: Indexed by individual, partnership, corporation, or sole proprietorship (index). Actual files retrieved by enforcement file number.

Safeguards: Stored in a special room of the Bureau of Enforcement with Commission employees present during all duty hours (index).

Retention and disposal: Cards are maintained in the active cross-reference and indexing file while the file is open and transferred to the closed card section after the file is concluded.

System manager(s) and address:

Assistant Director
Bureau of Enforcement
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Preliminary investigative files (ICC V111)

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a) except Subsections (b), (c) (1) and (2), (e)(4)(A) through(F), (e)(6), (7),(9),(10) and (11), and (i), This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2) this file is exempted from Subsections (c)(3), (d), (e)(4)(G), and (1) and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

ICC—X

System name: ICC employee parking permit applications for carpools,ICC

System location: Section of Administrative Services, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: All individuals applying for, or assigned, parking facilities

Categories of records in the system: ICC Form MD-21, Revised 3/75, Interstate Commerce Commission Application for Parking Space, Contents: Carpool member names, home addressed, office telephone number, bureau or office, service computation date, vehicle license number, distance between residence and ICC and the name of the employer.

Authority for maintenance of the system: EDMR Temporary Regulation D-47, May 22, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use is to maintain control of assigned parking spaces. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statue, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order is issued pursuant thereto. The information contained this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 inch by 8 inch cards.

Retrievability: Indexed by location of parking space, number of carpool members and order of parking permit number.

Safeguards: Secured in locked metal, laterial file cabinet under the supervision of the space and services unit.

Retention and disposal: Cards are maintained for a three-year period and then discarded.

System manager(s) and address:

Chief, Building Services and Space Management Branch
Room 1315
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Individuals seeking parking facilities

Systems exempted from certain provisions of the act: None

ICC—XI

System name: ICC Identification System File

System location: Interstate Commerce Commission, Section of Administrative Services, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423

Categories of individuals covered by the system: A. All ICC Headquarters employees

B. All nongovernment employees requiring access to office space occupied in the ICC Headquarters Building in Washington, D.C.

C. All ICC employees issued investigative credentials

Categories of records in the system: A. Name, date of birth, social security number

B. Name organization (firm), social security number

C. Name, title, Bureau or Office, credential number

Authority for maintenance of the system: 49 CFR 1000.5

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of ICC Identifi-

cation System. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, to relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained is this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A. 8 inch by 10 inch log book B. 5 inch by 8 inch sheets C. 5 inch by 8 inch sheets

Retrievability: A. Indexed by date issued. B. Indexed by organization and date issued. C. Indexed by Bureau or Office and credential number.

Safeguards: All three segments of the identification system are stored in the Section of Administrative Services under the supervision of the Space and Services Unit.

Retention and disposal: A. Maintained two years after completion of log book, then destroyed. b. Maintained for two years after which cards are destroyed. C. Maintained until credential is returned and destroyed or marked retired upon separation of employee. Inactive records are stored two years and discarded.

System manager(s) and address:

Chief, Building Services Space Management Branch
Section of Administrative Services
Interstate Commerce Commission
12th and Constitution Avenue,N.W.
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None

ICC—XII

System name: Employee Travel Records, ICC

System location: Budget and Fiscal Office, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: The record consists primarily of a series of Standard And Commission forms and index file cards designed to record pertinent travel information. The information usually includes the employee's name address and organization, the mode, purpose, dates and places of travel, the method and amount of reinbursement and the amount of travel advance outstanding.

Authority for maintenance of the system: 49 U.S.C. 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are available for any use by any person. The Commission uses these records to establish approval for travel on official business, the reinbursement of the employee for approved expenses, control of annual budget estimates, input to the Commission's internal accounting system and periodic and special and report required by agencies outside the Commission, and the compilation of information for internal management purposes, Portions of the file are made available to Commission management personnel for monitoring assigned functional and geographical areas of responsibility. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the apprppriate agency, whether Federal, state local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congresssional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by employee name.

Safeguards: Kept in locked file cabinet under supervision of Budget and Fiscal Officer.

Retention and disposal: Records are destroyed in accordance with GSA retention schedules.

System manager(s) and address:

Chief, Budget and Fiscal Office
Room 1330
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: —None

[FR Doc.76-26632 Filed 9-8-76;11:11 am]

PRIVACY PROTECTION STUDY COMMISSION

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice that the systems of records identified in notices published in the Federal Register at 40 FR 45122, continue in effect. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by Section 3 of the Privacy Act of 1974.

Dated: 26 August 1976.

Carole W. Parsons,
Executive Director.

PPSC—1

System name: Commission Member and Staff Personnel Records—PPSC—1

System location: 2120 L Street, N.W., Suite 424, Washington, D.C. 20506

Categories of individuals covered by the system: Commission members, individuals employed by PPSC, and applicants for employment.

Categories of records in the system: Contains copies of biographic background information, personnel records, payroll information, time and attendance records, consultants' employment files and files of applicants for employment.

Authority for maintenance of the system: Privacy Act of 1974, P.L. 93-579, Section 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of PPSC members and personnel, their employment records and records of applicants for employment. Used by Commission members, the Executive Director, the General Counsel, the Administrative Officer, and the Public Information Officer. Files on current employees and commissioners may contain biographic background information, the disclosure of which would not constitute a clearly unwarranted invasion of personal privacy and may therefore be made available to the press and the public.

A record from a system of records maintained by the PPSC may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

In the event that a system of records maintained by PPSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file folders.

Retrievability: Information is retrieved by name.

Safeguards: Information other than biographic background information and attendance reports is stored in locked file drawers.

Retention and disposal: Information is retained during PPSC's existence and then stored with the National Archives.

System manager(s) and address: Administrative Officer, Privacy Protection Study Commission, Suite 424, 2120 L Street, N. W., Washington, D. C. 20506

Notification procedure: Address inquiries to the Public Information Officer.

Record access procedures: Address inquiries to the Public Information Officer.

Record source categories: Individual to whom the record pertains, from previous employers and from generally available research material.

PPSC—2

System name: Letters of contact with the Commission—PPSC—2.

System location: Privacy Protection Study Commission, 2120 L Street, N. W., Suite 424, Washington, D. C. 20506.

Categories of individuals covered by the system: Individuals who as individuals have directed correspondence to the Commission.

Categories of records in the system: Contains letters received by the Commission expressing interest in the work of the Commission, and bringing matters relating to the Commission's work to its attention.

Authority for maintenance of the system: Privacy Act of 1974, PL93-579, Section 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the members, and staff of the Commission in order to identify issues subject to its study and be aware of comment on the Commission's work.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in file folders.

Retrievability: Information is retrieved by name.

Safeguards: Information is contained in locked file drawer.

Retention and disposal: Information is retained during PPSC's existence and then stored with the National Archives.

System manager(s) and address: Public Information Officer, 2120 L Street, N. W., Suite 424, Washington, D. C. 20506

Notification procedure: Address inquiries to the Public Information Officer.

Record access procedures: Address inquiries to the Public Information Officer.

Contesting record procedures: Address inquiries to the Public Information Officer.

Record source categories: Individual to whom the record pertains.

[FR Doc.76-25610 Filed 8-30-76;8:45 am]

TENNESSEE VALLEY AUTHORITY

PRIVACY ACT OF 1974

Systems of Records

The purpose of this document is to give notice that the TVA systems of records identified in notices published in the Federal Register (40 FR 38685, 45123, 45326, 45327, and 49565) continue in effect. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

Dated: August 31, 1976.

Lynn Seeber,
General Manager.

TVA—1

System name: Apprentice Training Record System—TVA

System location: Personnel Correspondence File, MIB, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Computing Services Branch, Old Post Office, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

All TVA locations where apprentices are employed.

Categories of individuals covered by the system: Current and former TVA apprentices.

Categories of records in the system: Employment, qualifications, and evaluation information.

Authority for maintenance of the system: National Apprenticeship Act of 1937, 50 Stat. 664 (1937).

TVA Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Bureau of Apprenticeship and Training, the Veterans Administration, Tennessee Valley Trades and Labor Council, and the Tennessee Department of Education for reporting and evaluation purposes.

To respond to a request from a Member of Congress regarding the status of an apprentice.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA employee:

job descriptions, dates of employment, reason for separation.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, disc, microfiche, and file folder.

Retrievability: Records are indexed by name, craft, job code, union code, and social security number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

Retention and disposal: Records are maintained from two to five years in accordance with established TVA record retention schedules and are then transferred to the Federal Records Center.

System manager(s) and address:

Director of Personnel
Tennessee Valley Authority
Knoxville, Tennessee 37902

Notification procedure: Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

Record access procedures: Individuals seeking access to information about them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record-source categories: Individual to whom the record pertains.

General Aptitude Test Battery scores from state employment security office.

References from employers, military and educational institutions.

Evaluations from joint committee on apprenticeship.

Systems exempted from certain provisions of the act: This system is exempt from subsections (d), (e)(4)(H), (f)(2), (3), and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testimony and examination material would compromise the objectivity of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 301.24.

TVA—2

System name: Personnel Files—TVA

System location: Division of Personnel, B-1 MIB, Tennessee Valley Authority, Knoxville, Tennessee 37902; Division of Personnel, Personnel Management Information Services, Tennessee Valley Authority, Knoxville, Tennessee 37902; area employment offices in Knoxville, Chattanooga, Muscle Shoals, and Nashville; construction project employment offices; Computing Services Branch, Tennessee Valley Authority, Old Post Office, Chattanooga, Tennessee 37401; Federal Personnel Records Center, St. Louis, Missouri 63118. Security—suitability investigatory files are located separately from other records in this system.

Duplicate copies of certain documents may also be located in the files of division personnel officers, supervisors, and administrative officers.

Categories of individuals covered by the system: Current and former TVA employees and applicants for employment.

Categories of records in the system: Information related to education; qualifications; work history; interests and skills; test results; performance evaluation; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical data; and security investigation data.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Executive Order 10561; Executive Order 10577; Executive Order 10450; Executive Order 11478; Executive Order 11222; Security Act of August 27, 1950, 64 Stat. 476; Veterans Preference Act of 1944, 58 Stat. 387, as amended; Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103; various sections of Title 5, USC, related to employment by TVA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To disclose test results to state employment services.

To a state employment security office in response to a request relating to a former employee's claim for unemployment compensation.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information, as requested, to a prospective employer of a TVA or former TVA employee: job descriptions, dates of employment, and reasons for separation.

To provide information as requested to the Civil Service Commission pursuant to Executive Orders 10450, 10577, and other laws.

To any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation including presentation of evidence and disclosure to opposing counsel in course of discovery.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees GrouP Life Insurance to Office of Federal Employees Group Life Insurance.

To transfer information necessary to support a claim for health insurance benefits to health insurance carrier.

To union representatives in exercising their responsibilities under TVA collective bargaining agreements.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and on magnetic tape, disc, and microfiche.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Personal history records are transferred to Federal Personnel Records Center 1 year after termination of employment; congressional inquiries are retained indefinitely; test records are retained 10 years; occupational register cards are retained 1 year, with the exception of apprentices which are retained for 5 years; some information maintained on magnetic tape is erased after 1 year; records are disposed of in accordance with established TVA records retention schedules.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response.

Record access procedures: Individuals seeking to gain access to information about them in this system of records should contact Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. In addition, current employees may present requests for access to the personnel officer of the employing division. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: Individual to whom the record pertains; educational institutions, former employers, and other reference sources; state employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security suitability investigatory files contain information from law enforcement agencies.

Systems exempted from certain provisions of the act: This system is exempt from subsections (d), (e)(4)(H), (f)(2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 301.24.

TVA—3

System name: Cooperative Training Program for Construction Craftsmen—TVA

System location: Division of Personnel, Human Resource Development Staff, Knoxville, Tennessee 37902.

Watts Bar Nuclear Plant, Box 2000, Spring City, Tennessee 37381.

Categories of individuals covered by the system: Participants in the Cooperative Training Program for Construction Craftsmen.

Categories of records in the system: Personal identifying information; testing information; evaluations.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To state employment services and prospective employers for use in placement of the student.

To request information from a Federal, state, or local agency or from private individuals if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

In litigation including presentation of evidence and disclosures to opposing counsel in the course of discovery.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name and social security number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Filing systems are locked when unattended.

Retention and disposal: Records will be retained indefinitely.

System manager(s) and address:
Director of Personnel
Tennessee Valley Authority
Knoxville, Tennessee 37902

Notification procedure: Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the Chief, Human Resource Development Staff, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record access procedures: Requests for access should be addressed to the Chief, Human Resource Development Staff, Division of personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Contesting record procedures: Individuals seeking to contest or amend information about them in this system of records should direct their request to the Chief, Human Resource Development Staff, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: Individuals to whom the record pertains; instructors.

Systems exempted from certain provisions of the act: This system is exempt from subsections (d); (e)(4)(H); (f)(2), (3), and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 301.24.

TVA—4

System name: Demonstration Farm Records—TVA.

System location: Agricultural Resource Development Branch, Division of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

Categories of individuals covered by the system: Tennessee Valley farmers participating in:

Rapid adjustment farm program; resource management farm program; unit test—demonstration farm program.

Categories of records in the system: Agricultural, investment, income, and labor information. The information in this system is not used in any determination about the rights, benefits, or privileges of an individual.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be disclosed to state extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in files, magnetic tape, disc, and cards.

Retrievability: Records are indexed by an assigned code.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. All records are kept in secured facilities and locked when unattended.

Retention and disposal: Records are retained for an indefinite period.

System manager(s) and address: Director of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

Notification procedure: Individuals upon whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and state and county of the farm.

Record access procedures: All information maintained in this system of records has been supplied by the subject individual. However, requests for access may be directed to the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The information in this system is solicited from the individual to whom the record pertains by state extension services and universities.

TVA—5

System name: Discrimination Complaint File—TVA

System location: The following locations of the TVA Equal Employment Opportunity Staff:

315 New Sprankle Building, Tennessee Valley Authority, Knoxville, Tennessee 37902.
323 Chattanooga Bank Building, Tennessee Valley Authority, Chattanooga, Tennessee 37401.
Service Building, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.
Duplicate copies may be maintained in the files of the TVA division where the complaint originated.

Categories of individuals covered by the system: Employees or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, onal origin, or age.

Categories of records in the system: This system of records contains information or documents relating to a decision or determination made by TVA or the Civil Service Commission affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions, and recommendations.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.
Executive Order 11478.
42 USC 2000e-16.
29 USC 633a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A report of each complaint is made to the Civil Service Commission. If an administrative appeal is filed, the entire file is disclosed to the Civil Service Commission.

To the employee's representative and union.

To respond to a request from a Member of Congress regarding the status of a complaint.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are kept in file folders.

Retrievability: Records in this system are indexed by name.

Safeguards: Access to and use of these records are limited to those personnel whose official duties require such access.

Retention and disposal: These records are retained in accordance with established TVA records retention schedules.

System manager(s) and address:

Director of Equal Employment Opportunity
315 New Sprankle Building
Tennessee Valley Authority
Knoxville, Tennessee 37902

Notification procedure: Individuals who have filed discrimination complaints are aware of that fact. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, the approximate date of their complaint, and their employing organization, if employed.

Record access procedures: Individuals who have filed a discrimination complaint have been provided a copy of the record. However, an individual may gain access to the official copy of the complaint record by writing the system manager named above.

Contesting record procedures: Individuals who have filed a discrimination complaint have had an opportunity during the complaint procedure to amend their record. However, requests for amendment or correction of items not involving the complaint procedure may be addressed to the system manager named above.

Record source categories: The individual to whom the record pertains.

TVA personnel and other records.
Witnesses.

TVA—6

System name: Employee Accident Information System—TVA

System location: Division of Environmental Planning, Tennessee Valley Authority, at the following locations:

201 401 Building, Chattanooga, Tennessee 37401; 205 Old Post Office, Chattanooga, Tennessee 37401.
Accident reports may also be maintained in the file of the employing organization.

Categories of individuals covered by the system: Employees who have sustained a work-related injury or illness or have been involved, as the operator of a TVA vehicle, in a vehicular accident.

Categories of records in the system: Personal identifying information and information related to the accident, injury, or illness.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Occupational Safety and Health Act of 1970, Pub. L. 93-237, 87 Stat. 1024; Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Department of Labor as required by the Occupational Safety and Health Act.

To the Office of Workers Compensation Programs in relation to an individual's claim for compensation.

To respond to a request from a Member of Congress regarding the status of an employee.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

For use in litigation, including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on magnetic tape, cards, and file folders.

Retrievability: Records are indexed by name, date of birth, and social security number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Records are retained for 5 years, and after that period are retained in accordance with established TVA records retention schedules.

System manager(s) and address: Director of Environmental Planning, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, date of birth, and approximate date of injury.

Record access procedures: Individuals who desire access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The individual to whom the record pertains; TVA medical records; witnesses of accidents and injuries, including appraisers of property damage.

TVA—7

System name: Employee Accounts Receivable—TVA

System location: Division of Finance, Tennessee Valley Authority, 307 Old Post Office, Knoxville, Tennessee 37902.

Categories of individuals covered by the system: Employees or former employees who:

Authorize a payment for specified purposes in their behalf; receive overpayment of earnings; receive duplicate payments; are otherwise indebted to TVA.

Categories of records in the system: Personal identifying information and information concerning indebtedness and repayment.

Authority for maintenance of the system: 5 USC, chapter 55; Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on punch cards, printouts, and posting documents.

Retrievability: Records are indexed by employing organization and social security number, or badge number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

Retention and disposal: Punch cards disposed of in three months, printouts in three years, and posting documents in six years.

System manager(s) and address: Director of Finance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization. Provision of the social security number is not required, but may expedite TVA's response.

Record access procedures: Individuals who seek access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Individual to whom the record pertains; TVA payroll records; TVA disbursement voucher records.

TVA—8

System name: Employee Alleged Misconduct Investigatory Files—TVA

System location: Division of Law, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Categories of individuals covered by the system: Employees or former employees about whom a complaint of misconduct during employment has been made.

Categories of records in the system: Information regarding conduct during employment with TVA which may be in violation of law or regulations.

Authority for maintenance of the system: TVA Act, 16 USC 831b (1970); Executive Order 10450; Executive Order 11222; Hatch Political Activities Act, 5 USC 732 et. seq. (1970); 28 USC 535 (1970).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA Equal Employment Opportunity procedures.

In litigation including presentation of evidence and disclosures to opposing counsel in the course of discovery.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information as requested to the Civil Service Commission pursuant to Executive Orders 10450 and 10577 and other laws.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed and retrieved by individual name.

Safeguards: These records are stored in a locked GSA-approved security container. Access to the records is limited to TVA attorneys and their administrative assistants who have a need for them in the course of TVA business and to other TVA employees whose need is approved by Division of Law management.

Retention and disposal: Records are disposed of in accordance with established TVA records retention schedules.

System manager(s) and address:

General Counsel
Tennessee Valley Authority
Knoxville, Tennessee 37902

Notification procedure: This system of records is exempt from th requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 301.24.

Record access procedures: This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 301.24.

Contesting record procedures: This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 301.24.

Record source categories: This system of records is exempt from this requirement pursuant to section 3(k)(2) of the Privacy Act of 1974 (5USC 552a(k)(2)) and TVA regulations at 18 CFR 301.24.

Systems exempted from certain provisions of the act: This system is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of section 3 of the Privacy Act of 1974 pursuant to section 3(k)(2) of the Privacy Act (5 USC 552a(k)(2)) and TVA regulations at 18 CFR 301.24.

TVA—9

System name: Employee Medical Record System—TVA

System location: Division of Medical Services, Edney Building, Chattanooga, Tennessee 37401; all TVA medical facilities; Chattanooga Records Staging Area, Old Post Office, Chattanooga, Tennessee 37401; Computing Services Branch, Old Post Office, Chattanooga, Tennessee 37401; Federal Records Center, St. Louis, Missouri 63118; District Offices, Office of Workers Compensation Programs.

Categories of individuals covered by the system: Applicants for TVA employment, employees, former employees, official visitors, contractual assignees to TVA, interns, externs, employees of other Federal agencies examined under contract.

Categories of records in the system: Medical information pertinent to an individual's employment, official visit, or contractual work with TVA or other Federal agencies, including medical examination results, medical history treatment, and related information; workers compensation claim records; rehabilitation records; and information related to employee participation in the alcohol-drug abuse program.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; 5 USC 7902; Federal Employees Compensation Act, 5 USC Chapter 81; 5 USC Chapter 87 (Medical information relating to life insurance program); 5 USC 3301; Occupational Safety and Health Act of 1970, Pub. L. 93-237, 87 Stat. 1024 Pub. L. 91-616, Federal Civilian Employee Alcoholism Program and Pub. L. 92-255, Drug Abuse Among Federal Civilian Employees, which are amended in regard to confidentiality of records by Pub. L. 93-282; Public health laws (state and Federal) related to the reporting to communicable diseases or other epidemiological information; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compensation claim records are used for adjudicating claims and providing therapy. Appropriate information is exchanged with physicians, hospitals, and rehabilitation agencies approved by the Office of Workers Compensation Programs for service to injured employees.

Medical records are used for employee population health monitoring, which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of medical data to health-related agencies, organizations, or professionals for the purpose of obtaining specialized clinical consultation, compiling vital and health statistics, or conducting biomedical investigations.

Alcohol-drug program records may be exchanged with a physician or treatment center working with an employee.

Information in these records may be provided to officials of other Federal agencies responsible for other Federal benefit programs administered by Office of Workers Compensation Programs, Retired Military Pay Centers, Veterans Administration, Social Security Administration, and private contractors engaged in providing benefits under Federal contracts.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, the issuance of a security clearance, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To respond to a request from a Member of Congress regarding an employee.

In litigation including the presentation of evidence and disclosures to opposing counsel in the course of discovery.

To transfer information necessary to support a claim for health insurance benefits to the health insurance carrier or plan participant.

To request information from a Government agency or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, discs, and in folders.

Retrievability: Records are indexed by name, social security number, date of birth, and employee compensation case number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Special instructions issued to medical staff employees assure the confidentiality of medical records.

Retention and disposal: Records are maintained in accordance with TVA rules and regulations approved by the National Archivist. Retention schedules specify the length of time various records are kept. Active medical records are kept indefinitely. Inactive files are kept in TVA records staging areas. Compensation claim records are maintained by TVA for 10 years, then forwarded to the Federal Records Center for permanent retention. Medical records of former employees are retained for 10 years (20 years if required by the Occupational Safety and Health Act) following the date of the last medical record entry; they are then destroyed by burying. Records of applicants and other nonemployees are retained for 10 years and destroyed by burying.

System manager(s) and address: Medical Director, Tennessee Valley Authority, 320 Edney Building, Chattanooga, Tennessee 37401.

Notification procedure: Individuals should address inquiries to the system manager named above or to the medical office at the TVA facility where employed, if a current employee.

Individuals should provide their full name, date of birth, employing organization, and date of last employment, and employee compensation case number, if any. Provision of social security number is not required but may expedite TVA's response.

Record access procedures: Individuals who desire access to information about them in this system of records should contact or address their inquiries to the system manager named above or the medical office at the TVA facility where currently employed.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The individual to whom the record pertains; TVA medical staff; private physicians and medical institutions; Office of Workers' Compensation Programs; TVA personnel records.

TVA—10

System name: Employee Statements of Employment and Financial Interests—TVA

System location: Employment Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies may be kept in division directors' offices.

Categories of individuals covered by the system: All TVA employees at TVA grade M-8 and above; employees at TVA grades M-5, M-6, and M-7 in positions designated by the General Manager or a division director as requiring submission of a statement; every TVA consultant who is a "special Government employee;" every TVA personal service contractor who is a "special Government employee" and who is determined to be an "expert" or who is otherwise required to submit a statement.

Categories of records in the system: Statement of employment and financial interests.

Authority for maintenance of the system: Executive Order 11222; 18 USC 208; Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To report as requested to the Civil Service Commission pursuant to Executive Order 10577 and other laws.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons designated by the General Manager to review statements of financial interests and no other disclosure is permitted without the consent of the General Manager. All filing systems are locked when unattended.

Retention and disposal: Records are retained in accordance with established records retention schedules.

System manager(s) and address: General Manager, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals upon whom records are maintained in this system of records are aware of that fact by having filed a statement. However, inquiries may be addressed to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name and employing division.

Record access procedures: Individuals wishing to gain access to information about them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: The individual to whom the record pertains.

TVA—11

System name: Payroll Records—TVA

System location: TVA Division of Finance, 310 Old Post Office, Knoxville, Tennessee 37902. Garnishment files are located at the Division of Law, Knoxville, Tennessee 37902. Duplicate copies of some records may also be maintained in the files of the employing division; National Personnel Records Center, St. Louis, Missouri 63118.

Categories of individuals covered by the system: All employees and personal service contractors selected for certain training programs.

Categories of records in the system: Personal identifying information; pay, leave, and debt claim information.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Internal Revenue Code; Fair Labor Standards Act, 29 USC, chapter 8; 5 USC, chapter 63.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To report earnings and other required information to Federal, state, and local taxing authorities as required by law.

To report earnings to the Civil Service Retirement System for members of that system.

To transmit payroll deduction information to employee credit unions, administrators of employee benefit plans, and the Combined Federal Campaign.

To report earnings to courts when garnishments are served or in bankruptcy or wage earner proceedings.

To report earnings to unions for those crafts on which TVA contributions to union welfare or pension funds are based on earnings. Reports of hours worked are made to unions for those crafts on which such TVA contributions are based on hours worked.

To report earnings to the Department of Housing and Urban Development, state welfare agencies, and state employment security offices where an individual has made a claim for benefit with such agency.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedure.

To provide information as requested to the Civil Service Commission pursuant to Executive Order 10577 and other laws.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to

the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To disclose any agency of the Federal Government having oversight or review authority with regard to TVA activities.

For use in litigation, including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees Group Life Insurance to Office of Federal Employees Group Life Insurance.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transfer information necessary to support a claim for health insurance benefits to health insurance carriers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, hard-copy printouts and in file folders.

Retrievability: Records are primarily indexed by name. They may also be retrieved by reference to employing organization, date of end of pay period, social security or badge number, date of birth, sex, job title.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended.

Retention and disposal: File folders are retained for three years after termination. Time sheets are retained for seven years. Payroll registers are retained in active status for one year, transferred to TVA record storage for five years, and to Federal Records Center for an additional 50 years. Magnetic tapes are retained for one year after termination.

System manager(s) and address: Director of Finance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing organization, and date of last employment. The social security number is not required but may expedite TVA's response.

Record access procedures: Individuals seeking access to information on them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals seeking to amend or correct information on them in this system of records should contact the system manager named above.

Record source categories: Individual to whom the record pertains; TVA personnel records; employee's supervisor, for report of hours worked.

TVA—12

System name: Employee Travel Advance Records—TVA

System location: Division of Finance, Tennessee Valley Authority, 307 Old Post Office, Knoxville, Tennessee 37902.

Duplicate copies of these records may also be maintained in the files of the employee's division.

Categories of individuals covered by the system: TVA employees requesting travel advances.

Categories of records in the system: Name, address, employing organization, date and amount of travel advance, and repayment information.

Authority for maintenance of the system: 5 USC 5701-5709, and related Federal travel regulations; Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records may be used:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In an administrative or regulatory proceeding or in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on index cards.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are supervised and locked when unattended.

Retention and disposal: These records are retained permanently.

System manager(s) and address: Director of Finance, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization.

Record access procedures: Individuals who seek access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Individual to whom the record pertains; TVA disbursement voucher records.

TVA—13

System name: Employment Applicant File—TVA

System location: Employment Branch, Tennessee Valley Authority, Basement, Miller's Building, Knoxville, Tennessee 37902; area and project employment offices.

Categories of individuals covered by the system: Applicants for employment including former employees seeking reemployment.

Categories of records in the system: Application forms and related correspondence.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; 5 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to a request from a Member of Congress regarding the status of an individual's application.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, state, or local agency, or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To disclose test results to state employment services.

To provide information as requested to Civil Service Commission pursuant to Executive Orders 10450 and 10577, and other law.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Applications are kept for one year from last indication of interest, with the exception of apprenticeship applications, which are kept for five years.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902, or to the area or project employment office to which application was sent. Requests should include the individual's full name, date of birth, and approximate date of application.

Record access procedures: Individuals wishing to gain access to information on them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902, or the area or project employment office to which the application was sent. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: The individual on whom the record is maintained; educational institutions, employers, and other references; state employment services.

Systems exempted from certain provisions of the act: This system is exempt from subsections (d), (e)(4)(H), (f)(2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 301.24.

TVA—14

System name: Grievance Records—TVA

System location: Employee Relations Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies are also maintained in the files of the division concerned with the grievance.

Categories of individuals covered by the system: TVA employees and former employees who have formally appealed to TVA for adjustment of their grievances.

Categories of records in the system: Evidence and arguments relevant to the matter giving rise to the grievance and related correspondence.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to a request from a Member of Congress regarding the status of an employee's grievance.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

To request information from a Federal, state, or local agency or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals who have filed grievances are aware of that fact. Inquiries may however be addressed to the system manager named above. Requests should include the individual's full name and employing division.

Record access procedures: Individuals who have filed a grievance have been provided a copy of the record. However, an individual may gain access to the official copy of the record by contacting the system manager named above.

Contesting record procedures: The contest, amendment, or correction of a grievance record is permitted during the prosecution of that grievance. However, an individual may address requests for amendment or correction of items not involved in prosecution of the grievance to the system manager named above.

Record source categories: Individual to whom the record pertains; TVA personnel records; statements and testimony of witnesses and related correspondence.

TVA—15

System name: Land Between The Lakes Register of Hunter Applications—TVA

System location: Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231; Computing Center, Old Post Office Building, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Categories of individuals covered by the system: Applicants for participation in managed hunts at Land Between The Lakes.

Categories of records in the system: Personal identifying information and information related to the hunt.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Executive Order 6161.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to a request from a Member of Congress regarding the status of an applicant.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, or to request information from a private individual to the extent necessary to obtain information relevant to a TVA decision concerning the issuance of a license to hunt or any other privilege.

To provide hunt information to state agencies concerned with wildlife management practices.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, card files, and computer printouts.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

Retention and disposal: Cards are maintained for one year before disposal. Other information may be retained indefinitely.

System manager(s) and address: Director of Forestry, Fisheries, and Wildlife Development, Tennessee Valley Authority, Norris, Tennessee.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231. Requests should include the individual's full name and the year of the application.

Record access procedures: All information maintained in this system of records has normally been supplied by the subject individual. However, requests for access may be directed to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Manager, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

Record source categories: Individual on whom the record is maintained; TVA employees.

TVA—16

System name: Land Between The Lakes Register of Law Violations—TVA

System location: Land Between The Lakes, Tennessee Valley Authority, Patrol Office, Golden Pond, Kentucky 42231.

Categories of individuals covered by the system: Persons cited or arrested for violation of state or Federal law at Land Between The Lakes.

Categories of records in the system: Personal identifying information and information related to the investigation and disposition of the violation.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; 18 USC 7, 13; Kentucky Revised Statutes 150, Chapter 43, Kentucky Act, 1974; Tennessee Public Acts 1972, Chapter 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To provide criminal history information to criminal justice agencies and to Federal agencies conducting authorized security investigations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on cards.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Records are kept indefinitely.

System manager(s) and address: Chief, Administrative and Protective Services, Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

Notification procedure: This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 301.23.

Record access procedures: This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 301.23.

Contesting record procedures: This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 301.23.

Record source categories: This system of records has been exempted from this provision pursuant to section 3(j)(2) of the Privacy Act of 1974 (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 301.23.

Systems exempted from certain provisions of the act: This system is exempt from subsections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G) and (H) and (I), (e)(5), (f), (g), and (h) of section 3 of the Privacy Act of 1974 pursuant to section 3(j)(2) of the Privacy Act (5 USC 552a(j)(2)) and TVA regulations at 18 CFR 301.23.

TVA—17

System name: Management Appraisal Records—TVA

System location: Records in this system are located in the files of the division where the individual is employed.

Categories of individuals covered by the system: TVA Management Schedule employees and those showing potential managerial talent.

Categories of records in the system: Performance evaluations and other job-related information.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access.

Retention and disposal: Records are disposed of in accordance with established TVA records retention schedules.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the director of the division where employed.

Record access procedures: Individuals seeking access to information on them in this system of records should contact their division director.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to their division director.

Record source categories: Individual on whom the record is maintained; the individual's supervisor; TVA personnel records.

TVA—18

System name: Employee Supplementary Vacancy Announcement Records—TVA

System location: Employment Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902; area employment offices in Knoxville, Chattanooga, and Nashville, Tennessee, and Muscle Shoals, Alabama.

Categories of individuals covered by the system: Employees applying for placement in announced vacant positions.

Categories of records in the system: Applications.

Authority for maintenance of the system: Executive Order 11478; Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103; 5 USC 3101; Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Records are maintained in secured facilities.

Retention and disposal: Records are disposed of in accordance with established TVA records retention schedules.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals upon whom records are maintained in this system are aware of that fact through filing an application. However, inquiries may be addressed to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name, position applied for, and location of job.

Record access procedures: Individuals upon whom records are maintained in this system have supplied all information in this system. However, requests for access may be addressed to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: The individual upon whom the record is maintained.

TVA—19

System name: Consultant and Personal Service Contractor Records—TVA

System location: Personnel Files, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Payment records are located at these TVA Division of Finance offices: 214 Old Post Office, Knoxville, Tennessee 37902; 285 Haney Building, Chattanooga, Tennessee 37401; Service Building, Muscle Shoals, Alabama 35660.

Records related to personal service contractors employed under the Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, are located at TVA Division of Forestry, Fisheries, and Wildlife Development offices in Norris, Tennessee, and Land Between The Lakes, Golden Pond, Kentucky 42231.

Duplicate copies of some records may be kept in the files of the employing division.

Categories of individuals covered by the system: Individuals who provide services to TVA; participants in TVA-state employment programs; and participants in other special employment programs.

Categories of records in the system: The Division of Personnel maintains contracts, records of the qualifications of the contractor, and related correspondence. For public service employment program participants the Division of Personnel maintains information related to job placement such as test scores, interest inventories, and supervisor's evaluations. Payment information is maintained by the Division of Finance.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Comprehensive Employment and Training Act, Pub. L. 93-203, 87 Stat. 839; Executive Order 11222; Executive Order 10450; Executive Order 10577; provisions of 5 USC, applicable to employment with TVA; Internal Revenue Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To transmit reports as requested to the Civil Service Commission pursuant to 5 USC 3323, Executive Orders 10577 and 10450, and other laws.

To report earnings information to the Internal Revenue Service and the Social Security Administration.

To respond to a request from a Member of Congress regarding the status of a contractor or consultant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transmit to the appropriate state contracting agency reports of hours worked by participants in the public service employment program, and to request reimbursement.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA consultant or personal service contractor: job descriptions, dates of employment, and reason for separation.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and magnetic tape.

Retrievability: Records are indexed by name or voucher number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Records are disposed of periodically as appropriate.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to know if records on them are maintained in the system should address inquiries to the system manager named above. Requests shall include the individual's full name, employing or contracting division, and whether the individual was a participant in the public service employment program. Social security numbers are not required but may expedite TVA's response.

Record access procedures: Individuals wishing to gain access to information on them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Individual to whom the record pertains; educational institutions, former employers, and other reference sources; state employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security suitability investigatory files contain information from law enforcement agencies.

Systems exempted from certain provisions of the act: This system is exempt from subsections (d), (e)(4)(H), (f)(2) and (3) and (4) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to

the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to section 3(k)(5) and (6) of the Privacy Act of 1974 (5 USC 552a(k)(5) and (6)) and TVA regulations at 18 CFR 301.24.

TVA—20

System name: Prospective Condemnation Witness File—TVA

System location: Division of Property and Supply, Tennessee Valley Authority, at the following locations:

406 Edney Building, Chattanooga, Tennessee 37401; Computing Center, Old Post Office, Chattanooga, Tennessee 37401.

Categories of individuals covered by the system: Individuals employed on contractual basis by TVA who are knowledgeable in real estate appraisal.

Categories of records in the system: Personal identifying information; qualifications and experience in appraisal.

Authority for maintenance of the system: Tennessee Valley Authority Act, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on index cards and magnetic tape.

Retrievability: Records in this system are indexed by name, social security number, county and state of work.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. System files are kept locked when unattended.

Retention and disposal: Records are kept for the period of time the individual is available to serve as a witness.

System manager(s) and address: Director of Property and Supply, 605 Lupton Building, Chattanooga, Tennessee 37401.

Notification procedure: Individuals on whom records in this system are maintained are aware of that fact through their work for TVA. However, inquiries may be addressed to the Supervisor of Appraisals, Land Branch, Tennessee Valley Authority, 406 Edney Building, Chattanooga, Tennessee 37401. Individuals should provide their full name and the county and state in which they have done appraisal work.

Record access procedures: Requests for access should be directed to the Supervisor of Appraisals, Land Branch, Tennessee Valley Authority, 406 Edney Building, Chattanooga, Tennessee 37401.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Supervisor of Appraisals, Land Branch, Tennessee Valley Authority, 406 Edney Building, Chattanooga, Tennessee 37401.

Record source categories: The individual on whom the record is maintained; TVA employees who have worked with the individual.

TVA—21

System name: Quality Assurance Personnel Records—TVA

System location: Office of Engineering Design and Construction, Tennessee Valley Authority, at the following locations:

802 Walnut Street, Knoxville, Tennessee 37902
200 Mercantile Building, Knoxville, Tennessee 37902
Singleton Marine Way, Knoxville, Tennessee

Records for employees at a TVA nuclear power plant are maintained in the office of Supervisor, Quality Assurance, of Quality Control Units at that TVA nuclear power plant.

Categories of individuals covered by the system: Employees or former employees involved in quality assurance or quality control work.

Categories of records in the system: Information related to the qualifications of employees.

Authority for maintenance of the system: Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233 as implemented at Nuclear Regulatory Commission Regulatory Guide 1.58.

Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To disclose to the Nuclear Regulatory Commission for inspection purposes.

To respond to a request from a Member of Congress regarding the status of an employee.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: These records are retained indefinitely.

System manager(s) and address:

Manager, Engineering Design and Construction
Tennessee Valley Authority
Knoxville, Tennessee 37902

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and employing organization.

Record access procedures: Individuals who desire access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The individual on whom the record is maintained.

TVA personnel records.

Systems exempted from certain provisions of the act: This system of records is exempt from subsection (d); (e)(4)(H); (f)(2), (3), and (4), to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. The exemption is pursuant to section 3(k)(5) of the Privacy Act of 1974 (5 USC 552a(k)(5)) and TVA regulations at 18 CFR 301.24.

TVA—22

System name: Questionnaire—Farms in Vicinity of Proposed Nuclear Power Plant—TVA

System location: Agricultural Resource Development Branch, Division of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

Categories of individuals covered by the system: Individuals from whom TVA purchases land for proposed nuclear plant; individuals having vegetable gardens, irrigated land, dairy cows, and milk goats within 2-mile radius of proposed plant site.

Categories of records in the system: Personal identifying information and information related to agriculture, milk consumption, water resources, and farm product value.

This information is not used for making determinations about the rights, benefits, or privileges of any individual.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; National Environmental Policy Act, Pub. L. 91-190, 83 Stat. 852; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records is used in developing environmental evaluations and impact statements. Certain relevant but nonsensitive information may be disclosed in these statements. Information may also be used:

In administrative and licensing proceedings including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on punch cards and file folders.

Retrievability: Records are indexed by assigned number and aerial photo number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

Retention and disposal: Records are maintained for 5 years following their active use, after which time they may be destroyed.

System manager(s) and address: Director of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

Notification procedure: Individuals on whom information is maintained in this system are aware of that fact through response to the questionnaire. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name, farm address, and approximate date of survey.

Record source categories: Individuals on whom information is maintained in this system have supplied all such information. However, requests for access may be directed to the system manager named above.

Contesting record procedures: Individuals desiring to amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Individual about whom the record is maintained.

TVA—23

System name: Radiation Dosimetry Personnel Monitoring Records—TVA

System location: Division of Environmental Planning, Tennessee Valley Authority, River Oaks Building, Muscle Shoals, Alabama 35660.

Categories of individuals covered by the system: Employees, former employees, and visitors who might be exposed or are exposed to radiation while in TVA installations.

Categories of records in the system: Information on the magnitude of exposure at TVA installations; exposure prior to employment.

Authority for maintenance of the system: Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233.

10 CFR 19, 20.

Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Nuclear Regulatory Commission for its use in evaluating TVA hazard control measures.

In litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name, film badge number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Environmental Planning
Tennessee Valley Authority
Chattanooga, Tennessee 37401

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual.s full name and whether or not a TVA employee.

Record access procedures: Individuals who desire access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Individuals to whom the record pertains; TVA personnel conducting radiation monitoring programs.

TVA—24

System name: Reforestation, Erosion Control, and Plantation Case History Record—TVA

System location: Division of Forestry, Fisheries, and Wildlife Development, Forestry Building, Norris, Tennessee 37828.

Categories of individuals covered by the system: Private landowners involved in early TVA-Civilian Conservation Corps tree planting programs.

Categories of records in the system: Forest acreage, performance, and yield information.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Executive Order 6161.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on file cards.

Retrievability: Records are indexed by state, county, and name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Building is locked when unattended.

Retention and disposal: This information is kept permanently for archival purposes.

System manager(s) and address: Director of Forestry, Fisheries, and Wildlife Development, Forestry Building, Norris, Tennessee 37828

Notification procedure: Individuals on whom records are maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name, state, and county of residence.

Record access procedures: Individuals who desire access to information about them in this system of records should address their inquiries to the system manager.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The individual to whom the record pertains; state forestry personnel; TVA surveys.

TVA—25

System name: Rehabilitation and Career Counseling Records—TVA

System location: Division of Personnel, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Categories of individuals covered by the system: Employees, former employees APPLICANTS)

Categories of records in the system: Medical, counseling, and employment-related information.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Rehabilitation Act of 1973, Pub. L. 93-112; Vietnam Era Veterans' Readjustment Assistance Act of 1974, Pub. L. 93-508.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To vocational rehabilitation agencies and private physicians to aid in treatment, rehabilitation, and placement assistance.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To the parties, their representatives, and Commission representatives in Civil Service Commission proceedings to support administrative action by TVA.

To the parties, their representatives, and impartial referees in proceedings under TVA grievance adjustment procedures.

In litigation including presentation of evidence and disclosure to opposing counsel in course of discovery.

To complainants, their representatives, and complaints examiners in the course of TVA investigation and decision of discrimination complaints under TVA equal employment opportunity procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Notification procedure: Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record access procedures: Individuals who seek access to information about them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Record source categories: Individual to whom the record pertains; vocational rehabilitation agencies; educational institutions, former employers, and other reference sources; physicians; veterans Veterans Administration; Office of Workers Compensation Program.

TVA—26

System name: Retirement System Records—TVA

System location: TVA Retirement System, 400 Burwell Building, Knoxville, Tennessee 37902

Categories of individuals covered by the system: Active members of the TVA Retirement System; TVA employees who are members of the Civil Service Retirement System; relatives and beneficiaries receiving payment from TVA Retirement System; former TVA employees, terminated for six years or less.

Categories of records in the system: Personal identifying information; retirement, benefit, and investment information; related correspondence.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Internal Revenue Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To report earnings to the Internal Revenue Service.

To supply information on coverage to Blue Cross-Blue Shield of Tennessee, Provident Life Insurance Company, and other insurance carriers.

To disclose information to actuarial firms for valuation and projecting benefits.

To disclose information to the Medical Board of the TVA Retirement System for determinations related to disability retirement.

To certify insurance status to the Civil Service Commission and the Office of Federal Employees Group Life Insurance.

To respond to a request from a Member of Congress regarding the status of a system member.

To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision within the purpose of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, state, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the issuance of any benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

For use in litigation including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape and in file folders.

Retrievability: Records are indexed by name, sex, date of birth, address, social security number, active member number, retirement number, or salary.

Safeguards: Records in this system are maintained in locked files or safes, in secure facilities. Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: Retention periods vary from three years to permanent, depending on the nature of the information and the medium in which they are stored.

System manager(s) and address:

TVA Retirement System
400 Burwell Building
Knoxville, Tennessee 37902

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and date of birth. The social security number is not required but will expedite TVA's response.

Record access procedures: Individuals who desire access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals wishing to correct or amend information maintained on them in this system should address inquiries to the system manager named above.

Record source categories: The individual on whom the record is maintained; TVA personnel and payroll records.

TVA—27

System name: Test Demonstration Farm Records—TVA.

System location: Division of Agricultural Development, Tennessee Valley Authority, Test and Demonstration Branch, Muscle Shoals, Alabama 35660.

Categories of individuals covered by the system: Farmers located outside the Tennessee Valley participating in:

Rapid adjustment demonstration farm program.
Unit test-demonstration farm program.
Fertilizer technology farm program.
Enterprise farm program.

Categories of records in the system: Agricultural, income, investment, labor, and food data.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

To disclose to state extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in files, magnetic tapes, cards, and printouts.

Retrievability: Records are indexed by an assigned number.

Safeguards: Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities and locked when unattended.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Agricultural Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

Notification procedure: Individuals seeking access to information about them in this system of records should contact the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: Information in this system is solicited from the individual to whom the record pertains by state extension services and universities Committee on Armed Services.

TVA—28

System name: Wildland Owner Survey Records—TVA

System location: Division of Forestry, Fisheries, and Wildlife Development, Forestry Building, Tennessee Valley Authority, Norris, Tennessee 37828.

Categories of individuals covered by the system: Private landowners, agencies, and corporations owning wildlands in Valley region and participating in TVA wildland resource management demonstration program.

Categories of records in the system: Personal, financial, and land resource information pertinent to wildland resource planning. The information in this system is not used by TVA in the determination about the rights, benefits, or privileges of the individual.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 USC 831-831dd; Executive Order 6161.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Evaluated information is supplied to state forestry personnel for use in assisting the landowner.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on punched cards, magnetic tape. hard copy printouts, and file folders.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Forestry, Fisheries, and Wildlife Development, Forestry Building, Tennessee Valley Authority, Norris, Tennessee 37828

Notification procedure: Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name and state of residence.

Record access procedures: Individuals on whom records are maintained have been provided copies of all information in that record. However, requests for access may be directed to the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The individual to whom the record pertains provides the information to state forestry personnel. The information is evaluated by TVA and returned to the state forestry personnel who utilize the information in evaluated form to assist the landowner.

TVA—29

System location: Division of Power Marketing, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Categories of individuals covered by the system: Individuals residing in households which are participating in an electric load metering survey program.

Categories of records in the system: Information relating to individual's income, work, home, and family size, which may be relevant to the household's use of electricity.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the distributor assisting TVA in the survey to enable employees of the distributor to help TVA with the survey program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and discs.

Retrievability: Records are indexed by an ID number assigned to each household.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Survey information will be retained until completion of the program and then be destroyed.

System manager(s) and address: Director, Division of Power Marketing, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Notification procedure: Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and address.

Record access procedures: Requests for access may be directed to the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The information in this system is solicited from the individual to whom the record pertains by employees of the distributor assisting TVA in the survey.

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