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Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101–47.8—Identification of Unneeded Federal Real Property

SURVEYS

Section 101–47.802 is amended to change the procedure for processing completed General Services Administration (GSA) survey reports and for notifying executive agency officials of survey findings.

Section 101–47.802(b)(2) is deleted and § 101–47.802(b)(5) is revised as follows:

§ 101–47.802 Procedures.

* * * * *

(b) * * *

(2) [Reserved]

* * * * *

(5) Upon completion of the field work for the survey, the General Services Administration (GSA) representative will so inform the executive agency official designated pursuant to § 101–47.802(b)(1). To avoid any possibility of misunderstanding or premature publicity, preliminary findings will not be discussed with this official. The GSA regional office will evaluate and incorporate the results of the field work into a survey report and forward the survey report to the GSA Central Office. The GSA Central Office will notify the head of the executive agency or his designee, in writing, of the survey findings. A copy of excerpts from the survey report will be enclosed when a recommendation is made that some or all of the property should be reported excess, and the comments of the executive agency will be requested thereon. The executive agency will be afforded a period of 20 calendar days from the date of the notice in which to make such comments. If the executive agency concurs in the survey recommendations, the case will be closed at such time as the agency reports the property excess to GSA for disposal. If the executive agency disagrees with the survey recommendations, the GSA Central Office will attempt to reach an accord with the agency on those matters in dispute. Failing to reach an agreement with the agency, the GSA Central Office will submit the case to the Property Review Board for review and recommendations to the President as prescribed in sections 2(3) and 3 of Executive Order 11508. If comments are not received from the executive agency within the prescribed time period, the GSA Central Office will submit the case immediately without such comments.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER (4–16–71).

Dated: April 9, 1971.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.71–5305 Filed 4–15–71;8:48 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 78—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Importation of Electronic Products; Service of Process on Manufacturers Importing Products

Notice of proposed rule making, public rule making procedures, and postponement of effective date have been omitted as unnecessary in the issuance of the following amendments to subpart G of Part 78. Accordingly, the amendments are effective on the date they are published in the FEDERAL REGISTER (4–16–71).

Section 78.601 is being amended to clarify that §§ 78.601 through 78.610 are applicable to electronic products which are subject to standards and offered for importation into the United States while § 78.630 is applicable to every manufacturer of electronic products who offers an electronic product for importation into the United States. The remaining amendments are also technical in nature involving the change of a section heading and the correction of a citation to the Radiation Control for Health and Safety Act of 1968.

1. Section 78.601 is amended to read as follows:

§ 78.601 Applicability.

(a) The provisions of §§ 78.601 through 78.610 are applicable to electronic products which are subject to the standards prescribed in subpart C and are offered for importation into the United States.

(b) Section 78.630 is applicable to every manufacturer of electronic products offering an electronic product for importation into the United States.

§ 78.630 [Amended]

2. The heading of § 78.630 is revised to read "Service of process on manufacturers."

3. In the first sentence of § 78.630(a), the phrase "section 360h(d)" is changed to "section 360(d)."

(Sec. 215, 58 Stat. 690, Sec. 356, 82 Stat. 1174; 42 U.S.C. 216, 263d)

Approved: April 12, 1971.

ROGER O. EGEBERG,
Assistant Secretary for Health and Scientific Affairs.

[FR Doc.71–5347 Filed 4–15–71;8:51 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71–330]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

Additional Time for Modification of Ship Station Radiotelegraph Transmitters

Order. In the matter of amendment of §§ 83.136(c)(1) and 83.139 to provide additional time in which to modify ship station radiotelegraph transmitters to bring them into conformity with the Commission's requirements for type acceptance.

1. In its report and order in Docket No. 18577, released November 9, 1970 (35 F.R. 17412), the Commission amended § 83.136(c)(1) of Part 83 to require that all ship station radiotelegraph transmitters first installed after January 1, 1971, shall be of a type which has been type accepted by the Commission.

2. The Commission is now in receipt of advice from the manufacturers of ship station radiotelegraph transmitters: That modification of these transmitters is required in order to bring them into conformity with the technical requirements for type acceptance as set forth in the Commission's rules; that the engineering work necessary to establish the specific nature of the required modification has been completed; and that type acceptance will be applied for and modification kits will be prepared for each type of transmitter and will be supplied to the appropriate outlet for installation. These manufacturers request that additional time be provided in which to complete this work. Based on the information available, it appears that the above modifications can be completed by October 15, 1971.

3. We find that the rule change requested is reasonable and desirable and would serve the public interest and should be granted. Due to the need for

immediate action prior notice and procedure is impracticable. Further, the subject rule change relieves a restriction. Accordingly, compliance with the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 are not applicable.

4. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i) and 303 (f) and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended, effective April 20, 1971, as set forth below.

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

Adopted: April 8, 1971.

Released: April 12, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. Section 83.136(c) is revised to read as follows:

§ 83.136 Emission limitations.

* * * * *

(c) The requirements of paragraph (a) of this section shall be applicable to radiotelegraph transmitters operating on any frequency assignment below 27.5 Mc/s:

(1) Which are first installed after October 15, 1971;

(2) Which were installed during the period January 1, 1959 to October 14, 1971; and

(3) Effective January 1, 1973, to transmitters which were installed prior to January 1, 1959.

* * * * *

2. In § 83.139, paragraph (e) is amended to read as follows:

§ 83.139 Acceptability of transmitters for licensing.

* * * * *

(e) Each radiotelegraph transmitter first authorized to operate in the band 535–27500 kc/s after October 15, 1971, for use in a ship station (other than transmitters authorized solely for developmental stations), and, after January 1, 1973, all radiotelegraph transmitters operating in the band 535–27,500 kc/s shall be of a type which has been type accepted by the Commission.

[FR Doc.71–5337 Filed 4–15–71;8:50 am]

[Docket No. 18945; FCC 71–367]

PART 87—AVIATION SERVICES

Coordination With FAA by Applicants for Type Acceptance of Equipment Operating in Certain Frequency Bands

Report and order. In the matter of amendment of Parts 2 and 87 of the Commission's rules and regulations to require coordination with the Federal Aviation Administration by applicants for type acceptance of equipment operating in certain frequency bands in the Aviation Services; Docket No. 18945.

1. A notice of proposed rule making in the above-captioned matter was released on August 28, 1970, and was published in the FEDERAL REGISTER on September 3, 1970, FCC 70–896 (35 F.R. 13999). The dates for filing comments and reply comments thereto have passed.

2. Comments were filed by: Aircraft Owners and Pilots Association (AOPA); Collins Radio Co. (Collins); Federal Aviation Administration (FAA); In-Flight Devices Corp. (IFD); King Radio Corp. (King); the McDonnell Douglas Corp. (MDC); and National Air Transportation Conferences (NATC). Reply comments were filed by: Federal Aviation Administration (FAA).

3. The comments of Collins, FAA, King, MDC, and NATC expressed general approval of one of the objectives of the proposal, which is that the FAA be informed of the existence of equipment operating in certain frequency bands in the Aviation Services prior to its placement into service. However, certain objections were raised to the proposed procedure itself. AOPA and IFD objected to the entire proposal and recommended that it not be adopted. We will discuss these points in the following paragraphs.

4. King and FAA expressed their approval of the coordination procedure as proposed. In addition, King pointed out that in the proposal the 118.000 MHz through 135.975 MHz frequency band was not included in the proposal among the frequency bands requiring coordination. This omission was intentional, inasmuch as the list includes only those frequency bands for which FAA specifically requested coordination. To minimize impact on the manufacturer, FAA requested only critical radionavigation bands. FAA would indicate other bands only should serious NAS compatibility problems arise in the future.

5. The time element involved in the proposed coordination procedure is a point of concern noted in comments of Collins and MDC. We agree that an additional element of time may be introduced and are also concerned about this. However, the equipment manufacturer should do his early development work with the National Airspace System (NAS) needs in mind. FAA, in their reply comments, state:

* * * Since appreciable time and effort are often required to determine the electromagnetic compatibility of new and novel devices proposed for the NAS frequency bands, and because of the implied economic impact, it is common practice for the manufacturers or inventor to contact the FAA in the early conceptual/development stages. When this is done, the performance characteristic compatibility is relatively known before the type acceptance application is initiated. * * *

When inventors or manufacturers take the necessary steps to advise FAA of the existence of new equipment for these bands well in advance of the time at which type acceptance applications are ready for filing, we believe that undue delay will not be added to the time required to obtain type acceptance.

6. However, in order to meet the objections by Collins, MDC, and others to the procedure as proposed, we are adopting a revised version of our proposal. The rule adopted will require the type acceptance applicant to file with FAA a letter of notification, describing the equipment and advising of the filing or intent to file the type acceptance application. A copy of this letter of notification and an attestation to its transmittal to FAA will be required to be included in the type acceptance application. Action on the application will be withheld for 21 days following the date of its receipt by the Commission in order to afford the FAA an opportunity to file any showings of incompatibility of the equipment with the National Airspace System, and any objection they may have to the issuance of type acceptance. The Commission will consider this showing, together with all other information in its possession concerning the equipment before taking final action on the application.

7. Although NATC supported our proposal, they voiced concern that FAA may insist that a certain type of equipment be designed so that its performance will be "beyond reasonable requirements." However, we believe that adequate administrative safeguards presently exist to provide recourse for the applicant affected by unfavorable action on type acceptance applications. Concerning this, FAA stated in their reply comments:

* * * As in the past, FAA will continue to consider application for rejected equipments upon presentation of evidence that the objectionable characteristics have been corrected.

Our rules contain provisions, unaffected by this proceeding, for petition for reconsideration by any person affected by our refusal to grant type acceptance. (See §§ 2.575(e) and 1.106.)

8. From the statements made in the AOPA comments, it appears that they have misconstrued both the intent and content of our coordination proposal. The comments include the statement:

* * * An applicant for type acceptance in the aviation spectrum would, in addition to having to meet the engineering requirements of the FCC, also have to meet with the approval of the FAA that the equipment is compatible with the National Airspace System. * * *

Both the original proposal and the rule adopted would afford the FAA opportunity to show that the equipment is not compatible with the NAS. Under the rule herein adopted, if the FAA files a showing contending that the equipment is not compatible with NAS, the rule provides that the Commission will consider this showing, together with all other information in its possession concerning the equipment before taking final action on the application. Neither the proposal, nor the adopted rule would give FAA "veto power" over our actions. This procedure is simply a means for effecting some essential coordination between the two agencies. Previous precedents have

[1] Chairman Burch absent.

been established with FAA in connection with airspace matters and establishment of non-Federal navigational aids.

9. IFD expresses concern over the delay which it feels will be introduced by the proposed coordination plan. With regard to type acceptance, they state that:

> * * * This 30-day delay already constitutes a burden on manufacturers, who need to realize income on designs very quickly after completing engineering work. * * *

Here again, our existing rules concerning type acceptance, and the reply comments of FAA are germane to the IFD comments. This matter was discussed in paragraph 5, under our consideration of the Collins and MDC comments. IFD comments also contend that there is no provision for rebuttal by an applicant who has been denied type acceptance based on FAA contention of incompatibility with the National Airspace System. As explained in paragraph 6, above, provision for seeking reconsideration of such an adverse decision is provided in the Commission's rules and by the FAA.

10. We consider it to be in the public interest to respond affirmatively to the FAA request and to provide that agency with the cooperation it considers essential in carrying out certain of its responsibilities. Although AOPA and IFD comments oppose the proposal and recommend that it be withdrawn, we believe, for reasons explained above, that their objections to it are based at least partially, on a misunderstanding of the proposal and of the provisions of our present rules. Regardless of whether this is so, we believe that the rule as adopted will be less objectionable to these organizations than those rules originally proposed.

11. In the near future, we expect to undertake a revision of the type acceptance procedural rules. In order to avoid adding unnecessary complication to that future proposal, we are deleting our proposed change to § 2.571, paragraphs (b) and (c), in this proceeding. The changes to § 87.79, as proposed, will accomplish the desired result. The amendment to Part 2 was proposed as an additional aid to the applicant for type acceptance, but is not essential to this proceeding.

12. We are amending our proposed paragraph (d) of § 87.79 of our rules. The parenthetical expression "(ground and airborne)" has been added for clarification, as suggested by some of the comments.

13. We find that it is in the public interest to amend Part 87 of the Commission's rules to add a new paragraph (d) to § 87.79 to require notification to the Federal Aviation Administration by applicants for type acceptance of equipment operating in the frequency bands listed in said paragraph. *Accordingly, it is ordered*, That, pursuant to authority contained in section 4(i) and section 303(r) of the Communications Act of 1934, as amended, the rule amendments set out below are adopted, effective May 21, 1971, and that this proceeding is terminated.

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

Adopted: April 8, 1971.

Released: April 13, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Part 87, Aviation Services of the Commission's rules is amended as follows:

Section 87.79 is amended by adding a new paragraph (d) to read as follows:

§ 87.79 Type acceptance of equipment.

* * * * *

(d) In the case of applications for type acceptance of equipment (ground and airborne) intended for transmission in any of the frequency bands listed below, the applicant shall, on a date no later than the date of filing of the application with the Commission, transmit to the Federal Aviation Administration (FAA) a letter of notification advising that agency of the intent to file, or the filing, as appropriate, of the type acceptance application. (Manufacturers and inventors are encouraged to contact the FAA in the early conceptual or developmental stages to reduce the possibilities of acceptance delays and economic loss.) The letter of notification shall be transmitted to: Federal Aviation Administration, Frequency Management Division, Washington, D.C. 20590. It shall describe the equipment, giving the identification by manufacturer and type number and including statements of the antenna characteristics, rated output power, type and characteristics of emission, the frequency or frequencies of operation, statement of essentical receiver characteristics if protection is required, and the purpose for which the equipment is to be used. The type acceptance application shall include a copy of the letter of notification and shall attest to its transmittal, and date thereof, to the FAA. Action will be withheld for a period of 21 days following the date of receipt of the type acceptance application in order to afford the FAA an opportunity to comment. If the Commission receives from FAA an objection to issuance of type acceptance which includes a showing of noncompatibility of the equipment with the National Airspace System, the Commission will consider this showing together with all other information in its possession concerning the equipment before taking final action on the application. The frequency bands are as follows:

108 MHz to 117.975 MHz.
328.6 MHz to 335.4 MHz.
960 MHz to 1215 MHz.
1535 MHz to 1660 MHz.
5000 MHz to 5250 MHz.
14.0 GHz to 14.4 GHz.
15.40 GHz to 15.70 GHz.
24.25 GHz to 25.25 GHz.
31.80 GHz to 33.40 GHz.

[FR Doc.71-5338 Filed 4-15-71; 8:50 am]

[FCC 71-331]

PART 97—AMATEUR RADIO SERVICE

Time Period for Return of Amateur Examinations Administered by Volunteer Examiners

Order. In the matter of amendment of § 97.29(b)(3) of the Commission's Amateur Rules to clarify and increase the time period for return of amateur examinations administered by volunteer examiners.

1. Section 97.29(b)(3) of the Amateur Radio Services Rules and the instructions appearing on the examination envelope furnished volunteer examiners are not in accord with respect to calculation of time that such examination papers are required to be returned to the Commission.

2. Accordingly, we are amending § 97.29(b)(3) of the amateur rules and conforming the instructions appearing on the examination envelope to those provisions. In addition, we are increasing the period which such examination papers must be returned to 30 days from the date the Commission mails the papers to the volunteer examiner. The date of mailing is normally stamped by the Commission on the examination envelope.

3. The amendment adopted herein is editorial and procedural in nature and, hence, the prior notice and effective date provisions of 5 U.S.C. section 553 are not applicable. Authority for this rule change is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

4. In view of the foregoing: *It is ordered*, That effective April 21, 1971, § 97.29(b)(3) is amended as shown below.

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

Adopted: April 8, 1971.

Released: April 12, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 97 of the Commission's rules is amended as follows:

Section 97.29(b)(3) is amended to read as follows:

§ 97.29 Manner of conducting examinations.

* * * * *

(b) * * *

(3) The examination papers, either completed or unopened in the event the examination is not taken, shall be returned by the volunteer examiner to the Commission's office at Gettysburg, Pa., no later than 30 days after the date the papers are mailed by the Commission (the date of mailing is normally stamped by the Commission on the outside of the examination envelope).

* * * * *

[FR Doc.71-5339 Filed 4-15-71;8:50 am]

[1] Chairman Burch absent.

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 14—PROCEDURAL RULES FOR PROCEEDINGS CONDUCTED PURSUANT TO ENFORCEMENT OF EXECUTIVE ORDER 11246, AS AMENDED, AND RULES, REGULATIONS, AND ORDERS THEREUNDER

Correction

The material contained in 36 F.R. 5906 of March 31, 1971, should be corrected as follows:

1. The words "as amended" should be added after Executive Order 11246 in the part heading so that it will read as set forth above.

2. The authority is revised to read:

AUTHORITY: The provisions of this Part 14 issued under Executive Order 11246, 3 CFR 1965 Comp., as amended.

3. In the first paragraph and §§ 14.2, 14.3(e), and 14.30, wherever "Executive Order 11246" appears, add "as amended."

ALICE K. HELM,
Deputy Assistant General Counsel for Administration.

[FR Doc.71-5293; Filed 4-15-71;8:47 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Dockets No. 1-9 and 1-10; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection; Passenger Cars

The purpose of this notice is to establish a new Federal Motor Vehicle Safety Standard No. 215, Exterior Protection—Passenger Cars. The standard will require passenger cars to withstand specified low-speed impacts at the front and rear without damage to lighting, fuel, exhaust, cooling, or latching systems. A public meeting on the subject was held on April 2, 1970, and a notice of proposed rulemaking was published on November 24, 1970 (35 F.R. 14999). The comments received at the meeting and in response to the notice have been considered in the preparation of this rule. The standard is intended to achieve the goals of preventing low-speed collisions from impairing the safe operation of vehicle systems and of reducing the frequency of override or underride in collisions at higher speeds.

Many comments to the docket indicated that manufacturers would encounter substantial difficulties in meeting the pendulum-test requirements at the beginning of the 1973 model year. The industry evidently has been preparing for a substantial upgrading of passsenger car bumpers for the 1973 models. There are, however, considerable differences in the designs selected, with respect to such aspects as the height of the bumpers, both top and bottom, the extent to which they protect the vehicle corners, the material with which they are faced, and the details of their configuration. All these aspects have a considerable effect on whether the vehicles would meet the pendulum-test requirement. In the pendulum test a precisely configured block is used as a striker, with the requirement that only a particular projecting ridge on the block may contact the vehicle. The difficulties of compliance are compounded by the fact that manufacturers are in an advanced stage of preparation for the 1973 models.

Some of the comments to the docket suggested that a barrier test should be substituted for the pendulum, at least for the first phase of the requirements. A barrier test does not by itself involve the configuration of the front and rear contact surfaces. It does, however, establish the basic strength of those surfaces and the supporting structures, and the vehicle's overall ability to withstand impacts at the specified energy levels. It has been decided, therefore, to utilize fixed barrier collision tests in the first phase, model year 1973, and upgrade the requirements by adding pendulum tests for model year 1974.

It was suggested in several of the comments that less bumper strength was needed on the rear than on the front, since vehicles are struck less frequently and less severely, from a statistical standpoint, from that direction. Many of the designs presently in preparation for 1973-model production offer rear protection in the 2-to-3-m.p.h. range, as compared with 5 m.p.h. at the front. In recognition of these factors, the requirement for rear impact protection on 1973 models is a barrier impact at 2½ m.p.h., while the front is required to meet a 5-m.p.h. barrier impact.

For the 1974 models (effective September 1, 1973), a pendulum test requirement is added in a form similar to that proposed in the November 24 notice, with a front impact speed of 5 m.p.h. and a rear impact speed of 4 m.p.h.

Several manufacturers stated that the requirement for multiple impacts on front and rear was too severe. The NHTSA considers it essential for a bumper to be able to sustain an impact without impairment of its protective capabilities, and has therefore retained the multiple impact requirement. However, it is recognized that the requirement as proposed would permit up to six impacts at the same point and that the vehicle could fail to conform simply by denting the bumper until it contacts a plane surface of the test device. Accordingly, the standard provides that impacts must be at least 2 inches apart vertically, unless they are more than 12 inches apart laterally.

A related concern expressed in several comments was that the vehicle corners would have to be very stiff in order to withstand longitudinal impacts in which most of the test device would be outboard of the corner. Since corner protection is also required and a separate corner impact procedure is provided, the Administration has determined that the longitudinal impacts should be conducted with the test device completely inboard of the corners, and has amended the requirement accordingly.

The configuration of the test device's impact face attracted several comments. Upon review, it has been decided that a 3-inch offset in the upper portion of the device is unnecessary to establish the upper limit on the height of the vehicle's protective surface. For impacts at a height of 20 inches, the upper surface (plane B) is therefore offset by 1½ inches rather than 3 inches. Several comments indicated that the cross section radius of the impact ridge should be increased from ½ inch to 1 inch or more or that the ridge should be removed altogether. Review of the reasons advanced for the proposed changes does not give sufficient cause to change the shape of the ridge. Its design is intended to represent a fairly hostile impacting surface, but it is not unrepresentative of the objects likely to be encountered by a vehicle.

A number of comments stated that the requirement for a corner impact at 45° was too severe and that it would necessitate undesirable changes in the bumper wrap-around. Upon consideration of these comments and supporting data regarding the frequency of angular impacts, it has been decided to reduce the direction of the corner impact to 30° from longitudinal.

It appeared from the comments that one of the most difficult problems from the standpoint of vehicle design arose from the requirement that impacts be conducted at any height from 20 inches to 14 inches. To assure themselves of conformity at the 14-inch height, manufacturers of larger cars would have had to lower the bumper to a point where it would significantly interfere with the vehicle's ability to negotiate driveways and ramps. A 6-inch range in the test heights was found unnecessary, since manufacturers will have to exceed the range somewhat to ensure conformity. Accordingly, the NHTSA has decided to raise the minimum test height to 16 inches. As adopted the standard specifies three impacts, front and rear, at any height between 20 inches and 16 inches.

Although the standard does not permit repairs to be conducted after an impact, the Administration has found merit in the suggestion that an interval should be specified between tests to permit systems with self-recovery features to return to their original position. Accordingly, an interval of 30 minutes is specified between impacts.

One comment pointed out that confusion might arise from the manner in which the test device's weight was specified. The standard therefore refers to the effective impacting mass of the test device and specifies that this mass is equal to the mass of the impacted vehicle.

Further work is in process with respect to the requirements effective September 1, 1973, and it is anticipated that additions to or refinements of those requirements will be made in the near future.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 215, Exterior Protection, is added to § 571.21 of Title 49, Code of Federal Regulations, reading as set forth below.

Effective date. September 1, 1972, with further requirements effective September 1, 1973, as noted in the text of the rule. Because of the leadtime necessary for preparation for production, it is found, for good cause shown, that an effective date more than 1 year later than the issue date is in the public interest.

This amendment to § 571.21 of Title 49, Code of Federal Regulations, is issued under the authority of sections 103, 108, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1397, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on April 9, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

§ 571.21 **Federal Motor Vehicle Safety Standards.**

* * * * *

EXTERIOR PROTECTION—PASSENGER CARS

S1. *Scope.* This standard establishes requirements for the impact resistance and the configuration of front and rear vehicle surfaces.

S2. *Purpose.* The purpose of this standard is to prevent low-speed collisions from impairing the safe operation of vehicle systems, and to reduce the frequency of override or underride in higher speed collisions.

S3. *Application.* This standard applies to passenger cars.

S4. *Definition.* All terms defined in the Act and the rules and standards issued under its authority are used as defined therein.

S5. *Requirements.*

S5.1 *Vehicle manufactured on or after September 1, 1972.*

Each vehicle manufactured on or after September 1, 1972, shall meet the protective criteria of S5.3.1 through S5.3.4 when it impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward at 5 m.p.h. and while traveling longitudinally rearward at 2½ m.p.h., under the conditions of S6.1.

S5.2 *Vehicles manufactured on or after September 1, 1973.*

Each vehicle manufactured on or after September 1, 1973, shall, in addition to the requirements of S5.1, meet the protective criteria of S5.3.1 through S5.3.5 during and after impact by a pendulum-type test device, at 5 m.p.h. for frontal impacts and 4 m.p.h. for rear impacts in accordance with the conditions of S6 and the procedures of S7.1 and S7.2.

S5.3 *Protective criteria.*

S5.3.1 Each lamp or reflective device shall be free of cracks and shall comply with the applicable visibility requirements of section S4.3.1.1 of Motor Vehicle Safety Standard No. 108. The aim of each headlamp shall be adjustable in accordance with the applicable requirements of Standard No. 108.

S5.3.2 The latching systems of the vehicle's hood, trunk, and doors shall be operable in the normal manner.

S5.3.3 The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall be operable in the normal manner.

S5.3.4 The vehicle's exhaust system shall have no constrictions or open joints.

S5.3.5 The vehicle shall not touch the test device except on the impact ridge shown in figures 1 and 2.

S6. *Conditions.* The vehicle shall meet the requirements of S5 under the following conditions.

S6.1 *General.*

S6.1.1 The vehicle is at unloaded vehicle weight.

S6.1.2 The front wheels are parallel to the vehicle's longitudinal centerline.

S6.1.3 Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

S6.1.4 Brakes are disengaged and the transmission is in neutral.

S6.2 *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

S6.2.1 The test device consists of a block with one side contoured as specified in figure 1 and figure 2 with the impact ridge made of hardened steel.

S6.2.2 With plan A vertical, the impact line shown in figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

S6.2.3 The effective impacting mass of the test device is equal to the mass of the tested vehicle.

S6.2.4 When impacted by the test device, the vehicle is at rest on a level, rigid concrete surface.

S7. *Test procedures.*

S7.1 *Longitudinal impact test procedures.* Impact the vehicle's front surface and its rear surface three times each with the impact line at the height of 20 inches, and three times each with the impact line at any height between 20 inches and 16 inches, in accordance with the following procedure.

S7.1.1 For impacts at a height of 20 inches, place the test device shown in figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.1.2 For impacts at a height between 20 inches and 16 inches, place the test device shown in figure 2 so that plane A is vertical and the impact line is horizontal at a height within the range.

S7.1.3 For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

S7.1.4 For each impact, aline the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes plane A of the test device and with the test device inboard of the vehicle corner test positions specified in S7.2.

S7.1.5 Impact the front of the vehicle at 5 m.p.h. and the rear at 4 m.p.h.

S7.1.6 Perform the impacts at intervals of not less than 30 minutes.

S7.2 *Corner impact test procedure.* Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner once each with the impact line at any height between 20 inches and 16 inches in accordance with the following procedure.

S7.2.1 For an impact at a height of 20 inches, place the test device shown in figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.2.2 For an impact at a height between 20 inches and 16 inches, place the test device shown in figure 2 so that plane A is vertical and the impact line is horizontal at a height within the range.

S7.2.3 Align the vehicle so that a vehicle corner touches, but does not move, the lateral center of the test device, with plane A of the test device forming an angle of 60 degrees with a vertical longitudinal plane.

S7.2.4 Move the test device away from the vehicle, then release it so that plane A remains vertical from release until the onset of rebound, and the arc described by any point on the impact plane at an angle of 30° to the vertical line is constant, with a radius of not less than 11 feet, and lies in a vertical plane through the vehicle's longitudinal centerline.

S7.2.5 Impact the front corners at 5 m.p.h. and the rear corners at 4 m.p.h.

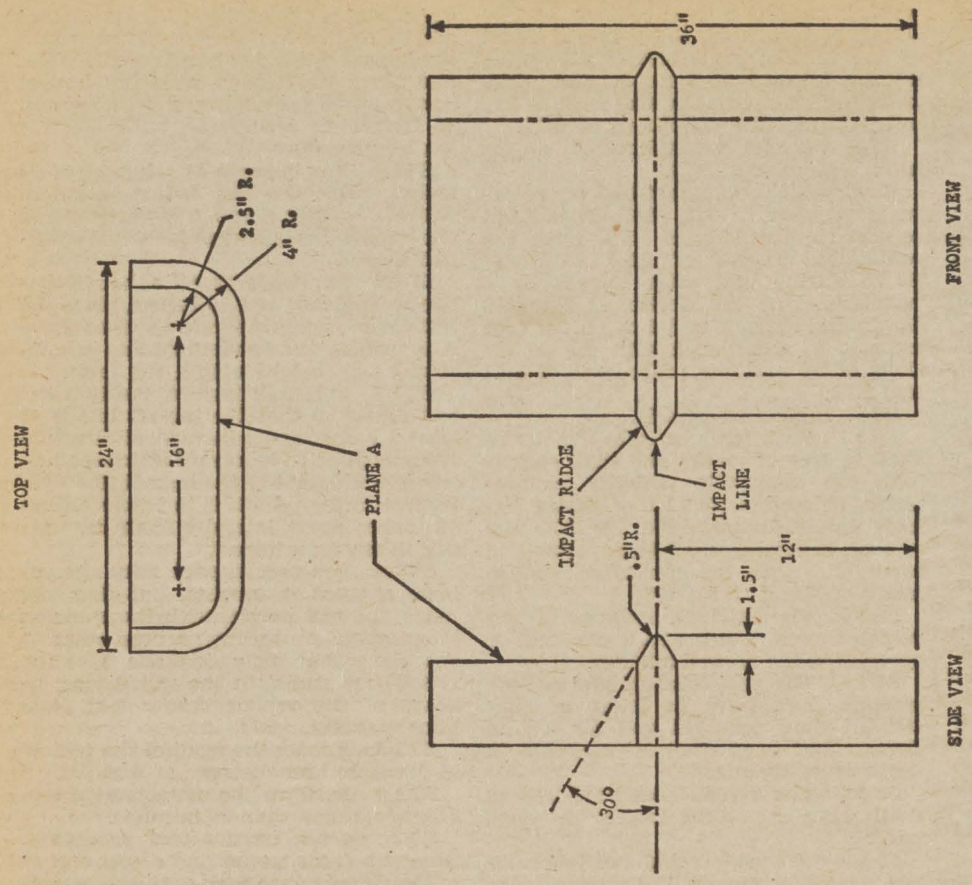

FIGURE 2

[FR Doc.71-5234 Filed 4-15-71;8:45 am]

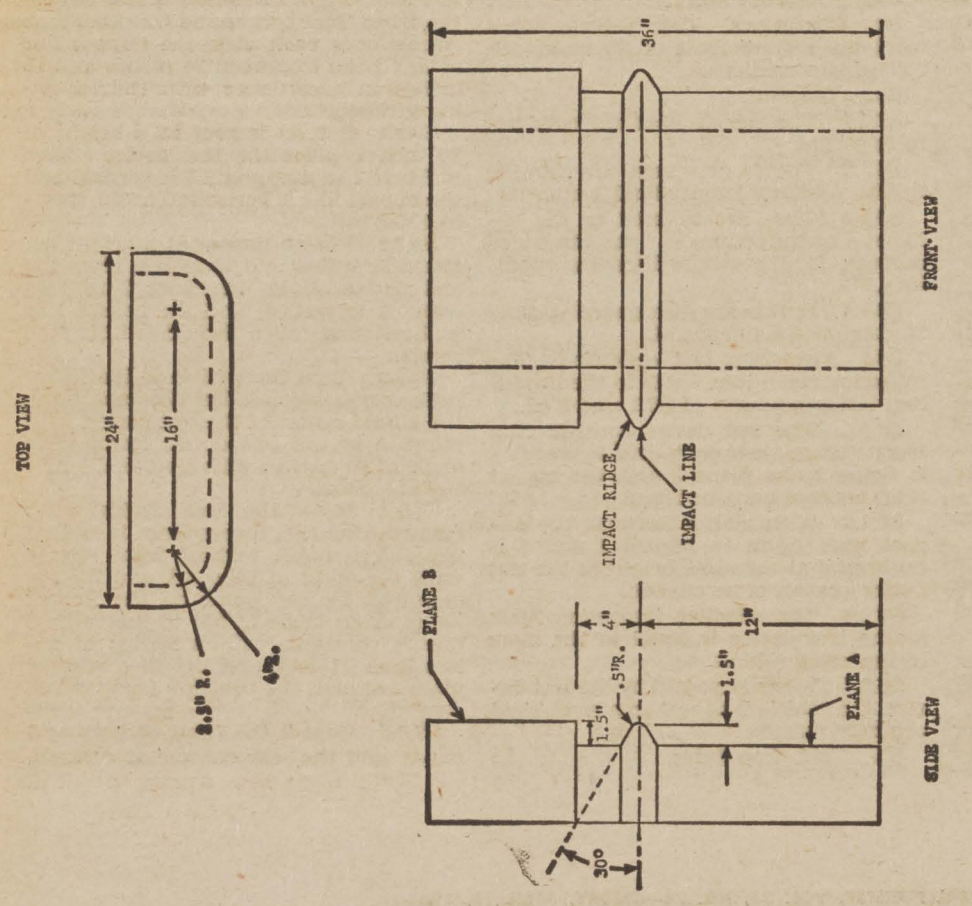

FIGURE 1

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Mingo National Wildlife Refuge, Mo.

The following special regulations is issued and is effective on date of publication in the FEDERAL REGISTER (4–16–71).

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

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

The public hunting of squirrels on the Mingo National Wildlife Refuge, MO, is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,500 acres, is delineated on maps available at refuge headquarters, one mile north of Puxico, MO, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of squirrels subject to the following special conditions:

(1) The open season for hunting squirrels on the refuge extends from May 30 through September 30, 1971, inclusive.

(2) Hunters must register when entering the refuge and record kill when leaving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1971.

JOHN E. TOLL,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Missouri.

APRIL 6, 1971.

[FR Doc.71–5278 Filed 4–15–71;8:46 am]

PART 33—SPORT FISHING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (4–16–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 150 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 10 through December 31, 1971, inclusive, during daylight hours only.

(2) The use of boats is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1971.

LYLE J. SCHOONOVER,
Refuge Manager, Sand Lake National Wildlife Refuge Columbia, S. Dak.

April 9, 1971.

[FR Doc.71–5277 Filed 4–15–71;8:46 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1968–69 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

This amendment is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), to make certain amendments to the regulations (33 F.R. 15521, as amended).

The purpose of this amendment is to (1) change the definition of new farm to exclude an allotment established as the result of acreage reallocated for Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco under § 724.73, (2) provide for annual and permanent surrender and reallocation of Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco allotments to other farms within the State, and (3) change the date for surrendering cigar tobacco allotment acreage, and requesting reallocation of surrendered acreage to March 26. The amendment is designed to increase the production of these kinds of tobacco as one means of meeting a shortage in supply.

Notice was given (35 F.R. 985) in January 1970 in accordance with 5 U.S.C. 553 of proposed amendments to the regulations for the same purposes as this amendment. When amendments to the regulations were issued pursuant to that notice, provision was made for the annual surrender and reallocation of allotments but not on a permanent basis. It has been determined that most growers who wish to expand their production of Cigar-filler tobacco are not willing to increase the capitalization necessary to handle additional acreage if reallocated for only a year at a time. It is therefore necessary to provide for the permanent surrender and reallocation of allotments if any substantial increase in production is to be obtained.

Due consideration in the preparation of this amendment was given to data, views, and recommendations received pursuant to the 1970 notice within the limits permitted by the Act. In view of the fact that interested persons were given the opportunity in 1970 to present data, views, and recommendations to proposed changes in the regulations substantially the same as are in this amendment, and since farmers are now preparing for the production of the 1971 crops of the kinds of tobacco affected by the amendments, it is essential that they be made effective as soon as possible. Accordingly, it is hereby found that compliance with the notice, procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this document shall become effective upon publication in the FEDERAL REGISTER.

The amendment is as follows:

1. Paragraph (q) of § 724.51 is amended to read as follows:

§ 724.51 Definitions.

* * * * *

(q) *New farm.* A farm for which a tobacco allotment is established in the current year, and for which there is no tobacco history acreage in the base period (except an allotment established as a result of a transfer by sale or by owner for Fire-cured, Dark air-cured, or by Virginia sun-cured under § 724.70 or an allotment established as the result of acreage reallocated for Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco under § 724.73). If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is a new farm. The term "tobacco history acreage" as used in this paragraph is defined in § 724.55.

2. Section 724.73 is amended to read as follows:

§ 724.73 Surrender and reallocation of old farm acreage allotments for Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) *Annual or permanent surrender of acreage allotments to State committee.* Except as provided in this paragraph, all or any part of a farm acreage allotment on which Cigar-binder (types 51 and 52) or Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco will not be produced and which the operator of the farm voluntarily surrenders on an annual basis, or both the owner and operator voluntarily surrenders on a permanent basis, in writing to the State committee by not later than March 26 of the current year, shall be deducted from the allotment of such farm.

(1) For the farm voluntarily surrendering tobacco farm acreage allotment on an annual basis, such acreage will be considered as having been planted on the surrendering farm for the purpose of establishing allotments for subsequent years. For the farm receiving such annual surrendered acreage such acreage shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm surrendering on a permanent basis shall be adjusted downward to reflect the acreage permanently surrendered.

(2) Acreage allotments shall not be surrendered either annually or permanently (i) from farm owned by the Federal Government or any agency thereof if there is in effect a lease or operating agreement prohibiting the production of Cigar-binder (types 51 and 52) or Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, (ii) from the eminent domain allotment pool if an application for transfer from the pool has been filed in accordance with Part 719 of this chapter, (iii) from new farms, or (iv) from a farm covered by a whole farm Conservation Reserve Contract, by a whole farm Cropland Conservation Program agreement entered into in 1966 and 1967, or by a Cropland Adjustment Program agreement.

(3) Acreage allotments may be surrendered either annually or permanently from farms covered by part-farm Conservation Reserve Contracts or part-farm Cropland Conservation Program agreement entered into in 1964 or 1965 in an amount not to exceed their permitted acreage.

(b) *Reallocation of surrendered acreage allotment.* The acreage voluntarily surrender on an annual or permanent basis for the current year may be reallocated by the State committee to any farm in any county in the State. In addition, a farm receiving a new farm allotment may be considered for an increase as set forth in § 724.72(e). The State committee shall select the counties to which the surrendered acreage will be reallocated. The county committee shall select the farms to which the surrendered acreage will be reallocated. The State committee shall keep records on both an annual and permanent basis of the source of acreage surrendered. Any acreage surrendered for the current year on an annual basis which is not reallocated by the State committee in the current year shall not be available for use in any subsequent year. Any acreage surrendered for the current year on a permanent basis which is not reallocated by the State committee in the current year may be reallocated in the following year. The county committee for the county receiving surrendered acreage may reallocate the tobacco allotment acreage on an annual or permanent basis to other farms in the county in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for production of Cigar-binder (types 51 and 52) or Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco. Surrendered acreage should not be reallocated on a temporary or permanent basis to any farm unless there is assurance from the operator to the county committee that the surrendered acreage being received will be produced. Allotment reallocated to a farm on an annual basis can only be used by the receiving farm for increased production during the current year. Allotment reallocated to a farm on a permanent basis shall be added to the current year allotment if the farm has an allotment or serve to establish an allotment for a farm that does not currently have one. A farm shall be eligible to receive reallocation of surrendered acreage on either or both an annual or permanent basis only if a written request is filed by the farm owner or operator at the office of the county committee not later than March 26 of the current year.

(Secs. 313, 375, 52 Stat. 47, as amended, 66, as amended; 7 U.S.C. 1313, 1375)

Effective date: Upon publication in the FEDERAL REGISTER (4–16–71).

Signed at Washington, D.C., on April 13, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-5385 Filed 4-14-71;1:08 pm]

PART 729—PEANUTS

Subpart—1971 Crop of Peanuts; Acreage Allotments and Marketing Quotas

VALENCIA SHORT SUPPLY DETERMINATION

Basis and purpose. The provisions of § 729.106 are issued under section 358(c)(2) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(c)(2)). The purpose of § 729.106 is to make a determination on the basis of the average yield per acre of Valencia type peanuts during the 5-year period 1966–70, adjusted for trends in yields and abnormal conditions of production affecting yields, that the supply of Valencia type peanuts for the 1971–72 marketing year will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by CCC. The State allotments for States producing Valencia type peanuts are increased in order to meet such demand. The latest available statistics of the Federal Government were used in making these determinations.

Notice of the proposed determination with respect to Valencia type peanuts under section 358(c)(2) of the act was published in accordance with 5 U.S.C. 553 (80 Stat. 383) in the FEDERAL REGISTER of February 19, 1971 (36 F.R. 3199). The recommendations received in response to such notice were considered and adopted to the extent permitted by the act. In order that peanut farmers may be notified as soon as possible of any increases of farm allotments for the 1971 crop, it is essential that § 729.106 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with 30-day effective date requirement of 5 U.S.C. 553 is impraticable and contrary to the public interest and § 729.106 shall be effective upon filing of this document with the Director, Office of the Federal Register.

§ 729.106 Additional allotments for Valencia type peanuts of the 1971 crop.

(a) *Determination of short supply.* The term "Valencia type peanuts" means the type of peanuts as defined in § 729.7 (c) of the Allotment and Marketing Quota Regulations for Peanuts of the 1969 and Subsequent Crops (33 F.R. 18351, 18981). It is hereby determined that the supply of Valencia type peanuts for the 1971–72 marketing year (August 1, 1971 through July 31, 1972) determined in accordance with section 358 (c)(2) of the act will be insufficient to meet the estimated demand for Valencia type peanuts for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it.

(b) *State allotment increases for 1971 crop.* The State allotment for peanuts of the 1971 crop for States which produced Valencia type peanuts during any one or more of the years 1968, 1969, and 1970 shall be increased in the aggregate by 2,734 acres which is determined to be the additional acreage required to meet the estimated demand for Valencia type peanuts for cleaning and shelling purposes at the price at which CCC may sell for such purposes peanuts owned or controlled by it.

(c) *Apportionment of allotment increase to States for 1971 crop.* The aggregate of State allotment increases in

the amount of 2,734 acres established under paragraph (b) of this section, less a national reserve of one-fourth of 1 percent (7 acres), is hereby apportioned to States on the basis of the average acreage of Valencia type peanuts in each State in 1968, 1969, and 1970. For this purpose, the term "farm allotment" means the allotment before any increase from released acreage or any additional allotment for the farm under section 358(c)(2) of the act in the 3 base years. The national reserve of 7 acres shall be used by the Deputy Administrator to adjust the State allotments of States receiving increases under this section where incomplete or inaccurate data was used in apportioning such increases. The apportionment of additional allotment under this paragraph does not increase the State allotment for any State above the 1947 harvested acreage of peanuts for such State. The following table sets forth the apportionment to States.

State	1947 harvested acreage of peanuts	1968–70 acreage harvested Valencia peanuts [1]	1971 increase in basic State allotment for Valencia type peanuts	1971 previous State allotment [2]	1971 revised State allotment
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Alabama	463,000	42	19	216,747.0	216,766.0
Arizona				761.0	761.0
Arkansas	8,000			4,184.0	4,184.0
California				930.0	930.0
Florida	105,000	148	65	55,489.5	55,554.5
Georgia	1,124,000	6	3	529,855.5	529,858.5
Louisiana	4,000			1,945.0	1,945.0
Mississippi	13,000	26	11	7,492.0	7,503.0
Missouri				247.0	247.0
New Mexico	14,000	5,304	2,395	5,787.1	8,182.1
North Carolina	292,000			167,838.0	167,838.0
Oklahoma	325,000			138,345.7	138,345.7
South Carolina	26,000	20	9	13,891.0	13,900.0
Tennessee	5,000	7	3	3,606.0	3,609.0
Texas	836,000	502	222	357,998.2	358,220.2
Virginia	162,000			104,883.0	104,883.0
Reserve			7		7.0
U.S. total	3,377,000	6,055	2,734	1,610,000.0	1,612,734.0

[1] Less increase in State allotment for Valencia short supply.
[2] Includes acreage apportioned to each State from the national new farm reserve.
[3] Reserve for correcting or adjusting State allotments in error because of incomplete or inaccurate data.

(d) *No credit for future allotments.* The additional allotment apportioned under this section is in addition to the national acreage allotment, the production from such acreage is in addition to the national marketing quota and such additional allotment shall not be considered in establishing future State, county, or farm acreage allotments.

(Secs. 358(c)(2), 375, 65 Stat. 29, 52 Stat. 66, as amended; 7 U.S.C. 1358(c)(2), 1375)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on April 9, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-5259 Filed 4-15-71;8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-542]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(10) relating to the State of Texas, subdivision (i) relating to Bexar, El Paso, Harris, Galveston, Liberty, and Montgomery Counties is amended to read:

(10) *Texas.* (i) All of El Paso, Harris, Galveston, Liberty, and Montgomery Counties.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 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; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes Bexar County, Tex., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area. No areas in Bexar County, Tex., remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and it must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this 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 April 1971.

F. J. MULHERN,
Acting Administrator, Agricultural Research Service.

[FR Doc.71-5333 Filed 4-15-71;8:50 am]

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Time and Place Stockyard Owners, Market Agencies, and Licensees Are To File Schedules and Amendments

On May 21, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7811) that the Packers and Stockyards Administration was considering an amendment to § 201.22 of the regulations to modify, under certain conditions, the filing and notice requirements with respect to tariff supplements relating to charges for professional veterinary fees.

Interested persons were given until July 24, 1970, to submit written data, views, or arguments concerning the proposed amendment. In response to the request of interested persons, the time for filing such written data, views, or arguments was extended to and including August 20, 1970 (35 F.R. 12769). As pointed out in the statement of consideration published May 21, 1970 (35 F.R. 7811), the market operator, the veterinarian, and the Packers and Stockyards Administration area supervisor involved are generally in the best position to determine reasonable charges for professional veterinary services furnished in the light of local conditions and the requirements of the patrons of the market. However, such charges are subject to review in the normal rate review procedures and policies of the Administration. After consideration of all relevant matters submitted by interested persons, § 201.22, Part 201, Chapter II, Title 9, Code of Federal Regulations, is amended, pursuant to sections 306 and 407 of

the Act (7 U.S.C. 207, 228), by designating the present paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 201.22 Time and place stockyard owners, market agencies and licensees are to file schedules and amendments.

* * * * *

(b) With respect to rates and charges for professional veterinary services furnished at a posted auction market, the market operator shall set forth such rates and charges in a schedule which shall be conspicuously posted at the market at all times the rates and charges set forth therein are in effect. Any change in such rates and charges may become effective 2 days after the amendment or new schedule is so posted at the market. A copy of such schedule and any amendments thereto shall be furnished to the area supervisor at the time of posting at the market.

This amendment shall become effective on June 1, 1971.

(Secs. 306, 407(a), 42 Stat. 164, 169, as amended; 7 U.S.C. 207, 228(a))

Done at Washington, D.C., this 12th day of April 1971.

ODIN LANGEN,
Administrator, Packers and Stockyards Administration.

[FR Doc.71-5295 Filed 4-15-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-EA-39; Amdt. 39-1192]

PART 39—AIRWORTHINESS DIRECTIVES

AVCO Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to AVCO Lycoming T5313A, T5313B, type aircraft engines.

There have been reports of two failures in bearings in the overspeed pickup housing assembly in foreign military aircraft. Such bearing failure may result in failure of the power turbine (N2) accessory drive system. The airworthiness directive requires the periodic inspection of the bearings until eventually replacement of the assembly. Since a condition exists which requires expeditious adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

AVCO LYCOMING. Applies to all Avco Lycoming T5313A and T5313B turboshaft engines which incorporate part No. 1-180-230-01 or -03 Overspeed Pickup Housing Assembly.

Compliance required as follows:

(a) To detect possible failure of the overspeed pickup gear bearings, perform the following inspection within the next 25 hours' time in service after the effective date of this AD and every 25 hours' time in service thereafter until item (b) is accomplished.

Inspect Part No. 1-180-230-01 or -03 Overspeed Pickup Housing Assembly in accordance with the procedure given in Part 1 of Avco Lycoming Service Bulletin, Product Support, No. 0022, Rev. 1, dated March 1, 1971.

(b) To prevent secondary failure of the power turbine (N2) accessory drive system as a result of failure of the overspeed gear bearings, accomplish the following within the next 200 hours' time in service after the effective date of this AD.

Replace Overspeed Pickup Housing Assembly P/N 1-180-230-01 or -03 with P/N 1-180-230-04 (NOTE: Part II of Avco Lycoming Service Bulletin, Product Support, No. 0022 provides information for modifying Part Nos. 1-180-230-01 and -03 to the -04 configuration).

The manufacturer's Service Bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Avco, Lycoming Division, Avco Corp., 550 South Main Street, Stratford, CT. These documents may also be examined at the FAA, Eastern Region, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y. and at FAA Headquarters, 800 Independence Avenue SW., Washington, DC.

A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and in the Eastern Region.

This amendment is effective April 16, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 26, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-5276 Filed 4-15-71;8:45 am]

[Docket No. 71-EA-26; Amdt. 39-1183]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Fairchild Hiller FH-227 type airplanes.

There have been reports of cracks in the fork end fitting of the drag strut on the main landing gears of the FH-227 type airplane. The crack apparently resulted from stress corrosion.

Since the foregoing deficiency can exist or develop in aircraft of similar type design, an airworthiness directive is being issued which will require repetitive inspections and replacement where necessary of the fittings.

Since a situation exists which requires expeditious adoption of this amendment, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

Applies to all FH-227 airplanes certificated in all categories.

Compliance required as indicated.

To detect cracks in FH-227 Main Landing Gear Drag Strut Assemblies P/N 2.00259.002 Issue 2 and Issue 3, having 500 hours' time or more accomplish the following:

(a) Within the next 100 hours after the effective date of this AD unless already accomplished within the past 1,100 hours and thereafter at intervals not to exceed 1,200 hours:

(1) Inspect the end fittings of Drag Strut Assembly P/N 2.00259.002 Issue 2 and Issue 3 at the taper dowel holes using a penetrant flaw detection method in conjunction with a glass of at least 10 power or an equivalent method approved by the FAA.

(2) Replace cracked parts before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the replacement can be performed.

(3) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. Equivalent inspections, and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(4) Report the results of the initial inspection findings required by this AD to the Chief, Engineering and Manufacturing Branch, FAA Eastern Region (reporting approved by the Bureau of the Budget under B.O.B. No. 04-R0174).

This amendment is effective April 16, 1971.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 25, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.71-5275 Filed 4-15-71;8:45 am]

[Airspace Docket No. 71-SO-52]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Nashville, Tenn., control zone.

The Nashville control zone is described in § 71.171 (36 F.R. 2055 and 4479). In the description, there is a proviso to exclude the portion within a 1-mile radius of Cornelia Fort Airpark Monday through Friday, except Federal legal holidays. This proviso was designated due to extensive parachute activity at this airport. On April 5, 1971, Colemill Enterprises discontinued all parachute activity and requested that the airport be excluded from the control zone full time. It is necessary to alter the control zone description to reflect this change. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Nashville, Tenn., control zone (36 F.R. 4479) is amended as follows: All after "* * * extending from the 5-mile radius zone to the LOM; * * *" is deleted and "* * * excluding the portion within a 1-mile radius of Cornelia Fort Airpark (lat. 36°-11'45" N., long. 86°42'00" W.) * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on April 9, 1971.

GORDON A. WILLIAMS, Jr.
Acting Director, Southern Region.

[FR Doc.71-5269 Filed 4-15-71;8:45 am]

[Airspace Docket No. 71-WE-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On February 25, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 3472) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the Wenatchee, Wash., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., June 24, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on April 8, 1971.

ARVIN O. BASNIGHT,
Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Wenatchee, Wash, control zone is amended to read as follows:

WENATCHEE, WASH.

Within a 5-mile radius of Pangborn Field, Wenatchee, Wash. (latitude 47°24'00" N., longitude 120°12'30" W.) and within 3 miles each side of the Wenatchee VOR 124° radial extending from the 5-mile radius zone to 8 miles southeast of the VOR, excluding the airspace within a 1-mile radius of Fancher Field, Wash. (latitude 47°26'55" N., longitude 120°16'40" W.).

In § 71.181 (36 F.R. 2140) the description of Wenatchee, Wash., transition area is amended to read as follows:

WENATCHEE, WASH.

That airspace extending upward from 700 feet above the surface within 4 miles each side of the Wenatchee VOR 124° radial, extending from the VOR to 12.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the Wenatchee VOR 092° and 272° radials, extending from 7 miles west to 14 miles east of the VOR and within 5 miles southwest and 9.5 miles northeast of the 124° radial, extending from the VOR to 23 miles southeast of the VOR.

[FR Doc.71-5270 Filed 4-15-71;8:45 am]

[Airspace Docket No. 71-SO-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On March 5, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4426), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Clifton, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 24, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

CLIFTON, TENN.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hassell Field (lat. 35°23'00" N., long. 87°58'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on April 9, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-5268 Filed 4-15-71;8:45 am]

[Airspace Docket No. 70-WE-93]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Jet Route; Correction

On March 13, 1971, F.R. Doc. 71-3568 was published in the FEDERAL REGISTER (36 F.R. 4862) which in part amended Part 75 of the Federal Aviation Regulations by designating two jet routes. Subsequent to the publication of this document, an error was noted in one of the radials that make up Jet Route No. 130, and action is taken herein to correct this error.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. 71-3568 is amended, effective upon publication in the FEDERAL REGISTER, (4-16-71), by changing the description of Jet Route No. 130 to read as follows:

Jet Route No. 130 (Wilson Creek, Nev., to Grand Junction, Colo.). From Wilson Creek, Nev., via INT Wilson Creek 068° and Grand Junction, Colo., 274° radials to Grand Junction.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 9, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-5271 Filed 4-15-71;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-45]

PART 399—STATEMENTS OF GENERAL POLICY

Treatment of Flight Equipment Depreciation and Residual Values for Rate Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of April 1971.

Domestic passenger-fare investigation—phase 1. In a notice of proposed rule making dated August 6, 1970,[1] the Board proposed to amend Part 399 of its Policy Statements (14 CFR Part 399) by the addition of a new § 399.44 which would establish the Board's policy in the treatment of flight equipment depreciation and residual values for rate-making purposes. Specifically, the Board proposed service lives of 16 years for 3- and 4-engine wide-body equipment, 14 years for narrow-bodied turbofan equipment, 12 years for 4-engine turbojet equipment,

[1] PSDR-25, Docket 21866-1, 35 F.R. 12770.

and 10 years for 2-engine turbojet and for 2- and 4-engine turboprop equipment, with a 15 percent residual value for all aircraft types. Pursuant to the notice, comments were received from ten air carriers [2] and the Department of Defense (DOD). Reply comments were submitted by Delta and Mohawk Airlines, Inc. (Mohawk).

While DOD supports the proposed rule for the reasons given in the notice, the carriers generally argue for shorter service lives and/or lower residual values. In brief, the carriers claim that while the Board purported to give great weight to the carriers' depreciation practices, the Board has combined the upper limit of service lives used by the carriers with the upper limit of residual values used by the carriers, thus ignoring the correlation between these two items.[3] In addition, the carriers claim the Board has erroneously concluded that capital gains realized on the sale of aircraft during the 1960's indicates that the carriers' depreciation policies were conservative. The carriers also argue that leases do not provide an indication of the useful life of aircraft since leased aircraft have no residual value, and that the proposed residual value of 15 percent is unduly high in view of present and anticipated weaknesses in the market for used aircraft. In addition to these general arguments and other specific arguments discussed below, various carriers proposed service lives and residual values for a number of different aircraft types.[4]

Upon consideration of all comments submitted, and as explained in greater detail below, the Board has determined to adopt the service lives and residual values indicated below, as compared with the service lives and residual values proposed in the Notice:

	Service life in years		Residual value as percent of cost	
	Proposed	Adopted	Proposed	Adopted
			Percent	*Percent*
Turbofan equipment:				
4-engine	14	14	15	2
3-engine	14	14	15	2
2-engine	14	14	15	2
Turbojet equipment:				
4-engine	12	10	15	5
2-engine	10	10	15	5
Turboprop equipment:				
4-engine	10	12	15	5
2-engine	10	10	15	15
Wide-body equipment:				
4-engine	16	14	15	10
3-engine	16	16	15	10

[2] Air West; American Airlines, Inc. (American); Continental Air Lines, Inc. (Continental); Delta Air Lines, Inc. (Delta); Eastern Air Lines, Inc. (Eastern); Ozark Air Lines, Inc. (Ozark); Pan American World Airways, Inc. (PAA); Trans World Airlines, Inc. (TWA); United Air Lines, Inc. (United); and Western Air Lines, Inc. (Western).

[3] I.e., carriers which use a long service life also use a low residual value, and vice versa.

[4] None of the persons submitting comments requested an evidentiary hearing or oral argu-

In general, the effect of the above modifications is to provide somewhat greater depreciation allowances than those contemplated in the notice. Thus in the case of turbofan equipment, the reduction of the residual value results in an annual depreciation rate of 7 percent (in terms of total asset cost) as opposed to the 6.1 percent rate originally proposed. In the case of turbojet aircraft, the rates we are adopting produce an annual depreciation rate of 9.5 percent which is again somewhat higher than the rate we proposed in the notice. We have also determined to adopt a slightly reduced residual value for wide-body aircraft and have reduced the service life of 4-engine wide-body aircraft to reflect what appears in our judgment to be a lesser degree of versatility vis-a-vis 3-engine wide-body aircraft.

The depreciation rates adopted herein rely, for the most part, on the current practices of the carriers.[4a] While various carriers now employ differing combinations of service life and residual value, and while, in the case of some classes of aircraft, the carriers employ disparate depreciation rates, the rates we are adopting herein comport closely with the predominant policies of the carriers.[5]

While, in formulating the rates we proposed in the notice, we gave great weight to the carriers' own reported depreciation policies, the values selected therein were at the upper range of the carriers' practices for each category of equipment. One of the reasons for this was our belief that the profits (amounting to over $100 million) realized by the carriers on disposition of operating property during the 1960's indicated that the carriers' policies have been too conservative, i.e., that they were overdepreciating. Moreover, we relied on the terms of long-term leases as indicative of the reasonable service lives of aircraft. With respect to our choice of residual values, we relied as well on the consistently high value of equipment disposed of over the past decade, persistent inflationary factors in the economy, and a rising cost/price pattern for sophisticated equipment.

The comments have convinced us that our reliance upon the above factors resulted in depreciation rates which were, in general, too low. A major question raised by the comments relates to the future strength of the present and future market for used aircraft. During the 1960's, the trunk carriers disposed of a large number of two-engine piston aircraft at a time when the local service carriers were seeking replacements for their DC-3 aircraft. Similarly the supplemental carriers, which had theretofore operated largely with war-surplus aircraft, provided a market for the larger piston aircraft, as did a number of the smaller, "emerging" foreign carriers. The carriers contend that these markets have largely disappeared, that turbojet aircraft have been rendered obsolete by turbofan aircraft, and thus are not easily marketable, and that the replacement of current aircraft by wide-body aircraft on a two-for-one basis increases the pace of aircraft retirement.

It appears that the local service and supplemental carriers are now operating modern, competitive equipment, as well as, in the case of the local service carriers, older but smaller equipment for which no potential replacement exists in the fleets of trunk carriers.[6] It also appears that the older, larger planes in the trunk carriers' fleets are too large for use as corporate aircraft. While the carriers contend that the "emerging" carriers have developed to the point that they, like the local service and supplemental carriers, now buy aircraft directly from the manufacturers, the Lockheed study submitted by Eastern [7] lists a number of smaller foreign carriers which operate largely with turboprop and piston equipment,[8] thus indicating that the "emerging" airlines still constitute some potential market for used aircraft. Nonetheless, the study indicates that on the whole there will be an oversupply of used aircraft in the 1970–75 time frame. Thus in the case of turbojet and turbofan aircraft, the study estimates that there will be a demand for only one out of three aircraft in the market.[9] For short-range turboprops, demand will exceed supply by one aircraft, while in the case of medium-range turboprops, demand will constitute 15.9 percent of the supply.[10] The study also bears out the contentions that turbojet aircraft will be difficult to resell.[11] The uncertainty in the used aircraft market leads us to conclude that the adoption of depreciation rates which are substantially less than those used by the industry—particularly in view of the fact that the industry now employs longer service lives than they have in the past—would impose too great a risk on the carriers especially in light of their recent financial results.

[4a] See PSDR-25, Appendix C.

[5] We find no reason to believe that the carriers' present depreciation rates are unduly conservative, regardless of the experience of the 1960's. While, in the past, the carriers may have had an incentive to recoup the costs of aircraft as fast as possible, their poor earnings posture in recent years has given them an incentive to use more realistic depreciation levels. Indeed, the carriers themselves have lengthened service lives beyond the values they have used in prior years. On the other hand, there is no reason to believe that the carriers' depreciation rates are unrealistically low as contended by Delta.

[6] E.g., the F-27 series and the turboprop conversions of the CV-240/340/440 series.

[7] Waldo and Edwards, Inc., Used Turbine Transport Market and Method for Estimating Selling Prices, 1970–75 (June 1970).

[8] Waldo and Edwards, Apps. A-2 and A-3.

[9] This market surplus is not forecast to be uniform for all categories of aircraft, however. Demand equals 97.1 percent of supply for short-range jets, 37.2 percent for medium-range jets, 7.9 percent for long-range jets, and 23.1 percent for intercontinental jets. See Waldo and Edwards, p. 61.

[10] Waldo and Edwards, p. 67. Most of the supply/demand imbalance for medium-range turboprops occurs in the case of Viscount and Vanguard aircraft. For the Electra, which is more widely used by U.S. air carriers, 58 percent of the supply will be demanded.

[11] Waldo and Edwards, p. 68.

Another factor upon which we relied in formulating the proposed rates is the gains realized from aircraft sales during the 1960's. The comments indicate that these gains, which exceeded $100 million, were overstated as a result of substantial writedowns of the value of certain equipment types. The carriers allege that they realized capital gains only after making substantial writedowns. TWA stated that it wrote off $25,585,000 in 1961 alone;[12] Delta reduced the residual values on its DC–7's from 10 percent to 2 percent, on its CV–440's from 15 percent to 5 percent, and on its DC–6's from 10 percent to 6 percent; Continental wrote down its DC–7's in 1963, which allegedly prevented a $100,000 gain from being a $1 million loss; Eastern adjusted the residual values of Constellations in 1963 and cites additional adjustments to piston aircraft made by Western, Northeast, and National. In a similar vein, United points out that had it used a 15 percent residual value for its aircraft, it would have shown a 13.5-million-dollar loss—almost twice the amount of its reported gain—on its dispositions over the past decade. It appears that these contentions have considerable merit.[13]

The rates we are adopting herein also reflect a specific change for the four-engine turboprop aircraft. The notice proposed a 10-year service life and a 15-percent residual value. Eastern, the principal trunk operator of the Electra,[14] has shown that it will utilize these aircraft for a more extended period during which their resale value will continue to diminish. Accordingly, we shall adopt a 12-year service life and a 5-percent residual value for these aircraft.

While the carriers have presented a number of arguments in opposition to the actions we are taking herein, those arguments have not proven to be convincing. To begin with, United argues that depreciation rates for the Domestic Passenger-Fare Investigation (DPFI) should not be incorporated into Part 399, since these rates will only be used in the DPFI, because depreciation rates change as circumstances change (thus necessitating seemingly unnecessary amendments to Part 399), and because the Board is legally barred from using these rates for other purposes.[15] We must reject this argument. To begin with, nothing in the proposed rule (or the final rule adopted herein) indicates an intention on our part to confine our determinations on depreciation policy to the DPFI;[16] interested persons who are not parties to the DPFI were given full opportunity to participate. Moreover, there is no reason to believe that the depreciation rates established herein will not be appropriate for other passenger-fare cases involving geographic areas not encompassed within the DPFI or for cargo, mail and military rates. While it is of course true that proper depreciation rates for rate-making purposes can change over time, any person may at any time petition the Board to amend its rules, and the Board always has the right to institute a rule-making proceeding at any time. Finally, any implication in United's argument that the Alaska Airlines case prevents the Board from using the policy adopted herein in other rate-making cases is clearly erroneous.[17]

United also argues in conclusory fashion that the Board should adopt separate standards for engines and airframes, since engines have a shorter economic life because they are more readily subject to technological obsolescence. United does not propose service lives and residual values for each type of engine,[18] but an exhibit attached to its comment does set forth the carrier's depreciation policies for engines and airframes. These data show that by and large United employs identical service lives for airframes and their respective engines.[19] Thus United has not provided sufficient data to demonstrate that it in fact employs different standards or that different standards are in fact warranted.

Delta, United, and Western suggest that the Board consider adopting common retirement dates for each aircraft type. Under such a scheme, the same end date would be applied to all aircraft of a particular type regardless of the delivery dates of the individual aircraft. While United and Western do not offer a specific means of selecting the end date, Delta proposes to base the end date on the date of introduction of the basic model. This idea has not received support from the other carriers. Moreover, such a scheme would result in substantial differences in depreciation rates as between individual carriers. Finally, the data submitted are not sufficient to enable the Board to determine what the common retirement date for each aircraft type should be.

A number of carriers contend that the Board misplaced its reliance on the terms of long-term aircraft leases, because these leases assign no residual value to the aircraft and because they are essentially financing arrangements in which the length of the lease is relevant to the terms of payment rather than to the service life of the leased equipment. Nonetheless, while the lease terms may provide little guidance as to what the annual depreciation rate (i.e., the percentage of the cost of the aircraft to be allowed as depreciation in each year) ought to be, we still believe that the lease terms provide some indication as to the expected service life of the aircraft. Similarly, as to the argument that the terms of the lease relates to financing considerations rather than service life, in our view it is unlikely in a "secured transaction" that the lender would accept, as the security, a chattel (the aircraft) which would have a useful life significantly shorter than the term of payment. Even assuming that the lease conditions attached to American's comment are typical of all leases, the fact that this lease provides for early termination of the agreement in the event the aircraft becomes obsolete does not alter our conclusion, since the same conditions provide for early termination in the event the aircraft becomes "surplus to Lessee's requirements" as well. Nor do we think it appropriate to consider the terms of both short term and long term leases as Eastern argues. As stated above, it is the long term leases which give guidance as to the length of time the lenders assume the aircraft will take to depreciate, while short-term leases are presumably entered into with reference to factors other than the expected life of the aircraft.

It is true that the leases do not provide for a residual value and thus the lease periods are not strictly comparable to the periods used for depreciation purposes. Moreover, as shown in Appendix D to the notice, there are a significant number of leases of turbofan aircraft which are 13 years or less in duration. These leases are, in most cases, with the smaller air carriers. This suggests that the credit standing of the individual carrier may play some role in the length of the lease and that lending institutions do not look solely to the estimated service life of the aircraft, but also consider the

[12] TWA alleges that without these writedowns, it would have experienced a $25 million loss.

[13] On the other hand, we find less persuasive the arguments that the capital gains are, in part, a result of inflation and that they reflect insurance recoveries. As to the argument on inflation, it has not been shown to what extent the price of used aircraft is affected by general inflationary factors as opposed to the supply/demand relationship for a particular aircraft type at a particular point in time. Moreover, it is not the function of depreciation to compensate the carriers for the risks of inflation; that is a risk to be covered by a carrier's return on investment. As to the alleged distorting effect of insurance recoveries, it does not appear that such effect would be more than de mimimis.

[14] Eastern is able to utilize this aircraft as a backup plane in its airshuttle operation.

[15] For the latter proposition, United cites Alaska Airlines v. C.A.B., 257 F.2d 229 (D.C. Cir., 1958), cert. denied, 358 U.S. 881.

[16] The statement in the Explanatory Statement that "the purpose of this proceeding, therefore, is to establish [depreciation rates] for purposes of determining passenger-fare levels" was merely intended to relate this proceeding to its function in the current fare investigation. By contrast, the notice itself and the proposed rule in no way confined this proceeding to the passenger-fare case. Indeed, the only restriction proposed in the notice was to exclude operation of subsection (b) from subsidy determinations.

[17] See note 15, supra. That case merely held that the Board could not prescribe the depreciation rates to be employed by carriers in keeping their accounts and records. The Board's power to employ its own depreciation standards in its ratemaking functions was not questioned.

[18] This may stem from United's contention that its own depreciation policies are reasonable and should be allowed by the Board.

[19] These data do not provide a basis for determining whether different percentage residual values are employed for airframes and engines.

financial circumstances and prospects of the individual carrier in fixing the lease period. We have recognized the foregoing factors, along with the other considerations set forth herein, in our ultimate conclusion to use a slightly lower service life than that employed in many of the leases.

Air West and Ozark urge that the Board establish separate depreciation rates for the DC–9–10 and the stretched DC–9–30 on the grounds that the latter model has contributed to the obsolescence of the DC–9–10. In addition, Mohawk proposes that separate service lives and residual values be established for each aircraft type—in particular, that the BAC–1–11 be assigned a shorter service life than that proposed in PSDR–25. The establishment of depreciation policies for rate-making purposes, however, is basically a matter of judgment, and while there may prove to be differences among various similar aircraft types, the techniques for estimating depreciation rates are simply not that refined.[19a]

Delta correctly notes that our policy would apply to used aircraft acquired by a carrier, as well as new aircraft. The carrier argues that such an application would be unrealistic, and, accordingly, that in such a case the choice of service life and residual value should be left to the carrier's discretion.[21] In the first place, it may turn out that our policy will produce gains to a particular carrier in some instances and losses in other cases. On the whole, however, we believe that these gains and losses will cancel each other out. In any event, even if we were to carve out an exception for the particular case cited by Delta, the effect on the overall fare level would be de minimis.[22]

The Board has determined not to adopt a policy on adjustments, for rate-making purposes, of depreciation accrued on the carriers' books. By the terms of paragraph (b) of the proposed rule, such adjustments would have been made over the service life of the equipment involved. While the comments did not address this portion of the proposed rule, questions as to its application to investment calculations were raised in phase 7. In the Board's view, it is not clear that the proposed rule would always produce equitable results, particularly in situations where the adjustments are made in the course of implementing a change in the Board's depreciation policies, as opposed to merely conforming carrier reported depreciation to uniform depreciation standards for rate purposes. Accordingly, this matter will be left open for further Board study.

Since this rule is a statement of policy, the amendment may be made effective immediately. Accordingly, in light of the foregoing findings, and after careful consideration of all comments received, the Board hereby amends Part 399 of the Statements of General Policy (14 CFR Part 399), effective April 9, 1971, as follows:

1. Amend the Table of Contents by adding a new § 399.42 under Subpart C—Policies Relating to Rates and Tariffs as follows:

Sec.

* * * * *

399.42 Flight equipment depreciation and residual values.

* * * * *

2. Add a new § 399.42 under Subpart C—Policies Relating to Rates and Tariffs to read as follows:

§ 399.42 Flight equipment depreciation and residual values.

For rate-making purposes, it is the policy of the Board that flight equipment depreciation will be based on the conventional straight-line method of accrual, employing the service lives and residual values set forth below:

	Service life in years	Residual value as percent of cost
		Percent
Turbofan equipment:		
4-engine	14	2
3-engine	14	2
2-engine	14	2
Turbojet equipment:		
4-engine	10	5
2-engine	10	5
Turboprop equipment:		
4-engine	12	5
2-engine	10	15
Wide-body equipment:		
4-engine	14	10
3-engine	16	10

(Secs. 204, 404, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, and 788; 49 U.S.C. 1324, 1374, and 1482, 5 U.S.C. 553)

By the Civil Aeronautics Board.[23]

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71–5327 Filed 4–15–71;8:49 am]

[19a] It may be noted that the Waldo and Edwards study predicts a strong demand for used DC–9–10's and BAC–1–11's during 1970–75, which indicates that the rates we are prescribing for these aircraft will not have a detrimental effect on the carriers.

[21] As an example, Delta cites its purchase of used DC–8–33's "a couple of years ago" and claims that there is no chance that these aircraft will be in use by Delta throughout the service life proposed by the Board.

[22] The argument is made that the service life for a particular aircraft type may vary among carriers because of different route structures, competitive pressures and operating requirements. While there may be unusual circumstances which affect depreciation rates for a particular carrier, normally, since depreciation relates to obsolescence as discussed more fully in the Notice, aircraft of a given type will depreciate at the same rate irrespective of route structure and the other factors cited.

[23] Minetti and Murphy, Members concurrence and dissent filed as part of the original document.

[Reg. PS–44]

PART 399—STATEMENTS OF GENERAL POLICY

Treatment of Leased Aircraft for Rate Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of April 1971.

(*Domestic Passenger-Fare Investigation—Phase 2*). In a notice of proposed rule making dated September 10, 1970,[1] the Board proposed to amend Part 399 of its policy statements (14 CFR Part 399) by the addition of a new § 399.43, which would establish as the cost for leased aircraft, in connection with determining domestic rates and fares, the actual and reasonable aircraft rental expense plus a profit element in certain unusual circumstances.

In the notice we stated that while the Board has not previously adopted a policy on this matter, we believed it appropriate to do so now because of the dramatic increase in the use of the aircraft lease agreement by the carriers as an alternative to outright purchase. We then tentatively concluded that neither the approach involving leasehold capitalization nor that involving construction of investment and depreciation should be adopted, and we proposed to adopt the approach of a recognition of rental expense plus a profit element in unusual circumstances.

We rejected the constructive ownership approach on the grounds that this approach does not give recognition to the carriers' true revenue requirements. The carriers' regular reports, on which the Board and the public rely, reflect actual rental expense, not constructive depreciation, as part of operating expenses, and no capital investment is involved. Restatement of the carriers' regular financial reports to the Board would entail considerable administrative difficulties and may engender substantial confusion as to the meaningfulness of those reports.

We rejected the leasehold approach because the underlying theory, that the carrier's leasehold interest in the aircraft is an asset whose value is equivalent to the present value of the remaining rental payments, appeared to be of questionable validity.

On the other hand, we tentatively found that giving recognition to actual rental expenses has the advantage of conformity with the carriers' accounts and consequent simplicity of application for ratemaking purposes. We stated that this approach is in accord with the facts and, as long as rental expenses are at a reasonable level, is fair and reasonable from the standpoint of the farepayer.

[1] PSDR–26, Docket 21866–2, 35 F.R. 14468–70.

Pursuant to the Notice, comments were received from eleven air carriers,[2] and the Department of Defense (DOD). In addition, an affidavit was submitted by David A. Kosh, a witness in Phase 8—Rate of Return—of this investigation, on behalf of six air carriers.[3] No reply comments were filed.

In general, most of the carriers submitting comments favor the constructive-ownership method over that proposed by the Board. However, Ozark, Air West, Universal, and DOD favor the Board's proposal. Southern favors the allowance of rentals plus a profit element for leased aircraft. None has favored rental expense with the capitalization of the leasehold value as its first choice.

The carriers opposing the Board's proposal do so on two principal grounds. First, they contend that Congress enacted the investment credit provisions in order to provide an incentive for industry to modernize and grow, and did not intend that regulatory bodies should use the credit to reduce taxes for ratemaking purposes or to accomplish a similar result by any other method. These carriers contend that, because of their poor earnings, they had to enter into lease agreements to obtain the full benefit of the investment tax credit, and that the leases represent a sharing of tax savings between lessee and lessor. They argue that the proposal to recognize only the rental expense, which is lower than it would be otherwise because of the sharing of the tax savings, would deprive the carriers of benefits Congress intended them to have. Thus, it is argued that, if the Board determines to recognize rentals as expenses, the rentals would have to be adjusted upward to take ito account the fact that the carrier's tax credit has been "assigned" to a lessor in return for a lower effective interest rate.

The second criticism involves the issue of a profit element for leased aircraft. The carriers point out that, while PSDR–26 recognized that there are certain risks in the operation of leased aircraft, the Board assumed in the notice that these risks would be taken into account by the witnesses in Phase 8 so that the rate of return would include an increment for aircraft leasing. However, the carriers allege that the Phase 8 witnesses did not do so, believing that this issue would be resolved in this phase. Moreover, TWA contends that Bureau Counsel objected to, and the examiner excluded any references in Phase 8 to the proper treatment of leased aircraft. Thus, the carriers contend that unless the Phase 8 record is reopened, the evidence therein is inadequate to determine the return necessary for coverage of the risks of leased aircraft.

Upon consideration of all comments submitted, the Board has determined to adopt the rule proposed in the notice.

The carriers' argument that the Board is legally barred from using actual rental expenses because of the investment tax credit provision is untenable. Under the Internal Revenue Code, the maximum investment tax credit which may be utilized in any single year by the taxpayer is 50 percent of his income tax determined without regard to the credit. With respect to the investment tax credit, the Revenue Act of 1964 provided that:

> It was the intent of Congress in providing an investment credit under section 38 * * * to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated). Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to a taxpayer shall, without the consent of the taxpayer, use—
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> * * * * * *
>
> (2) in the case of any other property, any credit against tax allowed by section 38 of such code, to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.[4]

There is nothing in either the legislative history or the literal terms of the statute which indicates that Congress intended to confer upon a regulated taxpayer more than the benefit provided for in the investment credit provisions, i.e., approximately 50 percent of his income tax. The investment tax credit claimed by the lessor of the aircraft simply is not the carriers' tax credit, and accordingly we find that the law does not require that we recognize amounts in excess of actual rental expense.

The carrier's rate of return argument also must be rejected. As we found in our Phase 8 opinion,[5] the record in that phase did reflect consideration by the expert witnesses of the risks related to leased aircraft operations, and TWA's contention with respect to the exclusion of any evidence on that subject is not correct. Moreover, in establishing the rate of return in Phase 8, we took into account the fact that these risks may have only been partially reflected in the data. It may be noted in passing that there is nothing in the expert testimony in Phase 8 to indicate that the experts assumed that the Board would adopt a constructive ownership approach. Accordingly, adoption of such an approach would result in a higher return on actual investment than would be warranted by the evidence in that Phase. In any event, the Board is satisfied that its overall resolution of this issue fairly compensates the carriers for the risks involved in leased aircraft operations without burdening the farepayers with charges for capital costs not incurred.[6]

Several of the carriers contend that the Board should be more specific in its definition of what constitutes "special circumstances" for purposes of determining an additional profit element. However, these carriers did not suggest any specific percentage figure. In the absence of a more thorough exploration of this matter in the comments we leave this question to a case-by-case determination, at least until further experience is gained.

Since this rule is a statement of policy, the amendment may be made effective immediately. Accordingly, in light of the foregoing findings and the tentative findings made in PSDR–26 which are incorporated herein by reference and made final, and after careful consideration of all comments received, the Board hereby amends Part 399 of the Statements of General Policy (14 CFR Part 399), effective 4–8–71 as follows:

1. Amend the Table of Contents by adding a new § 399.43 under Subpart C—Policies Relating to Rates and Tariffs as follows:

Sec.
399.43 Treatment of leased aircraft.

* * * * *

2. Add a new § 399.43 under Subpart C—Policies Relating to Rates and Tariffs to read as follows:

§ 399.43 Treatment of leased aircraft.

In determining the appropriate treatment of leased aircraft for ratemaking purposes, it is the Board's policy to recognize actual rental expenses. In unusual circumstances where the leased aircraft value (determined on a constructive depreciated basis) in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers (computed on the same basis), a reasonable profit element may be added which shall reflect the additional risks of operations with the leased aircraft, to the extent that such risks are not compensated by the return on investment. Such profit element would be determined by applying the standard rate of return, less 6 percentage points, to the value of the leased aircraft, on a constructive depreciated basis, to the extent the ratio of such value to depreciated cost of owned aircraft plus the value of leased aircraft exceeds the average for the domestic air carriers. Rental cost plus allowable profit, if any, will not be recognized in amounts exceeding depreciation plus return on in-

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[2] Air West; American Airlines, Inc. (American); Braniff Airways, Inc. (Braniff); Eastern Air Lines, Inc. (Eastern); Ozark Air Lines, Inc. (Ozark); Pan American World Airways, Inc. (PAA); Southern Airways, Inc. (Southern); Trans World Airlines, Inc. (TWA); United Air Lines, Inc. (United); Universal Airlines, Inc. (Universal); and Western Air Lines, Inc. (Western).

[3] American; Delta Air Lines, Inc. (Delta); Eastern; Northwest Airlines, Inc. (Northwest); TWA; and United.

[4] Section 203(e) of the Revenue Act of 1964, Feb. 26, 1964, 78 Stat. 35; Public Law 88–272.

[5] Order 71–4–58 Apr. 9, 1971, Opinion, p. 31.

[6] In this respect we reject the carriers' contention that the record in Phase 8 should be reopened as we believe it would serve no useful purpose.

vestment computed as if the aircraft had been purchased by the carrier.

(Secs. 204, 404, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, and 788; 49 U.S.C. 1324, 1374, and 1482. 5 U.S.C. 553.)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-5326 Filed 4-15-71;8:49 am]

[Reg. PS-46]

PART 399—STATEMENTS OF GENERAL POLICY

Treatment of Deferred Federal Income Taxes for Rate Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of April 1971.

Domestic Passenger-Fare Investigation—Phase 3. In a notice of proposed rule making dated October 13, 1970,[1] the Board gave notice of its intention to establish a policy for the treatment for rate purposes of the accelerated depreciation taken pursuant to section 167 of the Internal Revenue Code of 1954. While the Board did not issue a proposed rule at that time, alternative policies were set forth in considerable detail, and public comment was invited thereon. Comments were received from Arthur Andersen & Co., the Department of Defense (DOD) and 14 air carriers.[2] In addition, American submitted a reply to DOD's comment.

As explained more fully in the notice, there are two basic issues in this proceeding. The first is an expense issue: Under § 167, a taxpayer may claim higher-than-straight-line depreciation in the earlier years of the life of a depreciable asset, and lower-than-straight-line in the later years of the life of the asset. In the early years, this difference between book depreciation and depreciation for tax purposes results in lower Federal income taxes. Similarly, in the later years of an asset's life, income taxes are higher than they would be under straight-line depreciation. However, in the case where investment in depreciable property continually grows, the lessened taxes from the newer properties more than offset the increased taxes on older properties, all other things being equal. The rate-making issue, therefore, is how to treat these lower income taxes. Under the "flow-through" method favored by DOD, the tax allowance for rate-making purposes reflects the higher depreciation actually taken for tax purposes. Under the "normalization" method favored by all other comments, taxes are constructed as if depreciation for tax purposes were identical to depreciation for accounting and rate-making purposes, and the difference between actual taxes and "constructed" taxes is accrued to a reserve for deferred income taxes.

The second issue involves the investment base for rate purposes: should the reserves for deferred income taxes be included or excluded from the investment base, and, if flow-through were adopted, should the accumulated reserves be retained or written off the carriers' books in some fashion. Only four carriers[3] favor the inclusion of the reserves in the investment base.[4] Few comments addressed the question of how to treat the accumulated reserves under flow-through. DOD would write down the reserves over a reasonable period of time, Eastern argues that if the reserves are depleted, the Board should treat the tax allowance as if no amortization were occurring, while American and North Central believe none of the alternatives discussed in the Notice would be desirable.

Upon full consideration of all comments, the Board has determined, for the reasons set forth below, to adhere to its present policy[5] of normalization and exclusion of the accumulated reserves from the investment base.[6]

The basic assumption underlying the flow-through treatment is that the accumulated deferred tax reserves are in fact a permanent tax savings. This in turn presumes that the carriers' investment bases will continue to grow in the indefinite future and that the liberalized depreciation provisions of § 167 will not be repealed. At this point in time, we are not prepared to make these assumptions. The history of the investment tax credit—a provision which, like accelerated depreciation, was intended to encourage growth and modernization in industry—is ample warning, in our view, that the provisions of § 167 are subject to change. Moreover, while we fully expect that the air transportation industry as a whole will continue to grow indefinitely, it is quite another matter to assume that each air carrier will share in this growth, or that the industry growth pattern will be uniform for all years.[7] Because of these uncertainties, it would be highly speculative for the Board to base its policy on the assumption that the deferred taxes constitute a permanent tax savings.

Also to be considered is the intent of Congress in its recent amendment of § 167 (Section 441 of the Tax Reform Act of 1969, Public Law 91-172). This amendment placed restrictions on the use of flow-through in regulated utility industries whose members are by and large earning their permitted return on investment. This section essentially "froze" the companies' present tax depreciation methods for pre-1970 property, except that if the company were on a flow-through basis, it could change to some other method if the regulatory agency permitted it to change. In the case of post-1969 property, a taxpayer on flow-through would continue to use that method unless permitted to change by the agency; however, for post-1969 property which increases the productive capacity of the taxpayer (as opposed to replacing existing capacity) the taxpayer may elect, in lieu of flow-through, to use straight-line depreciation or, if permitted to do so by the agency, accelerated depreciation with normalization. In all other cases, accelerated depreciation may be used for post-1969 property if normalization is also used.

The purpose of this amendment was to prevent a double tax loss to the Treasury from companies using flow-through. As explained in the House Report,[8]

> * * * the current tax reduction reduces the rates charged to customers, which in turn reduces the utility's taxable income and therefore reduces its income tax. This second level of tax reduction is passed on to the utility's customers, with the same effect.

In deciding which regulated industries should be affected by this amendment, the Senate Report[9] stated:

> * * * Consideration of legislative action in this area is complicated by the fact that many utilities do not have effective monopolies while others do; many utilities are in growing industries while others are losing ground; many utilities compete (to the extent they face any competition) only with businesses not subject to governmental rate regulation.
>
> Accordingly, the committee agrees with the House that it is appropriate to in general 'freeze' the current situation regarding methods of depreciation in the case of those companies in what are, by and large, the more flourishing utility industries. No change is made regarding utility industries whose members are, by and large, earning well below their permitted rates of return.

While it is not clear why the Congress excluded air carriers from this legislation, two possibilities suggest themselves.[10] First, because of the carriers' low earnings and resultant low taxes, the loss to the Treasury of tax receipts resulting from flow-through would not be very large in absolute amounts. However, we believe that the carriers can be expected to become profitable in the near future. Thus, to the extent that Congress was primarily concerned with tax revenue loss, the use of normalization would be consistent with the legislative intent.

[1] PSDR-28, Docket 21866-3, 35 F.R. 16322.

[2] Air West; American Airlines, Inc. (American); Braniff Airways, Inc. (Braniff); Continental Air Lines, Inc. (Continental); Delta Air Lines, Inc. (Delta); Eastern Air Lines, Inc. (Eastern); National Airlines, Inc. (National); North Central Airlines, Inc. (North Central); Northwest Airlines, Inc. (Northwest); Pan American World Airways, Inc. (PAA); Piedmont Aviation, Inc. (Piedmont); Trans World Airlines, Inc. (TWA); United Air Lines, Inc. (United); and Western Air Lines, Inc. (Western).

[3] Air West, American, Braniff, and Eastern.

[4] TWA, however, would favor inclusion if flow-through were adopted.

[5] This policy was adopted in the General Passenger-Fare Investigation, Docket 8008, 32 C.A.B. 291 (1960).

[6] National's request that a hearing be held if the Board were inclined to adopt flow-through has, therefore, become moot.

[7] Indeed, as can be seen from Appendix H to the notice, Braniff, Mohawk and North Central experienced declines in § 167 deferred tax reserves in 1969. In light of the recent traffic slump, as well as actions by some carriers to postpone or cancel orders for new equipment, the risk that the reserves of some carriers will be reduced is a substantial one.

[8] House Report No. 91-413, 2 U.S. Cong. & Adm. News 1969, p. 1782.

[9] Senate Report No. 91-552, 2 U.S. Cong. & Adm. News 1969, pp. 2204-2205.

Second, it may be that Congress felt that restrictions on the use of flow-through by less healthy regulated industries would impose special burdens on such industries, e.g., if such an industry competed with non-regulated industries which could flow through the tax reductions, the regulated industry would be at a competitive price disadvantage if it could not also do so. However, as explained below, requiring the carriers to use the flow-through method imposes burdens of a different sort, namely, the impairment of their ability to compete for capital on equal terms with other industries. Thus, we cannot conclude, under the present circumstances, that our actions herein in any way conflict with the intent of Congress, and indeed, the opposite may be the case.

Moreover, most businesses normalize deferred taxes. While a number of regulated utilities have used the flow-through method in the past, it appears that very few will do so in the future in light of § 441 of the Tax Reform Act of 1969.[11]

Viewed in the context that the reserves may well not be a true savings, and the prevailing business practices, a primary concern to us is the likely impact which a change in policies might have at this time on the carriers' ability to attract capital. It is clear from the evidence in phase 8 of this proceeding that the investor community regards the airlines as highly speculative investments. Despite some interest in airline stocks in the immediate past, these stocks have suffered substantial declines in recent years. Indeed, the expert witnesses in phase 8 testified that, because of past inadequate earnings, air carriers are unable to raise equity capital on reasonable terms.

In this light, we believe a change in our policy to flow-through could have serious detrimental effects on the carriers in, at the very least, the near term. The use of flow-through for rate-making would require that investors fully assume the risk that if the carriers have to pay higher taxes in the future, these taxes will be recoverable out of future earnings. In our judgment, this risk is a very real one. Moreover, it seems clear that the investor may regard the difference between actual and normalized taxes as an expense. Under the terms of Opinion No. 11 of the Accounting Principles Board,[12] it is likely that the carriers would have to normalize Federal taxes in order to obtain an unqualified opinion from an independent accountant that adequate provision has been made for tax liability. Furthermore, were we to adopt the flow-through principle, investors, and particularly the knowledgeable ones, would view the carriers as earning a lower rate of return than that found by the Board to be reasonably necessary for the carriers to attract new capital.[12a] The alternative would be to make an upward adjustment in the otherwise allowable return on investment. Even DOD, the sole proponent of flow-through in this proceeding, recognizes that this might be so.[12b]

DOD contends that normalization necessitates speculative predictions as to the effects of inflation or deflation on the future real value of the deferred tax reserves, as well as attempts to forecast the possibility of deferring capital gains tax through sale of aircraft at the most advantageous point in the tax cycle. The argument as to the effects of inflation or deflation on the value of the reserves is at odds with the history of carrier and Board practices concerning normalization; none of the comments favoring normalization have indicated that such assumptions need or ought to be made. With regard to the capital gains argument, under sections 1245 of the Internal Revenue Code of 1954 (26 U.S.C. 1245), gains on disposition of aircraft will be treated as ordinary income to the extent of depreciation allowed or allowable after 1961. Thus, for practical purposes, the capital gains tax is not available for sales of used aircraft. Moreover, DOD has made no showing that air carriers have in the past based their decisions to sell aircraft on this consideration, and we find no reason to believe they will do so in the future.

DOD further contends that normalization contemplates the complete equalization of income taxes over the life of the property involved and thus assumes constant average debt, constant average debt ratio, a constant income tax rate, a constant amount of return over the life of the property and a constant level of plant and equipment. DOD has misinterpreted the purpose of normalization. The purpose is to provide an estimate of the amount needed to cover the increased taxes in the future. Any accrual for a deferred expense necessarily involves an estimate of what the expense will ultimately be. DOD has not shown that the basic assumptions implicit in our normalization policy are unreasonable.[13]

As stated above, the Board has also determined to adhere to its policy of excluding deferred tax reserves from the investment base. In the General Passenger Fare Investigation, the Board noted that normalization would not thereby result in any increase in the level of recognized tax expenses nor burden the public with additional charges over and above those which would obtain if the carriers did not employ accelerated depreciation for tax purposes and affirmed the examiner on this issue. The determination to exclude the reserves was based on two grounds: first, that this treatment is consistent with the concept that the deferred taxes represent an interest-free loan from the government; and second, that since there is no obligation to pay interest or dividends to any outside investor, their exclusion from the rate base is consistent with the prudent investment theory of rate base determination.[13a] None of the opponents of this policy have demonstrated that these considerations should not be controlling today. American and Braniff contend that if a carrier takes advantage of the incentive to modernize and expand capacity, it must invest the deferred taxes in equipment which will increase its return sufficiently to offset the increased

[10] It should be noted that the Board, in commenting on the proposed legislation, requested that air carriers be excluded in order to enable the Board to exercise its discretion in the matter.

[11] Pursuant to section 441, the FPC has recently permitted companies previously on flow-through to change to normalization for both old and new property. See Statement of Policy, 43 FPC 740 (1970), rehearing denied, 44 FPC 16 (1970); and Re Texas Gas Transmission Corp., Opinion No. 578, June 3, 1970, 84 PUR 3d 193, rehearing denied, Opinion No. 578-A, July 21, 1970, 84 PUR 3d 200.

[12] American Institute of Certified Public Accountants, December 1967.

[12a] The dissent argues that sophisticated investors would know that the risk that taxes will be increased in future years is relatively slight. In our judgment, however, this misses the point. There is no reason to believe that the risk to the air carriers is less than it is for other business enterprises who almost uniformly use tax deferral accounting. Thus, when the sophisticated investor compares airline securities with those of other industries in this expanding economy, he is bound to make an adjustment to include deferred taxes as an expense to place airlines on a comparable basis with other industries.

[12b] The dissenting Members do not dispute the above finding but imply that they would in fact allow the carriers to earn a higher return because they would include the present deferred tax reserve in the equity rate base. However, there is no reason to believe that restoring this amount to the rate base would place the carriers in a position comparable with other industries with whom they must compete for capital.

[13] The dissent purports to distinguish accruals to deferred tax reserves from other accruals which are normally recognized such as those to equipment overhaul or vacation pay or bad debt reserves. The dissent states that these latter reserves "are those related to events certain (or at least highly probable) to occur, such as equipment overhaul or vacation pay reserves, or to events which are predictable actuarily, although not individually, such as self-insurance or bad debt reserves." The argument betrays some misunderstanding of the nature of the reserves. As noted in the dissent, with respect to each individual depreciable asset, the use of accelerated depreciation, exhausts the asset's tax reducing capability, leading to higher taxes later in the asset's service life. However, the dissent suggests that since increased taxes are imposed on corporation entities, not on individual assets, and since future tax reductions relating to future equipment acquisitions may offset the increased taxes related to older depreciable assets, no need for setting up a reserve exists. But the precise point may also be made of any expense reserve. In any growing enterprise, most expense reserves will likewise grow. This is true of the specific reserves mentioned in the dissent. Using the dissent's reasoning it would be necessary to put vacation pay, overhauls, and debts, etc., on a cash basis, since these reserves also will continue to grow in the future. Thus, the dissent essentially is attacking the entire accrual method of accounting for ratemaking purposes.

tax payments in later years. This, the argument goes, carries with it risks for which the carrier should be compensated. We do not find this argument convincing. The function of a return on investment is to compensate the investor for the use of his invested capital as well as for the risks associated with the use of the capital. In this instance, the deferred tax reserves are not provided by investors and hence there is no cost to the carrier for their use, per se.[14] As for the risks associated with the provision of services with these reserves, these risks which ultimately fall on the investors and are therefore included in the rate of return on debt and equity capital. These risks have been borne by investors for a considerable period of time, and American and Braniff have not shown that they are not adequately accounted for in the record in phase 8 of this proceeding.[15]

In conclusion, we believe that the policies we are adopting herein are reasonable in the context of the present state of the industry. Normalization should tend to foster investor confidence in the industry without resulting in undue, if any, effects on the fare level. In this connection by continuing to exclude the reserves from the investment base, a substantial benefit will accrue to the rate payers, in that the fare level will not include any return to the carriers on the investment represented by the reserves.

Since this rule is a statement of policy, the amendment may be made effective immediately. Accordingly, in light of the foregoing findings, and after careful consideration of all comments received, the Board hereby amends Part 399 of the Statements of General Policy (14 CFR Part 399), effective April 9, 1971, as follows:

1. Amend the Table of Contents by adding a new § 399.44 under Subpart C—Policies Relating to Rates and Tariffs as follows:

Sec.

* * * * *

399.44 Treatment of deferred Federal income taxes for rate purposes.

* * * * *

2. Add a new § 399.44 under Subpart C—Policies Relating to Rates and Tariffs to read as follows:

§ 399.44 Treatment of deferred Federal income taxes for rate purposes.

For rate-making purposes other than the determination of subsidy under section 406(b), it is the policy of the Board that Federal income tax expense should be based on the normal taxes that would be paid under the depreciation standards used for rate making, and that accumulated reserves for deferred taxes should be excluded from the recognized capitalization for rate-base purposes.

(Secs. 204, 404, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, and 788; 49 U.S.C. 1324, 1374, and 1482. 5 U.S.C. 553)

By the Civil Aeronautics Board.[16]

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-5328 Filed 4-15-71;8:49 am]

[14a] Air West argues that the funds can be distributed to shareholders and thus the retention of these funds is a legitimate cost of capital. However, the reserve is not equity, and since its purpose is to insure that carriers will be able to provide for future tax increases, it does not appear that they can be distributed. Moreover, Air West's argument does not contravene the essential point that since these funds are not provided by investors, there is no duty to pay a return on these funds to investors.

[14] Eastern contends that the reserves do not represent customer-contributed capital, since the reserves result fom investments in depreciable assets made with capital provided by investors, citing a statement of Richard Walker of A. Andersen & Co. This, however, is not to say that the reserves represent capital contributed by investors, as Eastern concedes. Moreover, Andersen on, the other hand, views the reserves as a recovery of capital costs and believes the exclusion of the reserves from the rate base is entirely proper.

[15] Cf. testimony of J. Rhoads Foster, Ex. FA-1, p. 38.

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER A—GENERAL RULES

[Docket No. R-398; Order No. 415-A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Statement of General Policy To Implement Procedures for Compliance With the National Environmental Policy Act of 1969

APRIL 13, 1971.

On December 4, 1970, the Commission issued Order 415 (35 F.R. 19173, Dec. 18, 1970) implementing the National Environmental Policy Act, 83 Stat. 852, by adding, among other things, §§ 2.80 through 2.82 to Part 2—General Policy and Interpretations, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations. Sections 2.81(b) and 2.82(b) (18 CFR 2.81(b), 2.82(b)) deal with the filing of an applicant's detailed statement on environmental factors and provide in pertinent part:

* * * The applicant shall supply ten copies of the statement, as revised, to the Council on Environmental Quality.

Our experience since the issuance of this order has demonstrated the need to amend the procedure for the transmittal of the environmental statements. Accordingly,

[16] Minetti and Murphy, Members dissenting statement filed as part of the original document.

The Commission finds:

(1) The amendments prescribed herein are of a clarifying nature and represent matters of procedure which do not require notice or hearing under 5 U.S.C. 553.

(2) In view of the purpose, intent and effect of the amendments herein ordered, good cause exists for making the revisions in the Commission's general rules effective upon issuance of this order.

(3) The amendments adopted herein are necessary and appropriate for carrying out the provisions of the Federal Power Act, the Natural Gas Act and the National Environmental Policy Act.

The Commission acting pursuant to the provisions of the Federal Power Act, particularly sections 4, 10, 15, 307, 309, 311, and 312 (41 Stat. 1065, 1068, 1069, 1070, 1072, 1353, 46 Stat. 798, 49 Stat. 839, 842, 843, 844, 856, 858, 859, 61 Stat. 501, 82 Stat. 617; 16 U.S.C. 797, 803, 808, 825f, 825h, 825j, 825k), and the Natural Gas Act, particularly sections 7 and 16 (52 Stat. 824, 825, 830, 56 Stat. 83, 84, 61 Stat. 459; 15 U.S.C. 717f, 717o), and the National Environmental Policy Act of 1969, Public Law 91-190, approved January 1, 1970, particularly sections 102 and 103 (83 Stat. 853, 854) orders:

(A) Part 2, General Policy and Interpretations in Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by deleting the last sentence in paragraphs (b) in §§ 2.81 and 2.82 and substituting therefor two sentences which read as follows:

STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

§ 2.81 Compliance with the National Environmental Policy Act of 1969 under Part I of the Federal Power Act.

* * * * *

(b) * * * The applicant shall supply 12 copies of the statement as revised (each copy to be accompanied by such supporting papers as are necessary) to the Federal Power Commission. The Commission shall transmit 10 copies with supporting papers, to the Council on Environmental Quality and shall retain two copies for the Commission's files.

* * * * *

§ 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

* * * * *

(b) * * * The applicant shall supply 12 copies of the statement as revised (each copy to be accompanied by such supporting papers as are necessary) to the Federal Power Commission. The Commission shall transmit 10 copies with supporting papers, to the Council on Environmental Quality and shall retain two copies for the Commission's files.

* * * * *

(B) The amendments adopted herein shall be effective upon issuance of this order.

(C) The Acting Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-5378 Filed 4-15-71;8:52 am]

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Docket No. R-393; Order 428-A]

PART 250—FORMS
Small Producers: Amendment Revising Annual Statement

APRIL 9, 1971.

The Commission on July 23, 1970 issued a notice of proposed rulemaking in this proceeding (35 F.R. 12220, July 30, 1970) proposing prospectively to exempt from regulation under the Natural Gas Act all existing and future jurisdictional sales made by small producers as defined therein. Thereafter, the Commission in its Order No. 428 issued March 18, 1971,[1] established a blanket certificate procedure for small producers applicable to all small producer sales made nationwide under existing and future contracts.

The Commission indicated in Order No. 428 that by subsequent order it would amend section 250.11 to provide for a revised annual statement to be filed commencing in 1972 by small producers operating under blanket certificates issued pursuant to that general order. The annual statement to be submitted by small producers has been expanded to show, in addition to the total jurisdictional sales volume, a breakdown of such sales by area, volume, purchaser, and price.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding through the submission, in writing, of data, views, comments, and suggestions are in accordance with all procedural requirements therefor as prescribed in section 553, title 5 of the United States Code.

(2) The action taken herein is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the modifications adopted herein to the amendment proposed in the notice of this proceeding are consistent with the prime purpose of the proposed rulemaking herein, further notice thereof is unnecessary.

The Commission, acting pursuant to the provisions of the Natural Gas Act, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72, 15 U.S.C. 717c, 717d, 717f and 717o, orders:

(A) Part 250 of Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising § 250.11 as follows:

§ 250.11 Annual statement for independent producers holding small producers exemptions.

(See § 157.40 of this chapter)

I hereby certify that total sales subject to the jurisdiction of the Federal Power Commission made by the undersigned and its affiliates for the calendar year 19-- were _____ Mcf at 14.65 p.s.i.a. The pertinent information relating to each of these jurisdictional sales is as follows:

Area	*Purchaser*	*Volume*	*Price*

_____
(Name of small producer)

_____
(Signed)

_____
(Representative capacity)

_____
(Docket No.)

(B) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(C) The amendment adopted herein shall be effective 30 days from the date of issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-5319 Filed 4-15-71;8:49 am]

[1] 36 F.R. 5598, Mar. 25, 1971.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

PART 1—GENERAL PROVISIONS

[T.D. 71-103]

Ports of Entry

APRIL 8, 1971.

Notice of proposal to designate Phoenix, Ariz., as a port of entry in the Customs district of Nogales, Ariz. (Region VII), was published in the FEDERAL REGISTER on March 10, 1971 (36 F.R. 4611). The proposal was based upon the need to provide better Customs service in the Nogales, Ariz., district. No objections to the proposal were received.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authorization provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), Phoenx, Ariz., is hereby designated a port of entry in the Nogales, Ariz., district (Region VII), effective as of April 25, 1971.

To reflect this change, paragraph 1.2 (c) of the Customs regulations is amended by inserting in the column headed "Ports of Entry" in the Nogales, Ariz., Customs district (Region VII) in proper alphabetical order "Phoenix, Ariz. (T.D. 71-103)."

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

It is desirable to make the Customs port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553(d).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-5350 Filed 4-15-71;8:51 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 148k—NYSTATIN

Miscellaneous Amendments

A. Effective on publication in the FEDERAL REGISTER, Part 148k is republished

as follows to incorporate editorial and nonrestrictive technical changes. This order revokes all prior publications.

Sec.
148k.1 Nystatin.
148k.2 Nystatin ointment.
148k.3 Nystatin-neomycin sulfate-gramicidin - triamcinolone acetonide ointment; nystatin-neomycin sulfate - gramicidin - fludrocortisone acetate ointment.
148k.4 Nystatin topical powder.
148k.5 Nystatin-neomycin sulfate-gramicidin topical powder.
148k.6 Nystatin for oral suspension.
148k.7 Nystatin tablets.
148k.8 Nystatin cream.
148k.9 Nystatin-neomycin sulfate-gramicidin - triamcinolone acetonide cream.
148k.10 Nystatin-neomycin sulfate-polymyxin B sulfate-fludrocortisone acetate for otic solution.
148k.11 Nystatin vaginal tablets.

AUTHORITY: The provisions of this Part 148k issued under sec. 507, 59 Stat. 463, as amended: 21 U.S.C. 357.

§ 148k.1 Nystatin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin is the yellow to light-tan compound of a kind of nystatin or a mixture of two or more such compounds. It is very slightly soluble in water, moderately soluble in methyl alcohol, butyl alcohol, or propyl alcohol. It is so purified and dried that:

(i) Its potency is not less than 2,000 units of nystatin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5.0 percent.

(iv) Its pH in a 3 percent aqueous suspension is not less than 6.5 and not more than 8.0.

(v) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required on the batch: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient dimethylformamide to give a nystatin concentration of 400 units per milliliter (estimated). Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using a 3 percent aqueous suspension of the drug.

(5) *Identity.* Weigh approximately 20 milligrams of the sample in a 100-milliliter, glass-stoppered, volumetric flask. Add about 75 milliliters absolute methyl alcohol and shake mechanically for 30 minutes. Dilute to volume with methyl alcohol. Transfer 10.0 milliliters of this solution to a 100-milliliter volumetric flask and dilute to volume with methyl alcohol. Within 2 hours, determine the absorption peak at 230 nanometers, 291 nanometers, 305 nanometers, and 319 nanometers, and the shoulder at 279±2 nanometers, using a suitable ultraviolet spectrophotometer and quartz cells. Set the instrument to 100 percent transmission with absolute methyl alcohol. If a recording spectrophotometer is used, record the ultraviolet absorption spectrum from 220 nanometers to 320 nanometers. If a nonrecording spectrophotometer is used, the exact positions of the peaks and shoulder should be determined for the particular instrument used. The ratio of the two $\left(\text{absorbances } \frac{A\,230}{A\,279}\right)$ should be not less than 0.90 and not more than 1.25.

§ 148k.2 Nystatin ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin ointment is composed of nystatin and a suitable and harmless ointment base. Each gram contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. The moisture content is not more than 0.5 percent. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1) (i), (iii), (iv), and (v).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 containers, each consisting of 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Using sufficient dimethylformamide to give a concentration of 400 units of nystatin (estimated) per milliliter, blend an accurately weighed representative portion in a high-speed glass blender for 3 to 5 minutes. Further dilute with 10 percent potassium phosphate buffer, pH 6 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

§ 148k.3 Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide ointment; nystatin-neomycin sulfate-gramicidin-fludrocortisone acetate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* The drug is nystatin, neomycin sulfate, gramicidin, and either triamcinolone acetonide or fludrocortisone acetate in a suitable ointment base. Each gram contains 100,000 units of nystatin, 2.5 milligrams of neomycin, 0.25 milligram of gramicidin, and either 1.0 milligram of triamcinolone acetonide or 1.0 milligram of fludrocortisone acetate. Its nystatin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of nystatin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its gramicidin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of gramicidin that it is represented to contain. Its moisture content is not more than 0.5 percent. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1) (i), (iii), (iv), and (v). The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1), except safety of this chapter. The gramicidin used conforms to the standards prescribed by § 148f.1(a)(1) (i), (iii), (iv), (v), and (vi) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The gramicidin used in making the batch for potency, loss on drying, residue on ignition, melting point, crystallinity, and identity.

(*d*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each consisting of 300 milligrams.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each consisting of 300 milligrams.

(*c*) The gramicidin used in making the batch: 10 packages, each consisting of 500 milligrams.

(*d*) The batch: A minimum of seven immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Nystatin content.* Proceed as directed in § 141.110 of this chapter,

preparing the sample for assay as follows: Blend an accurately weighed representative portion in a high-speed glass blender for 3 to 5 minutes with sufficient dimethylformamide to give a concentration of 400 units of nystatin per milliliter (estimated). Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of mystatin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the ointment into a separatory funnel containing 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction with new portions of the buffer at least three times and any additional times necessary to insure complete extraction of the antibiotic. Combine the extractives and adjust to an appropriate volume to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Gramicidin content.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Accurately weigh and dissolve a representative portion of the sample in 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent ethyl alcohol. Repeat the extraction three times. Pool the extractives in a suitable volumetric flask and bring to volume with 80 percent ethyl alcohol. Further dilute with 95 percent ethyl alcohol to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter..

§ 148k.4 Nystatin topical powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin topical powder is a dry powder composed of nystatin and talc. Each gram contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. Its loss on drying is not more than 2.0 percent. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1) (i), (iii), (iv), and (v).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each containing 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend an accurately weighed representative sample for 3 to 5 minutes in a high-speed glass blender with sufficient dimethylformamide to give a convenient concentration. Dilute with sufficient dimethylformamide to yield a stock solution containing 400 units of nystatin per milliliter (estimated). Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

§ 148k.5 Nystatin-neomycin sulfate-gramicidin topical powder.

(a) *Requirements for certification*—(1) *Standards of identity, stength, quality, and purity.* Nystatin-neomycin sulfate-gramicidin topical powder is a dry powder composed of nystatin, neomycin sulfate, gramicidin, and tale. Each gram contains 100,000 units of nystatin, 2.5 milligrams of neomycin and 0.25 milligram of gramicidin. Its nystatin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of nystatin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its gramicidin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of gramicidin that it is represented to contain. Its loss on drying is not more than 2.0 percent. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1) (i), (iii), (iv), and (v). The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1), except safety, of this chapter. The gramicidin used conforms to the standards prescribed by § 148f.1(a)(1) (i), (iii), (iv), (v), and (vi) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The gramicidin used in making the batch for potency, loss on drying, residue on ignition, melting point, crystallinity, and identity.

(*d*) The batch for mystatin content, neomycin content, gramicidin content, and loss on drying.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages each consisting of 300 milligrams.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each consisting of 300 milligrams.

(*c*) The gramicidin used in making the batch: 10 packages, each consisting of 500 milligrams.

(*d*) The batch: A minimum of seven immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Nystatin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend the entire contents of an accurately weighed representative portion of the sample for 3 to 5 minutes in a high-speed glass blender with sufficient dimethylformamide to give a convenient concentration. Dilute with sufficient dimethylformamide to yield a stock solution containing 400 units of nystatin per milliliter (estimated). Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend an accurately weighed representative sample for 3 to 5 minutes in sufficient 0.1*M* potassium phosphate buffer, pH 8 (solution 3), to give a convenient concentration. Further dilute an aliquot with solution 3 to the reference concentration of 1 microgram of neomycin per milliliter (estimated).

(iii) *Gramicidin content.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed representative sample in 95 percent ethyl alcohol and filter. Collect the filtrate and dilute a portion with 95 percent ethyl alcohol to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

§ 148k.6 Nystatin for oral suspension.

(a) *Requirements of certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin for oral suspension is a dry powder consisting of nystatin, and suitable and harmless suspending substances, preservatives, diluents, colorings, and flavorings. When the suspension is prepared as directed in its labeling, each milliliter contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more, than 140 percent of the number of units of nystatin that it is represented to contain. The pH of the reconstituted drug is not less than 4.9 and not more than 5.5. Its moisture content is used conforms to the standards prescribed by § 148k.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification: samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency, moisture and pH.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each consisting of 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Blend an appropriate aliquot in a high-speed glass blender for 3 to 5 minutes, using sufficient dimethylformamide to give a convenient concentration. Dilute an aliquot with sufficient dimethylformamide to give a stock solution containing 400 units of nystatin per milliliter. Further dilute an aliquot with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Moisture.* Using the dry powder, proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the suspension after reconstituting as directed in the labeling.

§ 148k.7 Nystatin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin tablets are tablets composed of nystatin and suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 500,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. If they are plain coated, the loss on drying is not more than 5 percent, and they shall disintegrate within 2 hours. If they are film coated, and contain a starch filler, the loss on drying is not more than 8 percent, and they shall disintegrate within 30 minutes. The nystatin used conforms to the standards prescribed by § 148.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency, loss on drying, and disintegration time.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each consisting of not less than 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend a representative number of tablets for 3 to 5 minutes in a high-speed glass blender with sufficient dimethylformamide to give a convenient concentration. Dilute an aliquot with sufficient dimethylformamide to give a stock solution containing 400 units of nystatin per milliliter. Further dilute an aliquot with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 141.540 of this chapter.

§ 148k.8 Nystatin cream.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin cream is composed of nystatin and suitable and harmless emulsifiers, perfumes, buffers, preservatives, and a protectant in a suitable and harmless cream base. Each gram contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1)(i), (iii), (iv), and (v).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for potency.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 containers, each consisting of 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Using sufficient dimethylformamide to give an estimated concentration of 400 units of nystatin per milliliter, blend an accurately weighed representative portion in a high-speed blender for 3 to 5 minutes. Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

§ 148k.9 Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide cream.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide cream is composed of nystatin, neomycin sulfate, gramicidin, triamcinoline acetonide, and suitable and harmless emulsifiers, solvents, perfumes, buffers, preservatives, and a protectant in a suitable cream base. Each gram contains 100,000 units of nystatin, 2.5 milligrams of neomycin, 0.25 milligrams of gramicidin, and 1 milligram of triamcinolone acetonide. Its nystatin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of nystatin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its gramicidin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of gramicidin that it is represented to contain. The nystatin used conforms to the standards prescribed by a § 148k.1(a)(1)(i), (iii), (iv), and (v). The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1), except safety, of this chapter. The gramicidin used conforms to the standards prescribed by § 148f.1(a)(1)(i), (iii), (iv), (v), and (vi) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The gramicidin used in making the batch for potency, loss on drying, residue on ignition, melting point, crystallinity, and identity.

(*d*) The batch for nystatin content, neomycin content, and gramicidin content.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each consisting of 300 milligrams.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each consisting of 300 milligrams.

(*c*) The gramicidin used in making the batch: 10 packages, each consisting of 500 milligrams.

(*d*) The batch: A minimum of seven immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Nystatin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Using sufficient dimethylformamide to give a concentration of 400 units of nystatin (estimated) per milliliter, blend an accurately weighed representative portion in a high-speed glass blender for 3 to 5 minutes. Further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the cream in a separatory funnel containing 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction with new portions of the buffer at least three times and any additional times necessary to ensure complete extraction of the antibiotic. Combine the extractives and adjust to an appropriate volume to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Gramicidin content.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Accurately weigh a representative portion of the sample and dissolve in 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent ethyl alcohol. Repeat the extraction three times. Pool the extracts in a suitable volumetric flask and bring to mark with 80 percent ethyl alcohol. Further dilute with 95 percent ethyl alcohol to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

§ 148k.10 Nystatin-neomycin sulfate-polymyxin B sulfate-fludrocortisone acetate for otic solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin-neomycin sulfate-polymyxin B sulfate-fludrocortisone acetate for otic solution is a dry mixture of nystatin, neomycin sulfate, polymyxin B sulfate, and fludrocortisone acetate. Its loss on drying is not more than 6.5 percent. It may be packaged in combination with an immediate container of a suitable and harmless aqueous diluent containing suitable preservatives and buffers. When reconstituted as directed in the labeling, each milliliter contains 100,000 units of nystatin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 1 milligram of fludrocortisone acetate. Its nystatin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of nystatin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of polymyxin B that it is represented to contain. Its pH is not less than 4.0 and not more than 6.0. The nystatin used conforms to the standards prescribed by § 148k.1(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1), except safety, of this chapter. The polymyxin B sulfate used conforms to the standards prescribed by § 148p.1(a)(1), except safety, of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of §148.3 of this chapter.

(3) *Requests for certification samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, loss on drying, residue on ignition, pH, and identity.

(*d*) The batch for potency, loss on drying, and pH.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each consisting of not less than 300 milligrams.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each consisting of not less than 300 milligrams.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each consisting of not less than 300 milligrams.

(*d*) The batch: A minimum of seven immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Nystatin.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Remove an accurately measured representative portion and dilute with sufficient dimethylformamide to give a stock solution containing 400 units of nystatin per milliliter (estimated). Further dilute with 10 percent potassium phosphate buffer, pH 6 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling, remove an accurately measured representative portion, and dilute with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, except add to each concentration of the polymyxin standard curve a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polmyxin B per milliliter. Prepare the sample for assay as follows: Reconstitute as directed in the labeling, remove an accurately measured representative portion, and dilute with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter, using the dry powder.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in its labeling.

§ 148k.11 Nystatin vaginal tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin vaginal tablets are tablets composed of nystatin and suitable and harmless diluents, binders, and lubricants. Each tablet contains 100,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. The loss on drying is not more than 5 percent. The disintegration time is not more than 1 hour. The nystatin used conforms to the standards prescribed therefor by § 148k.1(a)(1) (i), (iii), (iv), and (v).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for nystatin content, loss on drying, and disintegration time.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 immediate containers of approximately 300 milligrams each.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Blend a representative number of tablets for 3 to 5 minutes in a high-speed glass blender with sufficient dimethylformamide to give a convenient concentration. Dilute an aliquot with sufficient dimethylformamide to give a stock solution containing 400 units of nystatin per milliliter (estimated). Further dilute the stock solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 141.540 of this chapter, using the procedure described in paragraph (e)(1) of that section, except use distilled water in lieu of gastric fluid.

B. Also regarding nystatin and also effective upon publication (4–16–71), minor technical changes are made in § 141.110(b) by revising the item "Nystatin" in the table to read as follows:

§ 141.110 Microbiological agar diffusion assay.

* * * * *

(b) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Nystatin	4		Dimethyl-formamide.	1,000 units [3]	1 day	6	12.8, 16.0, 20.0, 25.0, 31.2 units. (Prepare the standard response line solutions simultaneously with the sample solution to be tested using amber low actinic glassware.)
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: March 14, 1971.

MARION J. FINKEL,
Acting Director, Bureau of Drugs.

[FR Doc.71-5212 Filed 4-15-71;8:45 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Desigated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map. No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Orange	Huntington Beach.				Apr. 16, 1971.
Do	Los Angeles	South Pasadena				Do.
Colorado	Boulder	Boulder				Do.
Do	Denver	Denver				Do.
Do	Jefferson	Lakewood				Do.
Do	do	Wheat Ridge				Do.
Delaware	Sussex	Unincorporated areas.				Do.
Iowa	Clayton	Marquette				Do.
Kentucky	Jefferson	Unincorporated areas.				Do.
Do	do	Louisville				Do.
North Carolina	Guilford	Greensboro	I 37 081 1940 06 through I 37 081 1940 14	North Carolina Department of Water and Air Resources, Post Office Box 9392, Raleigh, NC 27603. North Carolina Insurance Department, Post Office Box 351, Raleigh, NC 27602.	Office of the City Clerk, City Hall, Greensboro, NC 27402.	Do.
Rhode Island	Bristol	Barrington	I 44 001 0013 02 I 44 001 0013 03	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, RI 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, RI 02903.	Town Hall, 283 County Rd., Barrington, RI 02806.	Do.
Texas	Dallas	Garland	I 48 113 2590 03 through I 48 113 2590 08	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Engineer, City Hall, Post Office Box 189, Garland, TX 75040.	Do.
Wisconsin	Chippewa	Chippewa Falls				Do.
Do	Crawford	Ferryville				Do.
Do	Marathon	Schofield				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: April 15, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-5236 Filed 4-15-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 **List of flood hazard areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Orange	Huntington Beach.				Apr. 16, 1971.
Do.	Los Angeles	South Pasadena.				Do.
Colorado	Boulder	Boulder.				Do.
Do.	Denver	Denver.				Do.
Do.	Jefferson	Lakewood.				Do.
Do.	do	Wheat Ridge.				Do.
Delaware	Sussex	Unincorporated areas.				Do.
Iowa	Clayton	Marquette.				Do.
Kentucky	Jefferson	Unincorporated areas.				Do.
Do.	do	Louisville.				Do.
North Carolina	Guilford	Greensboro.	H 37 081 1940 06 through H 37 081 1940 14	North Carolina Department of Water and Air Resources, Post Office Box 9392, Raleigh, NC 27603. North Carolina Insurance Department, Post Office Box 351, Raleigh, NC 27602.	Office of the City Clerk, City Hall, Greensboro, NC 27402.	Mar. 31, 1970.
Rhode Island	Bristol	Barrington.	H 44 001 0013 02 H 44 001 0013 03	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, RI 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, RI 02903.	Town Hall, 283 County Rd., Barrington, RI 02806.	May 15, 1970.
Texas	Dallas	Garland.	H 48 113 2590 03 through H 48 113 2590 08	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Engineer, City Hall, Post Office Box 189, Garland, TX 75040.	Aug. 11, 1970.
Wisconsin	Chippewa	Chippewa Falls.				Apr. 16, 1971.
Do.	Crawford	Ferryville.				Do.
Do.	Marathon	Schofield.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: April 15, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-5237 Filed 4-15-71;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

DEPRECIATION ALLOWANCES USING ASSET DEPRECIATION RANGE SYSTEM

Notice of Change of Place of Public Hearing and Availability of Hearing Rules

Proposed amendments to the regulations under section 167 of the Internal Revenue Code of 1954, relating to depreciation allowances using the asset depreciation range system, appear in the FEDERAL REGISTER for March 13, 1971 (36 F.R. 4885).

By notice appearing in the FEDERAL REGISTER for March 13, 1971 (36 F.R. 4885), as modified in part by notice appearing in the FEDERAL REGISTER for April 13, 1971 (36 F.R. 7012), it was announced, among other things, that a public hearing on the provisions of these proposed amendments will be held on May 3, 1971, at 10 a.m., e.d.s.t., and that if necessary the hearing will be continued through Tuesday, May 4, 1971, and Wednesday, May 5, 1971. It was further announced by such notices that the public hearing would be held in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

Notice is hereby given that the place where the public hearing is to be held has been changed and that it will take place in the Auditorium of the National Museum of Natural History, Smithsonian Institution, 10th and Constitution Avenue NW., Washington, DC 20560.

Attention is directed to the fact that, as announced in the notice of the hearing which appeared in the FEDERAL REGISTER for March 13, 1971 (36 F.R. 4885), the rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, DC 20224, or by telephoning (Washington, D.C.) 202-964-3935.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-5386 Filed 4-15-71;8:52 am]

[26 CFR Parts 1, 31]

INCOME AND EMPLOYMENT TAXES

Treatment of Payments for Expenses of Moving From One Residence to Another Residence; Correction

On March 18, 1971, a notice of proposed rule making with respect to payments for expenses of moving from one residence to another residence was published in the FEDERAL REGISTER (36 F.R. 5227). The date, July 1, 1970, appearing in the third line of § 1.82-1(b)(2) of the Income Tax Regulations (26 CFR Part 1) should have been January 1, 1971. Accordingly, replace the date July 1, 1970, with the date January 1, 1971.

The date, July 1, 1970, appearing in the sixth line of § 1.82-1(b)(2) of the Income Tax Regulations (26 CFR Part 1) should have been January 1, 1971. Accordingly, replace the date July 1, 1970, with the date January 1, 1971.

The reference to section 217(d)(1) appearing in the 24th line of § 31.6051-1(e) of the Employment Tax Regulations (26 CFR Part 31) should have been section 217(b)(1). Accordingly, replace section 217(d)(1) with section 217(b)(1).

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.71-5307 Filed 4-15-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 270, 271, 272, 273, 274]

FOOD STAMP PROGRAM

Notice of Proposed Rule Making

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to revise the regulations governing the operation of the Food Stamp Program for the purpose of incorporating the applicable provisions of Public Law 91-671, enacted January 11, 1971.

Comments, suggestions, or objections are invited and may be delivered within 30 days after publication hereof to James B. Springfield, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or submitted by mail postmarked not later than the 30th day following publication hereof. Communications should identify the regulation section and paragraph on which comments are offered. All comments, suggestions, or objections will be considered before the regulations are issued.

The proposed revisions are as follows:

Regulations are hereby amended and revised for the operation of the Food Stamp Program pursuant to the authority contained in the Food Stamp Act of 1964 (Public Law 88-525, 78 Stat. 703), approved August 31, 1964, as amended (7 U.S.C. 2011-2025) and the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1755), approved December 31, 1970 (42 U.S.C. 1855aaa-1855nnn).

Part
270 General information and definitions.
271 Participation of State agencies and eligible households.
272 Participation of retail food stores, wholesale food concerns and banks.
273 Administrative and judicial review—food retailers and food wholesalers.
274 Emergency food assistance for victims of disasters.

PART 270—GENERAL INFORMATION AND DEFINITIONS

Sec.
270.1 General purpose and scope.
270.2 Definitions.
270.3 Administration.
270.4 Coupons as obligations of the United States, crimes and offenses.
270.5 Miscellaneous provisions.

AUTHORITY: The provisions of this Part 270 issued under 78 Stat. 703, as amended, 7 U.S.C. 2011-2025.

§ 270.1 General purpose and scope.

(a) Section 2 of the Food Stamp Act states:

It is hereby declared to be the policy of Congress, in order to promote the general welfare, that the Nation's abundance of food should be utilized cooperatively by the States, the Federal Government, local governmental units, and other agencies to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low-income households. The Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. The Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade.

(b) This Part 270 contains general information, definitions, and other material applicable in all parts of this subchapter. Part 271 sets forth policies and procedures governing the manner in which State agencies desiring to participate in the Program will carry out the administrative responsibilities assumed by them under the provisions of the Food Stamp Act, and further prescribes the manner in which eligible households can obtain and use coupons issued to them by such State agencies. Part 272 sets forth additional terms and conditions relating to the participation of retail food stores, wholesale food concerns, and banks. Part 273 sets forth the procedure for administrative and judicial reviews requested by food retailers and food wholesalers. Part 274 sets forth the procedure for issuing emergency coupon allotments to households unable to purchase adequate amounts of food due to disaster.

§ 270.2 Definitions.

(a) "Affidavit" means the document in a form approved by FNS which a member of a household in which all members are receiving federally-aided public assistance signs as the household's application to participate in the program. Such document shall contain such supplemental information to that contained in the public assistance file as is needed to determine eligibility of the household and basis of coupon issuance for the household.

(b) "Application for Participation" means an FNS-approved application form for determining eligibility for program participation and basis of coupon issuance for households other than those in which all members are receiving federally-aided public assistance.

(c) "Application form" means FNS forms "Retailer Application for Authorization to Participate in the Food Stamp Program," or "Nonprofit Meal Delivery Retailer Application for Authorization to Participate in the Food Stamp Program," or "Wholesaler Application for Authorization to Participate in the Food Stamp Program," or all three, as required by the context.

(d) "ATP" means an authorization-to-purchase card which is issued by the State agency to an eligible household to show the face value of the coupon allotment the household is entitled to receive on presentation of such document and the amount to be paid by such household for such allotment.

(e) "Authorization" means the approval by FNS of retail food stores and wholesale food concerns to participate in the program.

(f) "Authorization card" means the FNS form which evidences approval of a retail food store or a wholesale food concern to participate in the program.

(g) "Authorized representative" means a person designated by the head of the household to act in his behalf in the purchase and use of coupons, and under certain conditions to act in his behalf in making application for the program.

(h) "Bank" means member and nonmember banks of the Federal Reserve System.

(i) "Boarder" means an individual, other than a member of the household, to whom a household furnishes meals, or lodging and meals, for compensation at a monthly rate at least equal the value of the monthly coupon allotment for a one-person household.

(j) "Boarding house" means a place where three or more individuals are furnished meals or lodging and meals for compensation.

(k) "Certification determinations" means action necessary to determine the eligibility of households other than those which consist solely of recipients of federally-aided public assistance. Such action includes interviews, verification, approval, denial, quality control verification, field investigation, analyses, and corrective action necessary to insure the prompt, efficient, and correct certification of eligible households.

(l) "Coupon" means any coupon, stamp, or type of certificate issued pursuant to the provisions of this subchapter for the purchase of eligible food.

(m) "Coupon allotment" means the total value of coupons a household is authorized to receive.

(n) "Department" means the U.S. Department of Agriculture.

(o) "Elderly person" means a person 60 years of age or older who:

(1) Is not a resident of an institution or boarding house;

(2) Is living alone or only with spouse;

(3) Is housebound, feeble, physically handicapped, or otherwise disabled to the extent he is unable to prepare all meals;

(4) Need not have cooking facilities; and,

(5) If he has no cooking facilities, elects to use coupons issued to him to purchase meals prepared for and delivered to him by a nonprofit meal delivery service authorized by FNS to accept food coupons.

(p) "Eligible food" means any food or food product for human consumption except alcoholic beverages, tobacco, those foods which are identified on the package as being imported, and meat and meat products which are imported. It shall also mean a meal delivered by an authorized nonprofit meal delivery service to households eligible under § 271.3(a)(2) of this subchapter.

(q) "Eligible household" means a household which lives in a project area and meets the standards of eligibility set forth in this subchapter.

(r) "Federal fiscal year" means a period of 12-calendar months beginning with July 1 of any calendar year and ending with June 30 of the following calendar year.

(s) "Federally-aided public assistance" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-Age Assistance, Aid to Families with Dependent Children, Aid to the Blind, and Aid to the Permanently and Totally Disabled.

(t) "Federal reserve banks" means the 12 Federal Reserve Banks and their 24 branches.

(u) "Firm" means a retail food store or a wholesale food concern.

(v) "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

(w) "Food assistance" means either the Food Stamp Program or the Commodity Distribution Program, administered by the U.S. Department of Agriculture.

(x) "Food retailer" means any individual, partnership, corporation, or other legal entity owning or operating a retail food store.

(y) "Food Stamp Act" means the Food Stamp Act of 1964, as amended, 7 U.S.C. 2011–2025.

(z) "Food wholesaler" means any individual, partnership, corporation, or other legal entity owning or operating a wholesale food concern.

(aa) "Free coupon(s)" mean(s) the portion of the coupon allotment that is in excess of the amount paid by an eligible household for its coupon allotment, or the total coupon allotment when the household is eligible for a coupon allotment with no purchase requirement.

(bb) "General assistance agency" means any State agency using State or local funds to provide financial assistance to persons not eligible for federally-aided public assistance.

(cc) "Head of the household" means the member of the household in whose name application is made for participation in the Program.

(dd) "Household" means a group of persons, excluding roomers and boarders as defined in this section, who are not residents of an institution or boarding house, and who are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common: *Provided,* That:

(1) When all persons in the group are under 60 years of age, they are all related to each other;

(2) When more than one of the persons in the group is under 60 years of age, and one or more other persons in the group is 60 years of age or older, each of the persons under 60 years of age is related to each other or to at least one of the persons who is 60 years of age or older.

It shall also mean (i) a single individual living alone who purchases and prepares food for home consumption, or (ii) an elderly person as defined in this section.

(ee) "Nonprofit meal delivery service" means a political subdivision or a private nonprofit organization which meets the requirements of § 272.1(b) of this subchapter.

(ff) "Program" means the Food Stamp program conducted under the Food Stamp Act and the provisions of this subchapter.

(gg) "Program benefits improperly denied" means those free coupons which the household did not receive but would have been entitled to receive if the household had been correctly certified and allowed to participate in the program.

(hh) "Project area" means the political subdivision within a State which has been approved for participation in the program by the Department.

(ii) "Purchase requirement" means the amount to be paid by an eligible household for its coupon allotment.

(jj) "Redemption certificate" means FNS forms: "Retail Merchants Food Stamp Program Redemption Certificate," or "Wholesalers Food Stamp Program Redemption Certificate," or both, as required by the context.

(kk) "Related" means a relationship by blood, affinity, or through a legal relationship sanctioned by State law. Persons shall also be deemed to be related if they are legally adopted children, legally assigned foster children, or other children under the age of 18, when an adult member (over age 18) of the household acts in loco parentis to such children.

(ll) "Retail food store" means an establishment, including a recognized department thereof, or a house-to-house trade route which sells eligible food to households for home consumption, or a

nonprofit meal delivery service as defined in paragraph (ee) of this section.

(mm) "Roomer" means an individual, other than a member of the household, to whom a household furnishes lodging for compensation.

(nn) "State" means any one of the 50 States, the District of Columbia, Puerto Rico, or the Territories of Guam and the Virgin Islands of the United States.

(oo) State agency means the agency of the State government, including the local offices thereof, which has the responsibility for the administration of the federally-aided public assistance programs within the State, and, in those States where such assistance programs are operated on a decentralized basis, it includes the counterpart local agencies which administer such assistance programs for the State agency.

(pp) "State issuing agency" means another agency of the State government to which the State agency delegates its statewide administrative responsibilities in connection with the issuance of coupons.

(qq) "Student" means an individual who is attending at least half-time, as defined by the institution, a grade school, high school, vocational school, technical school, training program, college, or university.

(rr) "Wholesale food concern" means an establishment which sells eligible food to retail food stores for resale to households.

§ 270.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program. When authority is delegated to FNS in these regulations, such authority may be exercised by the Administrator or by such other official of FNS he may designate.

(b) The State agency shall, except as provided in this subchapter, be responsible for the administration of the Program within the State, including, but not limited to, the certification of applicant households; the acceptance, storage, and protection of coupons after their delivery to receiving points within the State; and the issuance of coupons to eligible households and the control and accountability therefor: *Provided,* That the State agency may, subject to State law, and under agreement or contract, delegate its statewide administrative responsibility in connection with the issuance of coupons to another agency of the State government. If such administrative responsibility is delegated as permitted by this section, the other agency of the State government shall administer the applicable provisions of this subchapter under the direction of the State agency. However, the State agency shall be responsible to the Department for carrying out the delegated responsibilities and for paying any claims arising out of any failure of the other agency of the State government to carry out such delegated responsibilities.

§ 270.4 Coupons as obligations of the United States, crimes and offenses.

(a) Coupons are an obligation of the United States within the meaning of 18 U.S.C. 8. The provisions of Title 18 of the U.S. Code, "Crimes and Criminal Procedure," relative to counterfeiting and alteration of obligations of the United States and the uttering, dealing in, etc., of counterfeit obligations of the United States are applicable to coupons.

(b) Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of coupons or ATP cards may subject any individual, partnership, corporation, or other legal entity involved to prosecution under sections 14 (b) and (c) of the Food Stamp Act. These sections of the Food Stamp Act read as follows:

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization to purchase cards in any manner not authorized by this Act, or the regulations issued pursuant to this Act shall, if such coupons or authorization to purchase cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than 5 years, or both, or, if such coupons or authorization to purchase cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than 5 years ,or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

(c) All individuals, partnerships, corporations, or other legal entities including State agencies and their delegatees (referred to in this paragraph as "persons") having custody, care and control of coupons and ATP cards shall at all times, in receiving, storing, transmitting, or otherwise handling coupons and ATP cards, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATP cards and to avoid any unauthorized transfer, negotiation, or use of coupons and ATP cards. Such persons shall also safeguard coupons and ATP cards from theft, embezzlement, loss, damage, or destruction. Any false statement made by any person, in any application or certification required by this subchapter, by the plan of operation of any State agency, or by instructions of FNS, may subject such person to criminal prosecution under any applicable provision of Federal law or to civil liability under the provisions of 31 U.S.C. 231 or either, or both, as well as to any legal action as may be maintained under State law: *Provided,* That no person shall be charged with a violation of the Food Stamp Act or any other Act, or of any regulation issued under the Food Stamp Act or any other Act, or of any State plan of operation, on the basis of any statement or information contained in an affidavit filed pursuant to § 271.4(a)(1), except for fraud.

§ 270.5 Miscellaneous provisions.

(a) FNS shall have the power to:

(1) Determine the amount of any claim;

(2) Settle and adjust any claim; and

(3) Compromise or deny all or part of any such claim arising under the provisions of this subchapter.

(b) Persons or agencies desiring information concerning the Program should write to the appropriate FNS Regional Office as follows:

(1) For project areas in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia: U.S. Department of Agriculture, Food and Nutrition Service, Northeast Region, 26 Federal Plaza, Room 1611, New York, NY 10007.

(2) For project areas in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia: U.S. Department of Agriculture, Food and Nutrition Service, Southeast Region, 1795 Peachtree Road Northeast, Room 302, Atlanta, GA 30309.

(3) For project areas in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin: U.S. Department of Agriculture, Food and Nutrition Service, Midwest Region, 536 South Clark Street, Chicago, IL 60605.

(4) For project areas in Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, Food and Nutrition Service, Southwest Region, 1100 Commerce Street, Suite 5-D-22, Dallas, TX 75202.

(5) For project areas in Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming: U.S. Department of Agriculture, Food and Nutrition Service, Western Region, Appraisers Building, Room 734, 630 Sansome Street, San Francisco, CA 94111.

(c) *Saving Clause:* The Department reserves the right at any time to withdraw, modify, or amend this subchapter.

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Sec.

Sec.
271.8 Plans of operation.
271.9 Use or redemption of coupons by eligible households.

AUTHORITY: The provisions of this Part 271 issued under 78 Stat. 703, as amended, 7 U.S.C. 2011–2025.

§ 271.1 General terms and conditions for State agencies.

(a) *Federally-donated foods.* In areas where the program is in operation, there shall be no distribution of federally-donated foods to households, except that distribution may be made:

(1) During temporary emergency situations when FNS determines that commercial channels of food distribution have been disrupted;

(2) For such period of time as FNS determines, not to exceed 3 months, upon request of a State agency and submission of facts by such State agency showing that such a period is necessary in order to effect an orderly transition in an area in which the distribution of federally-donated foods to households is being replaced by a program; or,

(3) On request of the State agency, *Provided,* That:

(i) No Department funds are used in carrying out the State agency's administrative responsibilities in the handling and issuing of federally-donated foods;

(ii) Certification of all households is made by the State agency in conformity with the requirements of this subchapter; and,

(iii) Controls are established which will prevent any household from participating in the program and also simultaneously receiving household distribution of federally-donated foods.

(b) *Free coupons as income or resources.* Free coupons provided to any eligible household shall not be considered to be income or resources for any purpose under the Social Security Act of 1935, as amended, or under any other Federal or State laws including, but not limited to, laws relating to taxation, welfare, and federally-aided public assistance programs.

(c) *Prohibition of aid reduction.* States or the governing officials of project areas shall not decrease welfare grants or other similar aid extended to any person or persons as a consequence of such person's or persons' participation in benefits made available under the provisions of this subchapter.

(d) *Discrimination.* In the certification of applicant households for the program there shall be no discrimination against any household by reason of race, religious creed, national origin, or political beliefs.

(e) *Residency.* No citizenship or durational residency requirement shall be imposed as a condition of eligibility by any State or project area.

(f) *Disclosure.* Each State agency shall restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or this subchapter.

(g) *Personnel standards.* Each State agency shall undertake the certification of applicant households in accordance with the personnel standards used by it in the certification of applicants for benefits under its federally-aided public assistance programs.

(h) *Administrative financing.* Except as provided in § 271.2, each State agency shall finance or cause to be financed, from funds available to the State or political subdivisions thereof, the costs of carrying out the administrative responsibilities assigned to it under the provisions of this subchapter, including providing adequate staff and funding to process applicant households within 30 days of receipt of the complete Application for Participation.

(i) *Plan of operation requirement.* Each State agency shall submit for the approval of FNS a plan of operation, prepared in accordance with the provisions of § 271.8. Such plan shall cover a Federal fiscal year and may be extended for succeeding Federal fiscal years at the option of FNS unless sooner terminated or suspended as provided in paragraph (t) of this section.

(j) *Administration of certification and issuance.* Each State agency shall administer the program in accordance with the provisions of this subchapter, all FNS Instructions issued pursuant thereto, and its plan of operation.

(k) *Outreach.* Each State agency shall establish effective action pursuant to an approved plan, using State agency personnel and the services provided by other federally-funded agencies and organizations, to inform low-income households concerning the availability and benefits of the Program and insure the participation of eligible households.

(l) *Records and reports.* Each State agency shall keep such records and submit such reports and other information as may from time to time be required by FNS.

(m) *Retention of records.* Each State agency shall provide that program records shall be available for review or audit by FNS or the Department for a period of 3 years following the close of the Federal fiscal year to which they pertain. However, State agencies using ATP cards may destroy signed and executed cards after the required reconciliations have been made in accordance with § 271.6(f) and each ATP card has been microfilmed front and back, or 1 year after the month of execution if a monthly list is prepared to show name, address, ATP serial number, case number of the household, and amount of the purchase requirement and coupon allotment: *Provided,* That the microfilm or list is made in ATP serial or food stamp case number sequence and is available for review and audit by FNS or the Department for a period of three years: *And provided further,* That executed ATP cards shall not be so destroyed when the State agency has been instructed in writing by FNS or the Department to retain the documents.

(n) *Notice of Adverse Action.* (1) Prior to any action to terminate or reduce a household's program benefits within the certification period, each State agency shall:

(i) Give the household at least 15 days advance notice of any such action;

(ii) Give in detail the reasons for the proposed action;

(iii) Explain the household's right to a conference;

(iv) Explain the household's right to request a hearing; and,

(v) Explain the circumstances under which program participation is continued if a hearing is requested.

(2) This requirement does not apply to the normal expiration of certification periods.

(3) If within the advance notice period, an individual representing the household responds by indicating the household's wish for a State agency conference, the State agency shall provide an opportunity for the household to:

(i) Discuss the situation with the State agency staff;

(ii) Speak for itself, or be represented by legal counsel, a friend, or other spokesmen;

(iii) Obtain an explanation of the proposed action; and

(iv) Present information to show that the proposed action is incorrect.

(4) The opportunity for such a conference does not in any way diminish the household's right to a fair hearing.

(o) *Fair hearing.* Each State agency shall provide any household, aggrieved by the action of the State agency or a State issuing agency in its administration of the program which affects the participation of the household in the program, with a fair hearing. Prompt, definitive, and final administrative action must be taken by the State agency within 60 days from the date of a request for a hearing. Households shall be free to request a hearing on any State agency or State issuing agency action with which they are dissatisfied.

(1) Each household shall be informed (in writing and, if practical, orally) at the time of application of its right to a hearing and the method by which a hearing may be requested. Hearing procedures shall be published by the State agency and made available to any interested party.

(2) A household must be provided a reasonable time in which to request a hearing on a State agency or State issuing agency action. This request is defined as any clear expression (oral or written) by the household (or person acting for it, such as a legal representative, relative, or friend) to the effect that an opportunity to present the case to higher authority is desired. The freedom to make such a request must not be limited or interfered with in any way. State agency emphasis must be on helping the client to submit and process the request, and prepare the case, if needed. Information and referral services shall be provided to help claimants make use of any legal services available in the community that can provide legal representation at the nearing. The State agency shall not deny or dismiss a

request for a hearing unless it has been withdrawn in writing or abandoned by the household.

(3) The time, date, and place of the hearing shall be convenient to the household and adequate advance written notice shall be provided. The hearing shall be conducted by an official(s) of the State agency not involved in the action in question. When the hearing involves medical issues, a medical assessment other than that of the person(s) involved in making the original decision will be obtained at State agency expense from a source satisfactory to the claimant and made a part of the record if the hearing officer(s) consider(s) it necessary. The household or its representative must be given adequate opportunity to:

(i) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing;

(ii) Present the case itself or have it presented by a legal counsel or other person;

(iii) Bring witnesses;

(iv) Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses; and

(v) Submit evidence to establish all pertinent facts and circumstances in the case.

(4) (i) The hearing authority shall render a final administrative decision in the name of the State agency on all issues that have been the subject of the hearing. Decisions of the hearing authority shall be based exclusively on evidence and other material introduced at the hearing. The verbatim transcript of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the recommendations of the hearing officer(s) shall constitute the exclusive record for decision by the hearing authority and shall be available to the claimant at a place accessible to him or his representative at any reasonable time.

(ii) A decision by the hearing authority rendered in the name of the State agency shall specify the reasons for the decision and identify the supporting evidence. Such a decision shall be binding on the State agency. The household shall be notified in writing of the decision and of any right to judicial review known to the hearing authority. In addition, the State agency shall establish and maintain a method for informing, at least in summary form, all local agencies of all hearing decisions and the decisions shall be accessible to the public (subject to the same provisions as those safeguarding federally-aided public assistance fair hearing information).

(iii) The State agency is responsible for seeing that the decision is carried out promptly.

(5) If a hearing request is made during the 15-day advance notice period, provided for in paragraph (n) of this section and the issue is solely one of fact or judgment, participation shall be continued on the basis existing immediately prior to the notice of adverse action until the hearing decision is rendered.

(6) If a hearing request is made after such 15-day advance notice period has expired, and the issue is solely one of fact or judgment, the State agency may provide for reinstatement of participation on the basis existing immediately prior to the notice of adverse action until the hearing decision is rendered.

(7) If the notice of adverse action is based not on fact or judgment relating to an individual case, the State agency shall discontinue or reduce the benefits in accordance with the notice of adverse action.

(8) The State agency shall promptly inform the claimant in writing if assistance is to be discontinued.

(9) Upon request, the State agency shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing.

(p) *Credits for lost benefits.* If it has been determined that a household has been improperly denied participation in the program and thereby the benefits of the program, the State agency shall determine the amount of the free coupons denied, and shall establish a credit account against State agency funds for the household in that amount: *Provided,* That if the household has been denied benefits while awaiting a hearing as provided for in paragraph (0)(7) of this section, a credit account is not to be established. The amount of free coupons denied shall be computed from the required date of certification (30 days after receipt by the State agency of the complete Application for Participation) until the effective date of the corrective action. This credit account is to be applied against the household's purchase requirement in such amounts so as to deplete the account as soon as possible. The State agency shall be held accountable to FNS for account balances applied to purchase requirements and responsible for the transmission of purchase requirements paid from credit account balances in the same manner as usual purchase requirement receipts. All credit accounts must be maintained by the State agency for a period of 1 year after the establishment date unless the account is depletd or the household moves out of the project area, in which case the account shall be closed immediately. At the expiration of the 1-year period, the credit account may be closed regardless of the activity status or balance of the account. If a household is eligible to participate without a purchase requirement, the credit account is to be maintained until the household's purchase requirement changes and the account can be depleted, or for a period of 1 year.

(q) *Refunds to households.* The State agency shall request FNS to make a cash refund to any household for any amount that it has been overcharged for its coupon allotment because of an administrative error on the part of the State agency: *Provided,* That if the household owes an unpaid balance on a claim as provided in (§ 271.7(d)), the amount of the overcollection of cash shall be offset against the balance due on the claim before a refund is made to the household.

(r) *Public information.* (1) Program plans of operation, regulations, and procedures which affect the public, shall be maintained in the State and local offices of the State agency as well as in the Food Stamp Division and FNS Regional Offices, for examination on regular workdays during regular office hours by individuals, upon request, for review, study, or copying by the individual.

(2) The above materials shall also be made available upon request for access by the public in other centrally-located and publicly-accessible institutions or organizations serving an entire State or locality, such as the local office of the Bureau of Indian Affairs, other local or regional offices serving a large minority group, a library, legal services office, or welfare rights office, if such custodians agree to accept responsibility for filing all amendments and changes forwarded by the State agency.

(3) FNS and the State agency shall establish policies for providing or reproducing such materials without charge, or at a charge related to the cost, for any individual who requests such material.

(s) *Implementation.* State agencies are required to:

(1) Implement the basis of issuance, as provided for in § 271.5 of this subchapter, within 90 days of the effective date of these regulations.

(2) Implement the household eligibility standards, as contained in § 271.3, for both new applications for participation and recertifications, concurrent with the implementation of the basis of issuance in accordance with subparagraph (1) of this paragraph.

(3) Complete the recertification of their entire food stamp caseload within 270 days of the effective date of these regulations. This time limitation may be extended by FNS upon formal request and justification by a State agency.

(t) *State agency failure to comply.* If FNS determines that, in the administration of the program, a State agency has failed to comply substantially with the provisions of this subchapter, with instructions issued pursuant to this subchapter, or with the State plan of operation, FNS shall inform such State agency of such failure and shall allow the State agency a reasonable period of time, as determined by FNS, for the correction of such failure. If, prior to the expiration of such period, corrective action has not been taken, FNS shall direct that there be no further issuance of coupons in the project areas where such failure has occurred until corrective action has been taken.

§ 271.2 Payments for certain costs of the State agency.

(a) FNS shall pay to each State agency an amount equal to 62½ per centum of the sum of:

(1) The direct salary, travel, and travel-related costs (including such fringe benfits as are normally paid by the State agency) of personnel, including the immediate supervisors of such

personnel, for such time as they are employed in taking the action required in making certification determinations for households other than those which consist solely of recipients of federally aided public assistance;

(2) The direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid by the State agency) of personnel, including the immediate supervisors of such personnel, for such time as they are employed in planning, and in taking effective action pursuant to an approved plan to inform low-income households concerning the availability and benefits of the program and insure the participation of eligible households; and,

(3) The direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid by the State agency) of personnel for such time as they are employed as fair hearing officials.

(b) The State agency shall submit claims to FNS for payment of such costs.

(c) FNS will not reimburse State agencies for any costs when such costs are borne by another Federal agency.

§ 271.3 Household eligibility.

(a) *Household.* Eligibility for and participation in the program shall be on a household basis. All persons, excluding roomers and boarders, residing in common living quarters shall be consolidated into a group prior to determining if such a group is a household as defined in § 270.2(dd) of this subchapter. All related persons in a group which qualifies as a household shall be considered members of the household.

(1) Eligibility cannot be determined if the applicant household refuses to cooperate in providing information necessary for making a determination of eligibility or ineligibilty.

(2) Eligible household members 60 years of age or over who are housebound, feeble, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all of their meals, an elderly person as defined in § 270.2(o) of this subchapter, and the spouse of an elderly person may use all or any part of the coupons issued to them to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS as a retail food store.

(b) *Income and resource eligibility standards.* Pursuant to section 5(b) of the Food Stamp Act, each State agency shall use the standards of eligibility established by the Secretary to determine eligibility of all applicant households.

(1) *Definition of income.* To compute maximum monthly income for purposes of determining eligibility:

(i) Income shall mean any of the following, but not be limited to:

(*a*) All compensation for personal services;

(*b*) Net income from self-employment, which shall be the total gross income from such enterprise (including the total gain received from the sale of any capital goods or equipment related to such enterprise) less the cost of producing that income. The following shall not be considered as the cost of producing income:

(*1*) Payments on the principal of the purchase cost of income-producing real estate. Any payments of principal, interest, and taxes on the home shall be subject to subparagraph (1)(iii)(b) of this section;

(*2*) Payments on the principal of the purchase cost of capital assets, equipment, machinery, and other goods;

(*3*) Depreciation; and

(*4*) A net loss sustained in any previous period.

(*c*) The total amount of the roomer's payment to the household.

(*d*) The total payment received from each boarder less a deduction for each boarder of the value of the monthly coupon allotment for a one-person household.

(*e*) The total payment to the household by a member of the household (other than the head of the household, spouse, roomer, or boarder (who has a commitment to contribute only a portion of his income to pay for services including food and lodging. In no event shall such total payment be less than the value of the monthly coupon allotment for a one-person household.

(*f*) Payments received as an annuity, pension, retirement, or disability benefit, including veterans' or workmen's compensation, old-age, survivors, disability and strike benefits; and also payments received from federally-aided public assistance programs or general assistance programs or other assistance programs based on need (excluding vendor payments for medical care, or manpower training programs whether such assistance payments are made directly to the recipients or to vendors for the purpose of meeting specified subsistence needs;

(*g*) Prizes, awards, and cash gift;

(*h*) Scholarships, educational grants (including loans on which repayment is deferred until completion of the recipient's education), fellowships, and veterans' educational benefits;

(*i*) Support and alimony payments; and,

(*j*) Rents, dividends, interest, royalties, and all other income from any source whatever which may be construed to be a gain or benefit.

(ii) The following shall not be considered income to the household:

(*a*) Income received as compensation for personal services or income from self-employment by a dependent child residing with the household who is a student and who has not attained his 18th birthday;

(*b*) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(*c*) Home produce of the household used by the household for its own consumption; and,

(*d*) The total income of a household in a quarter which includes or is included in a certification period which is received too infrequently or irregularly to be reasonably anticipated as available during such quarter: *Provided,* That such income of all household members does not exceed $30 in such quarter.

(iii) Deductions for the following household expenses shall be made:

(*a*) Mandatory deductions from earned income which are not elective at the option of the employee such as local, State, and Federal income taxes, Social Security taxes under FICA, and union dues;

(*b*) Shelter costs in excess of 30 percentum of the household's income after exclusion of mandatory deductions and before exclusion of any other deductions;

(*c*) Payments for medical expenses, exclusive of phone service and special diets, when the costs exceed $10 per month per household;

(*d*) The payments for child care when necessary for a household member to accept or continue employment; and,

(*e*) Unusual expenses incurred due to an individual household's disaster or casualty losses which could not be reasonably anticipated by the household.

(iv) Income received on a cyclical or seasonal basis shall, if it is to the household's advantage, be prorated evenly or unevenly over a period not to exceed 12 months, or averaged over a lesser period of time in order to determine monthly income for use in determination of eligibility and basis of coupon issuance.

(2) *Income standards.* Uniform National income standards of eligibility for participation of households in the program for the 50 States and the District of Columbia shall be the higher of: (i) The income poverty guidelines based on the latest statistics, as of July 1, 1970, on poverty levels reported by the Census Bureau's Current Population Reports, as directed by Circular No. A-46 of the Bureau of the Budget dated June 17, 1970; or (ii) the level at which the total coupon allotment equals 30 percent of income. These maximum allowable monthly income standards for each household size are prescribed in General Notices published in the FEDERAL REGISTER.

(3) *Resource definition and standards*—(i) *Maximum allowable resources.* The maximum allowable resources—including both liquid and nonliquid assets—of all members of each household shall not exceed $1,500 for each household, except, for households of two or more persons with a member or members age 65 or over whose resources are not excluded under subdivision (ii)(c) of this subparagraph, the resources shall not exceed $3,000.

(ii) *Exclusions from resources.* In determining the resources of a household, there shall be excluded:

(*a*) The home, automoble, household goods, cash value of life insurance policies, and personal effects;

(*b*) Income-producing property which is producing income consistent with its fair market value, or other property such as another vehicle needed for purposes of employment, the tools of a tradesman or the machinery of a farmer, deemed essential to the household's means of self-support; and,

(c) The total resources of a roomer or boarder, or of a member of the household who has a commitment to contribute only a portion of his income to pay for services including food and lodging.

(iii) *Included in resources.* All other assets shall be included in determining resources of a household, including:

(a) Liquid assets which are readily negotiable, such as cash on hand, in a checking or savings account in a bank or other savings institution, U.S. savings bonds, stocks, or bonds; and,

(b) Other types of nonliquid assets, such as buildings, land, or other real or personal property. The value of resources shall be determined at fair market value, less encumbrances.

(4) *Disaster eligibility standards.* When the Secretary determines that households that are victims of a disaster which disrupted commercial channels of food distribution are in need of temporary food assistance, such households shall be eligible for food stamps without regard to income and other financial resources as provided in Part 274 of this subchapter.

(c) *Tax dependency.* Any household which includes a member who has reached his 18th birthday and who is claimed as a dependent for Federal income tax purposes by a member of a household which is not certified as being eligible for food assistance shall be ineligible to participate in the program during the tax period such dependency is claimed and for a period of 1 year after expiration of such tax period.

(d) *Work registration requirement.* At the time of application, and at the time of each recertification of eligibility, for participation in the program by any household, each able-bodied person between the ages of 18 and 65, who is a member of the household (except mothers or other members of the household who have responsibility for the care of dependent children under 18 years of age or of incapacitated adults; students enrolled at least half-time in any school or training program recognized by any Federal, State or local governmental agency; or persons working at least 30 hours per week) shall register for employment by executing the registration form which shall be provided by the State agency, and which the State agency shall forward to the State or Federal employment office having jurisdiction over the area where the registrant resides.

(1) Such member who is required to register shall also:

(i) Report for an interview to the State or Federal employment office where he is registered upon reasonable request;

(ii) Report to an employer to whom he has been referred by such office; and,

(iii) Accept a bona fide offer of suitable employment to which he is referred by such office.

(2) If the State agency determines that a household member has refused without good cause to comply with the requirements of this paragraph, the household of which he is a member shall be ineligible to participate in the program. such ineligibility shall continue:

(i) Until such household member either becomes employed at least 30 hours per week or complies with the requirements of this paragraph; or,

(ii) For 1 year from the date of his refusal without good cause to comply with such requirements, whichever is earlier.

(3) No employment shall be considered suitable for the purpose of this paragraph if:

(i) The wages offered are less than the highest of:

(a) The applicable Federal minimum wage;

(b) The applicable State minimum wage;

(c) The applicable wage established by valid regulation of the Federal Government authorized by existing law to establish such regulations; or

(d) $1.30 per hour;

(ii) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified under the preceding subdivision;

(iii) The registrant, as a condition of employment, is required to join, resign from, or refrain from joining any legitimate labor organization; or

(iv) The work offered is at a site subject to a strike or a lockout at the time of the offer.

(4) The State agency shall consider the following criteria in determining whether employment offered is, for the purposes of this paragraph, suitable for the registrant in question:

(i) The degree of risk to the registrant's health and safety;

(ii) The fitness of the registrant both physical and mental to perform the employment offered as established by documentary medical evidence, or reliable information obtained from other sources may be used as a basis for this determination;

(iii) The duration of the registrant's unemployment. For example, a household member whose major occupational experience is in a specialized field may be required to accept employment, as a condition of household eligibility, in a different field after the lapse of a reasonable period of time of unemployment during which it becomes apparent that job opportunities in his major field of experience in the area are unlikely to be offered; and,

(iv) The distance of the employment from the registrant's residence. Determinations in this connection shall be based upon reasonable estimates of the time required for going to and from work by means of transportation that is available or expected to be used, and whether or not it would be reasonable for the registrant to expend the time and cost involved for the expected remuneration from the work. In no event shall commuting time per day represent more than 25 per centum of the registrant's total work time.

(5) The provisions of this paragraph shall not relieve a household of its responsibility to report acceptance of any employment or receipt of income from employment obtained through any source by any member of the household.

§ 271.4 Certification of households.

(a) *Household certification.* In carrying out its responsibilities for the certification of applicant households, the State agency shall:

(1) *Certification of public assistance households.* Provide for the certification of households in which all members are receiving federally-aided public assistance solely on the basis of information in an affidavit executed by the household member making application and in the public assistance case file.

(2) *Certification of other households.* Provide for the certification of other households in the following manner:

(i) Completion of the Application for Participation by the client, by the certification worker, or by the authorized representative of the client;

(ii) An interview with the client or his authorized representative in a face-to-face contact in the office, in a home visit, or by a telephone call. The interview requirement will be continued for as long as FNS deems appropriate; and

(iii) Verification of income will be required on initial certification and on subsequent recertifications if the amount of the income has changed substantially or if the source of the income has changed. In any case where a household indicates that it has income so low that there is a likelihood that a change must occur in order for the household to continue to subsist as an economic unit, full verification of all factors of eligibility is required, unless expenditures and income are so stable as to indicate that the household could maintain this level of existence for an extended period of time. Verification is not required for other factors of eligibility unless the statements as set out in the Application for Participation are unclear, incomplete, or inconsistent in any manner that would require a prudent certification worker to question any factor affecting eligibility or basis of coupon issuance. Certification for 30 days without verification of eligibility factors may be made only for those households which report an income so low as to put them at a zero purchase level and only if it appears they will be eligibile for participation.

(3) *Application processing.* Process each Application for Participation within reasonable State-established time standards which shall not exceed 30 days.

(4) *Certification periods.* Make periodic recertifications of participating households to determine changes in status which would affect the continued eligibility of the household, the amount of its coupon allotment, or its purchase requirement.

(i) Certification periods are to conform as much as possible to calendar months.

(ii) Households in which all members are receiving federally-aided public assistance are to be assigned certification periods which coincide with the period of the public assistance grant.

(iii) Other low-income households are to be assigned certification periods of 3 months except as follows:

(*a*) Certification may be for less than 3 months when there is a possibility of frequent changes in household status.

(*b*) Certification may be for 6 months if there is little likelihood of changes in household status.

(*c*) Households consisting of unemployable persons with very stable income may be certified for 12 months, provided other household circumstances are expected to remain stable.

(*d*) Households deriving their income from farm operations or farm employment may be certified for 12 months.

(5) *Quality control.* Provide for a quality control system (a method of continuing review on a sampling basis) to validate the accuracy of determinations of eligibility for food stamps; the extent to which households receiving food stamps are paying the proper purchase requirements and receiving the coupon allotments to which they are entitled. The State agency's system of quality control shall be implemented through:

(i) Application of the sampling methods prescribed by FNS;

(ii) Use of FNS-prescribed schedules and instructions, or schedules which provide for identical information as a minimum;

(iii) Field investigations, including home visits to all households who fall within the sample of participating households and, as necessary, to households that have been denied participation or whose eligibility has been terminated;

(iv) Immediate action to reduce errors where tolerance limits established by FNS are exceeded, and follow-up corrective action to remove causes of errors;

(v) Use of qualified staff under appropriate direction; and,

(vi) Reporting to FNS as prescribed.

(6) *Certification continuation.* Continue the certification for 60 days of any household which is certified as eligible in one food stamp project area and moves to another food stamp project area: *Provided,* That: (i) The household membership does not change; (ii) the household continues to meet the definition of a household as provided in § 270.2(dd) of this subchapter; and, (iii) the household was not certified under disaster eligibility standards as provided in Part 274. The project area in which the household is certified as eligible shall prepare the documents to transfer certification. The project area to which the household moves shall accept the transfer document and issue coupons to the household in the amount authorized on the transfer document. However, the continuing eligibility of households which move more than once during the same 60-day period shall expire 60 days after the initial move. Additional 60-day continuations shall be made only after the household has been recertified as eligible in the project area from which it requests the additional continuation.

(7) *Identification card.* Issue an identification card to each household certified as eligible to participate in the program. Households with persons who express intent to use coupons for delivered meals from a nonprofit meal delivery service and who are eligible for such coupon use as provided in § 271.3(a)(2) shall be issued a marked identification card.

(8) *State agency instructions.* Issue written program instructions to personnel responsible for the certification of applicant households. Such instructions shall be approved by FNS prior to issuance.

(9) *FNS Instructions.* No policy or procedure of the State agency regarding FNS Instructions shall be issued to local agencies without prior approval by FNS.

(b) *Household participation.* If any eligible household is found to have failed to participate for 3 consecutive months, such household shall be presumed to have withdrawn from the program. Such household shall be notified of such action and advised that it may apply for reinstatement.

§ 271.5 Basis for issuing coupons to eligible households.

Pursuant to Section 7 (a) and (b) of the Food Stamp Act, the face value and the amount charged for the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the program are prescribed in a General Notice published in the FEDERAL REGISTER.

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

(a) FNS will distribute coupons, printed in such denominations as it may determine necessary, directly to the receiving points designated by the State agency in the Plan of Operation. While in the course of shipment to receiving points coupons shall be considered to be at the risk of the Department.

(b) The State agency shall arrange for the prompt vertification of and receipting for the contents of each coupon shipment.

(c) The State agency shall arrange for:

(1) The adequate safe-keeping of its supplies of coupons;

(2) The maintenance of a reasonable working inventory of coupons;

(3) The ordering of coupons; and,

(4) The maintenance of proper inventory and accounting controls for such coupons.

(d) The State agency shall, directly or by contract, arrange for the issuance of coupons to eligible households and for the collection of sums required from eligible households as payment therefor. The coupon allotment to be issued to any household, and the payments therefor, shall be in the amount determined in accordance with § 271.5. In carrying out these responsibilities the State agency:

(1) May issue coupons through the facilities of the U.S. mail. Unless FNS notifies the State agency to the contrary, FNS will accept the risk of loss of nondelivery of coupons to eligible households after deposit of such coupons in the mail, if the State agency issues such coupons through the mail in accordance with instructions provided by FNS.

(2) Shall permit any household participating in the program, if it so elects, to have the cost of its coupon allotment deducted from any grant or payment such household may be entitled to receive under any federally-aided public assistance program, and have its coupon allotment distributed to it.

(3) Shall, within the limits of the frequency of issuance available to the household under paragraph (d)(4) of this section, permit any eligible household to elect at the time of issuance to receive a coupon allotment having a face value of three-quarters, one-half, or one-quarter of the monthly coupon allotment authorized in accordance with § 271.5, and to have such household pay an amount that shall be in the same ratio to the total purchase price as the elected coupon allotment is to the total monthly coupon allotment.

(4) Shall insure that eligible households are positively offered the frequency of coupon issuance that is best geared to the frequency of their receipt of income: *Provided,* That at a minimum, all project areas shall make provision for a monthly and semi-monthly schedule of issuance.

(e) The State agency may authorize, under written agreement with public or private agencies, the acceptance of vouchers or warrants issued by such agencies in payment for coupon allotments issued to eligible households. Such vouchers or warrants shall be converted into cash as soon as practicable thereafter as determined by FNS.

(f) The State agency shall arrange for the reconciliation of coupon inventories, coupon issuances, sums collected from eligible households, vouchers, warrants accepted from public or private agencies, or other receipts. All such receipts shall be properly safeguarded at all times and promptly deposited.

(g) The State agency shall issue written program instructions to personnel responsible for the issuance of coupons. Such instructions shall be approved by FNS prior to issuance.

(h) No policy or procedure of the State agency regarding FNS Instructions shall be issued to local agencies without prior approval by FNS.

(i) Every official or employee who is responsible for receiving and issuing coupons or accepting cash or other receipts from eligible households shall be covered by an appropriate form of surety bond in favor of the State agency or the State issuing agency.

§ 271.7 Financial liabilities of the State agency.

(a) If FNS determines that there has been gross negligence or fraud on the part of the State agency in the initial certification of applicant households, the recertification of households, or the issuance of coupons, the State shall, on demand by FNS, pay to FNS a sum equal to the amount of any free coupons issued as a result of such negligence or fraud.

(b) If FNS determines that there has been a failure on the part of the State

agency to account fully for the coupons distributed to it, or the sums authorized to be collected by it in payment of the purchase requirement including the cash equivalent of any vouchers or warrants accepted by it in accordance with § 271.6(c), including, but not limited to, losses of coupons or funds as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS the amount due as a result of such failure. Coupons which are not accounted for will be presumed to have been redeemed in the customary channels of redemption: *Provided,* That the State agency will be relieved of liability for such coupons which it establishes to the satisfaction of FNS were recovered or destroyed prior to presentation for redemption.

(c) The State agency shall be liable for any overissuance of coupons or undercollections of cash as a result of mathematical or change-making errors by personnel of any issuing office. The State agency shall also be liable for the bonus value of all ATP cards which are stolen or embezzled from or lost by the State agency and are subsequently used to purchase food coupons.

(d) Upon a determination of the State agency that a participating household has fraudulently obtained coupons, the State agency, on behalf of FNS, shall make demand upon such household for repayment of the value of the free coupons issued to such household as a result of such fraud. Such actions shall be documented in the files of the State agency, and any funds collected as a result of such actions shall be remitted to FNS by the State agency. Demand and payment of any such amounts shall not relieve or discharge such household of any liability, either civil or criminal, for such additional amounts as may be due under any other applicable provisions of law. If the State agency finds that any eligible household has failed substantially to comply with the provisions of this part, the Plan of Operation, or any procedures or instructions issued by FNS or the State agency resulting in the fraudulent acquisition of coupons, such household may be disqualified from further participation in the program by the State agency for such period of time as the State agency shall determine.

(e) If excess free coupons are issued because of a certification error by the State agency or a misunderstanding of program provisions by a participating household, the State agency shall take appropriate corrective action to prevent any further issuance of excess free coupons to such household. The State agency may decline collection action to recover the value of the excess free coupons from the recipient household in any case in which such value is less than $400 under the following conditions:

(1) The issuance of excess free coupons did not involve gross negligence or fraud covered by paragraphs (a) and (d) of this section; and,

(2) The State agency determines that either:

(i) It cannot collect or enforce collection of any significant sum from the household,

(ii) The cost of collection action likely will exceed the amount recoverable thereby, or,

(iii) Evidence necessary to prove the claim cannot be produced.

In any case described in this paragraph in which the value of excess coupons issued is $400 or more, the State agency may decline collection action under the conditions specified herein only with the concurrence of FNS. In any such case, the State agency shall submit a statement of the facts and its proposed determination to FNS for review and concurrence.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 271.8 Plans of operation.

(a) The State agency shall prepare and submit a Plan of Operation to FNS for its approval.

(b) No coupons shall be issued prior to the date on which the Plan of Operation is approved by FNS.

(c) Such Plan of Operation shall contain:

(1) An agreement that the State agency will administer the program in conformance with the provisions of this subchapter and all FNS Instructions issued pursuant thereto;

(2) A provision that the State agency will submit for FNS approval any other internal policies, procedures, methods, forms or records that it will use in carrying out the administrative responsibilities assigned to it under the provisions of this subchapter and all FNS Instructions;

(3) Assurances of compliance with the provisions of FNS Instructions implementing Title 7—Agriculture Department—Nondiscrimination;

(4) A State outreach plan to undertake effective action, using State agency personnel and the services provided by other federally-funded agencies and organizations, to inform low-income households concerning the availability and benefits of the program, and insure the participation of eligible households;

(5) A method for computing and claiming reimbursable program costs;

(6) A quality control plan which shall include:

(i) A brief description of the State's sampling plan, including the system of selecting the sample;

(ii) The State's plan for use of staff; and,

(iii) The plan for analysis of and action on findings.

(7) The name of the State issuing agency, if any;

(8) Such other information as may be required by FNS; and,

(9) Any special circumstances approved by FNS.

(d) No amendment to the Plan of Operation of any State agency or any revision to the instructions issued by the State agency or by FNS shall be made without prior approval of FNS.

(e) FNS may require amendment of any State agency's Plan of Operation or written instructions as a condition of continuing approval.

§ 271.9 Use or redemption of coupons by eligible households.

(a) The head of the eligible household, or his authorized representative shall sign each book of coupons provided to the head of the household in his coupon allotment. The coupons may be used only by the head of the household or other persons selected by him to purchase eligible food for such households. Except for those uncancelled and unendorsed coupons of 50-cent denomination returned as change by authorized retail food stores, coupons shall be detached from the book only at the time such coupons are used for payment of eligible food purchased in or delivered by authorized retail food stores. It is the right of the head of the household or his selected representative to detach the coupons from the book at the time of purchase or delivery.

(b) Upon request, the head of the eligible household or his selected representative shall present the identification card of the head of the household in the retail food store when exchanging food coupons for eligible food.

(c) Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are used to pay for eligible food purchased in or delivered by authorized retail food stores.

(d) If after investigation the State agency finds that any eligible household has failed substantially to comply with the provisions of this part, the Plan of Operation, or any procedures or instructions issued by the State agency or FNS relating to the use of coupons issued to the household, and that this failure was intentional on the part of the household, such household shall be disqualified from further participation by the State agency for such period of time as the State agency shall determine.

(e) In the event of voluntary termination of participation in the program or death of the head of the household, properly issued coupons may be returned to the State agency, or to FNS for a refund on the same ratio of cash to coupons as was applied by the State agency in the issuance of the coupons to the household. A request for a refund shall be submitted to the local counterpart office of the State agency. The request for such a refund shall be made in accordance with the following requirements:

(1) It shall be in ink or typed.

(2) It shall contain the applicant's address.

(3) It shall be dated and signed.

(4) The unused coupons shall be attached.

(5) There shall be attached any additional documents or statements required by paragraph (f) of this section to show the claimant's right to a refund.

(f) Refunds may be requested and paid in the following order of precedence

and in accordance with the following conditions:

(1) To the household member who applied for participation in the program, or his or her spouse;

(2) When the head of the eligible household is incompetent, to a guardian, close relative, or other individual or organization which has assumed partial or complete financial responsibility for his care and custody, provided a statement is furnished describing the relationship between the claimant and the incompetent and the claimant certified that the appointment of a legal representative is not contemplated and that the refund will be used for the benefit of the incompetent;

(3) When the head of the eligible household is deceased, the administrator, executor, or other legally-authorized representative of the estate, when supported by a copy of the court order or other document legally establishing his authority to act;

(4) In the absence of such administrator, executor, or other legally-authorized representative, to the sole heir or any one of a number of heirs to the estate of the deceased, provided in the latter case he satisfactorily affirms that the refund will be applied toward the payment of outstanding obligations of the deceased or shared with other heirs in accordance with the laws of the State in which the deceased resided;

(5) In any event, to a general assistance agency to which the previously issued coupons were returned and for which such agency directly paid the purchase requirement.

(g) State agencies may make direct refund to claimants other than State or local general assistance agencies from food stamp collections or by State or project check. Credit or reimbursement will be made directly to the State or project area by FNS.

(h) (1) Refunds to State or local general assistance agencies will be made by FNS. State agencies unable to use the direct payment methods outlined in paragraph (g) of this section may also forward claims to FNS for payment. The claimant's request for a refund, a statement explaining the basis of the household's participation, the unused coupons, and any additional documents required by paragraph (f) of this section shall be forwarded to FNS by the State agency.

(2) None of the provisions outlined above will preclude an eligible claimant from waiving a claim for the unused coupons returned.

NOTE: The recordkeeping and reporting requirements herein specified have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Sec.

AUTHORITY: The provisions of this Part 272 issued under 78 Stat. 703, as amended, 7 U.S.C. 2011–2025.

§ 272.1 Approval of retail food stores and wholesale food concerns.

(a) Food retailers or food wholesalers desiring to participate in the program shall file an application with FNS, in such form as FNS may prescribe.

(b) An applicant shall provide sufficient data on the nature and scope of the firm's business for FNS to determine whether such applicant's participation will effectuate the purposes of the program. In making such determination FNS shall consider:

(1) The nature and the extent of the food business conducted by the applicant;

(2) The volume of food stamp business which may be reasonably expected to be done by the applicant;

(3) The business integrity and reputation of the applicant; and,

(4) Such other factors as FNS considers pertinent to the application under consideration: *Provided*, That a nonprofit meal delivery service which plans to prepare and deliver meals to households eligible under § 271.3(a)(2) shall qualify for authorization only if, in addition to meeting the above requirements:

(i) It is not receiving federally-donated foods from the Department for use in the preparation of meals to be exchanged for food coupons; and,

(ii) It is recognized as a tax-exempt organization by the Internal Revenue Service.

(c) Upon approval, FNS shall issue a nontransferable authorization card to the firm. Such authorization card shall be retained by the firm until superseded, surrendered, or revoked as provided in this part.

(d) FNS shall deny the application of any firm if it determines that such firm's participation will not effectuate the purposes of the program. If FNS determines that a firm does not qualify for participation in the program, a notice to that effect shall be issued to the firm. Such notice shall be delivered by certified mail or personal service. If such firm is aggrieved by such action, it may seek administrative review of such action as provided in § 272.8.

(e) FNS may from time to time, but not more frequently than once each Federal fiscal year, require all authorized firms within a project area to submit new applications if such firms wish to continue to participate in the program: *Provided*, That any individual firm may be required to submit a new application at any time FNS receives new or additional information with respect to such firm, relating to any of the criteria set forth in paragraph (b) of this section. FNS shall review the new application and within 30 days of receipt, make a determination as to whether the firm's continued participation serves to effectuate the purposes of the program. Applications received under this paragraph shall be considered by FNS under the same criteria and subject to the same rights of administrative review as provided in this section for initial applications.

(f) The filing of any application containing false information may result in the denial or withdrawal of approval to participate in the program and may subject the firm and persons responsible to civil or criminal action under applicable provisions of the law. FNS may also deny or withdraw approval to participate where information regarding the firm's business integrity and reputation becomes available which, in the opinion of FNS, indicates the firm is not willing or does not have the ability to abide by the provisions of this part. Any such withdrawal or denial of authorization to participate in the program shall be subject to administrative review under the provisions of § 272.8. The contents of applications or other information furnished by firms under the provisions of this section shall not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the provisions of the Food Stamp Act and the provisions of this subchapter.

§ 272.2 Participation of retail food stores.

(a) Authorized retail food stores shall post in the store the "Official Food List" issued by FNS or a notice of similar import.

(b) Coupons shall be accepted by an authorized retail food store only in exchange for eligible food items as defined in § 270.2(p) of this subchapter. A food retailer shall not knowingly accept coupons for any imported meat or meat products. The acceptance of coupons for meat or meat products which are labeled or can be identified as imported when they are delivered to the retail food store or to a central warehouse, a distribution center or meat fabricating facility, operated by the food retailer shall be deemed to have been done with knowledge of the fact that such meat or meat products were imported. Any other food product which is clearly identified on the package as being imported shall not be exchanged for food coupons. Coupons shall be accepted for eligible foods at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same store: *Provided*, That nothing in this part shall be construed as authorizing FNS to specify the prices at which food may be sold by retail food stores.

(c) No retail food store authorized to receive coupons shall accept coupons marked "paid" or "canceled," coupons marked with the name or authorization number of any other retail food store or wholesale food concern, coupons bearing the name of any bank, or coupons of

other than 50-cent denomination which have been detached from the coupon book prior to the time of purchase or delivery of eligible food. It is the right of the head of the household or his selected representative to detach the coupons from the book at the time of purchase or delivery.

(d) An authorized retail food store may use for the purpose of making change, those uncanceled and unendorsed coupons having a denomination of 50 cents which were previously accepted in exchange for eligible foods. If change in an amount of loss than 50 cents is required, the eligible household shall receive the change in cash. At no time may cash change in excess of 49 cents be returned to an eligible household.

(e) An authorized food retailer shall not retain custody of any unexpended coupons of eligible households, or use or adopt any trick, scheme, or device to prevent an eligible household from using unexpended coupons in other authorized retail food stores.

(f) Coupons shall not be accepted by an authorized retail food store in payment for any eligible foods purchased in or delivered by such store prior to the time at which the coupons are tendered in payment for eligible foods.

(g) Authorized retail food stores which receive coupons in accordance with the provisions of this part, shall be entitled to receive payment for the face value of such coupons upon presentation through the banking system or through authorized wholesale food concerns.

(h) Coupons shall not knowingly be accepted from persons who have no right to possession of such coupons for use as prescribed in this part. If a food retailer has any cause to believe that a person presenting coupons has no right to possession thereof, such food retailer should request such person to show the identification card of the head of the household to establish the right of such person to possession of coupons: *Provided*, That a nonprofit meal delivery service shall request the recipient of a delivered meal to show the marked identification card establishing the recipient's right to use coupons for such a service, the first time that such recipient offers coupons in payment for such a service, or states his intention of doing so, and that the nonprofit meal delivery service shall request such marked identification card at any time such food retailer has cause to question the continued eligibility of such recipient to use coupons for delivered meals.

§ 272.3 Participation of wholesale food concerns.

(a) An authorized wholesale food concern may accept endorsed coupons for redemption only from authorized retail food stores, and only when coupons are presented with the authorized retail food store's properly executed, signed redemption certificate, and when such coupons have not been marked "paid" or "canceled."

(b) An authorized wholesale food concern which has received coupons in accordance with the provisions of this part shall be entitled to receive payment through the banking system for the face value of such coupons, upon presentation of the coupons together with:

(1) The authorized retail food store's properly executed, signed redemption certificate for such coupons; and,

(2) The authorized wholesale food concern's properly executed, signed redemption certificate.

§ 272.4 Procedure for redeeming coupons.

(a) Coupons accepted by a retail food store or a wholesale food concern prior to the receipt by such firm of an authorization card from FNS shall not be presented for redemption unless such redemption has been approved by the FNS Officer-in-Charge under § 272.7(b). Burned or mutilated coupons shall not be presented for redemption under this section, but shall be presented to the FNS Officer-in-Charge under § 272.7(c).

(b) Each authorized retail food store or authorized wholesale food concern shall stamp or otherwise indicate its authorization number or the name of such store or concern on each coupon prior to the time such coupons are presented for redemption under the procedure provided in this part.

(c) Authorized retail food stores and authorized wholesale food concerns will be provided by FNS with redemption certificates which shall be used in presenting coupons to commercial banks for credit or for cash. Authorized retail food stores shall also use such certificates in presenting coupons to authorized wholesale food concerns for redemption.

§ 272.5 Participation of banks.

(a) Banks may accept coupons for redemption from authorized retail food stores and authorized wholesale food concerns in accordance with the provisions of this part and the instructions of the Federal Reserve Banks. Coupons submitted to banks for credit or for cash must be properly endorsed in accordance with § 272.4 and shall be accompanied by a properly executed redemption certificate. No bank shall knowingly accept coupons used by ineligible persons or transmitted for collection by unauthorized retail food stores, wholesale food concerns, or any other unauthorized individuals, partnerships, corporations, or other legal entities. Banks may require persons presenting coupons for redemption to show their authorization card. The redemption certificates shall be held by the receiving bank until final credit has been given by the Federal Reserve Bank after which they shall be forwarded by the receiving banks to the FNS Field Office. Coupons accepted for deposit or for payment in cash must be cancelled by or for the first bank receiving the coupons by indelibly marking "paid" or "cancelled" together with the name of the bank, or its routing symbol transit number, on the coupons by means of an appropriate stamp. A portion of a coupon consisting of less than three-fifths of a whole coupon shall not be accepted for redemption by banks. Banks which are members of the Federal Reserve System, non-member clearing banks, and non-member banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank may forward cancelled coupons directly to the Federal Reserve Bank for payment in accordance with applicable regulations or instructions of the Federal Reserve Banks. Other banks may forward cancelled coupons through ordinary collection channels.

(b) Federal Reserve Banks, acting as fiscal agents of the United States, are authorized to receive cancelled coupons for collection as cash items from member banks of the Federal Reserve System, non-member clearing banks, and non-member banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank, and to charge such items to the general account of the Treasurer of the United States.

(c)(1) FNS shall be liable for losses of shipments of cancelled coupons while in transit to Federal Reserve or correspondent banks; *Provided*, That:

(i) The transmitting bank used due diligence and care in making the shipment, and,

(ii) The bank is unable to recover the loss from the carrier; *And provided further*, That in the event of a partial loss, the loss was due to the package being damaged in transit.

(2) The commercial bank shall give a prompt written report of loss, destruction, or damage to the Post Office or other carrier.

(3) Commercial banks shall submit the following documents to FNS in support of any claim for payment for coupons lost in transit:

(i) The notification of loss to the Post Office or other carrier;

(ii) A statement of facts concerning the loss and the bank's procedures for making the shipment. This statement shall specify that either all or part of the loss cannot be recovered from the carrier. If a partial recovery has been or will be made, the amount shall be stated;

(iii) A statement from the Federal Reserve or correspondent bank that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall specify that the loss may have resulted from the package being damaged in transit;

(iv) All of the Redemption Certificates received from the retail food stores or wholesale food concerns which relate to the shipment; and,

(v) A copy of the cash letter which transmitted the shipment.

(d) Notwithstanding any provision of this subchapter to the contrary, coupons may be issued to, purchased by, or presented for redemption by persons authorized by FNS to use such coupons in examining and inspecting program operations and compliance with program

regulations, and for other purposes determined by FNS to be required for proper administration of the program. Such coupons which have been so issued and used, as well as any coupons which FNS believes may have been issued, transferred, negotiated, used, or received in violation of any provisions of this subchapter or of any applicable statute, shall at the request of any person acting on behalf of FNS and on issuance of a receipt therefor by such persons, be released and turned over to FNS by the bank receiving such coupons, or by any other person to whom such request is addressed, together with the certificate(s) of redemption accompanying such coupons, if any. Any such coupons so requested shall not thereafter be eligible for redemption through Federal Reserve Banks or other collection channels: *Provided,* That FNS may redeem such coupons from any such bank or person by payment of the face amount thereof upon determination by FNS that such direct redemption of coupons is warranted under all of the circumstances of the examination or inspection in which such coupons were used. Coupons received by FNS under this paragraph shall be held by FNS for such disposition as may be determined by FNS on completion of the examination or inspection in which such coupons were used. In the event such coupons have not been redeemed by FNS as provided in this paragraph claims or demands relative thereto may be mailed to the local FNS Field Office for the project area involved.

(e) Under the authority contained in paragraph (d) of this section, FNS will sell coupons at face value to any authorized retail food store which wishes to use coupons to conduct internal checks of its employees' handling of coupon transactions: *Provided,* That such retail food store submits a written request to FNS which shall include a certification that the store recognizes that its use of coupons will in no way affect FNS action to enforce program regulations and that the requested coupons will be used only for internal checks of the store's employees and only to uncover sales of items other than eligible foods, as defined in § 270.2(p) of this subchapter. The request shall further include the name of the city or county in which the stores to be checked through the use of the requested coupons are located and the name and address of any outside agency with which the retail food store has or will have a contract to conduct checks of the store's employees using coupons. The request shall be directed to the Food Stamp Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be accompanied by a check or money order made payable to the Food and Nutrition Service to cover the face value cost of the coupons requested. Coupons purchased by retail food stores for use in internal checks may be subsequently redeemed for full value in accordance with § 272.4, and in redeeming such coupons, retail food stores are authorized to make the certification required for redemption.

§ 272.6 Disqualification of retail food stores and wholesale food concerns.

(a) Any authorized retail food store or authorized wholesale food concern may be disqualified from further participation in the Program by FNS for a reasonable period of time, not to exceed 3 years as FNS may determine. If such retail food store or wholesale food concern fails to comply with the Food Stamp Act or the provisions of this part, except that, if the disqualification is based on failure of such store or concern to pay a monetary claim determined by FNS pursuant to § 272.7, such disqualification may be continued until such claim is paid. Any retail food store or wholesale food concern which has been so disqualified and which desires to be reinstated upon the end of the period of disqualification or at any time thereafter shall file a new application so that FNS may determine whether reinstatement is appropriate under the provisions of this part. Such an application may be filed starting 10 days before the end of the period of disqualification.

(b) Any retail food store or wholesale food concern considered for disqualification under paragraph (a) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before a final determination is made by FNS as to the administrative action to be taken. Prior to such determination, the retail food store or wholesale food concern shall be sent a letter of charges by the appropriate Regional Office, FNS. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification. Such letter shall inform the food retailer or food wholesaler that he may respond either orally or in writing to the charges contained therein within 10 days of the mailing date thereof, which response shall set forth a statement of evidence, information, or explanation pertaining to the specified violations or acts. Such response, if any, shall be made to the Officer-In-Charge, FNS Field Office, who has responsibility for the project area in which the retail food store or wholesale food concern is located.

(c) The letter of charges, the response, and such other information as may be available to FNS shall be reviewed and considered by the Director, Food Stamp Division, who shall then issue his determination.

(d) The determination of the Director, Food Stamp Division, shall be final and not subject to further administrative or judicial review unless a written request for review is filed within 10 days in accordance with § 272.8.

(e) The mailing by certified mail or delivery by personal service of any notice required of FNS by this part will constitute notice to the addressee of its contents.

§ 272.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

(a) If FNS determines that a retail food store or wholesale food concern accepted coupons in violation of the provisions of the Food Stamp Act or the provisions of this part, FNS may deny the claim for redemption of such coupons. In the event such coupons have been redeemed, FNS may determine a monetary claim against such firm with respect to the coupons involved in such violations and may collect such claim by setoff against the amounts due the firm upon redemption of other coupons. The firm shall promptly pay such claim if FNS does not collect it by setoff. Failure of a firm to pay a claim will be cause for disqualifying the firm or denying an application for reauthorization submitted by the firm if previously disqualified.

(b) The FNS Officer-In-Charge may approve the redemption under § 272.4 of coupons accepted by firms prior to the receipt of an authorization card from FNS if the following conditions exist:

(1) The coupons were received in accordance with the provisions of this part governing acceptance of coupons except the provisions requiring that the firm be authorized before acceptance;

(2) The coupons were accepted by the firm in good faith, and without any intent to circumvent the provisions of this part; and,

(3) the firm applies for and receives authorization to participate in the program. Firms seeking approval to redeem such coupons shall present a written application for approval to the local FNS Field Office. This application shall be accompanied by a full written statement signed by the firm of the circumstances surrounding the acceptance of the coupons. The statement shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent the requirements of this part.

(c) FNS may redeem burned or mutilated coupons only to the extent that the Bureau of Engraving and Printing of the U.S. Treasury Department can determine the value of the coupons. The firm presenting burned or mutilated coupons for redemption shall submit the coupons to the local FNS Field Office with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of coupons to be redeemed, an estimate of the value of the burned or mutilated coupons submitted for redemption shall be entered if the exact value of the coupons is unknown. The phrase "Finance and Program Accounting Division, FNS, USDA," should be entered in the section of the redemption certificate for entering the name and address of the bank or wholesaler.

(d) If a claim under the provisions of this section is denied in whole or in part, notification of such action shall be sent to the firm by certified mail or personal service. If the firm is aggrieved by such action, it may seek administrative review as provided in § 272.8.

§ 272.8 Administrative review—retail food stores and wholesale food concerns.

(a) A food retailer or food wholesaler aggrieved by administrative action

under the provisions of §§ 272.1, 272.6 and 272.7 may within 10 days of the date of delivery to the firm of notice of such administrative action, file a written request for review of such administrative action with the Food Stamp Review Officer. On receipt of such request for review, the questioned administrative action shall be stayed pending disposition of such request for review by the Food Stamp Review Officer.

(b) The request for review shall be filed with the Food Stamp Review Officer, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) The procedure for food stamp reviews is published in Part 273 of this subchapter, and is available upon request from the Food Stamp Review Officer.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

PART 273—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

Subpart A—Administrative Review General

Subpart B—Rules of Procedure

Subpart C—Judicial Review

AUTHORITY: The provisions of this Part 273 issued under 78 Stat. 703, as amended, 7 U.S.C. 2011–2025.

Subpart A—Administrative Review—General

§ 273.1 Scope and purpose.

This subpart A sets forth the procedure for the designation of Food Stamp Review Officers and the authority and jurisdiction of such officers. Subpart B of this part sets forth the rules of procedure to be followed in the filing and disposition of the requests for review for which provision is made in § 272.8 of this subchapter. Subpart C of this part relates to the provisions governing the rights of food retailers and food wholesalers to judicial review of the final determinations of the Food Stamp Review Officer.

§ 273.2 Food Stamp Review Officer.

(a) The Administrator, FNS, shall designate one or more persons to act as Food Stamp Review Officers.

(b) Such officers shall serve for such periods as the Administrator, FNS, shall determine. Changes in designations and additional designations, may be made from time to time at the discretion of the Administrator, FNS. When more than one Food Stamp Review Officer has been designated, requests for review will be assigned for handling to individual Food Stamp Review Officers by a person designated by the Administrator, FNS. The names of the Food Stamp Review Officers shall be on file in the Office of the Administrator, FNS.

§ 273.3 Authority and jurisdiction.

(a) A Food Stamp Review Officer shall act for the Department on requests for review filed by retail food stores or wholesale food concerns aggrieved by any of the following actions:

(1) Denial of an application to participate in the program under § 272.1 of this subchapter;

(2) Disqualification from participation in the program under § 272.6 of this subchapter; or,

(3) Denial of all or any part of any claim under § 272.7 of this subchapter.

(b) The determination of the Food Stamp Review Officer on such a review shall be the final administrative determination of the Department, subject, however, to judicial review as provided in § 13 of the Food Stamp Act and Subpart C of this part.

§ 273.4 Rules of procedure.

Rules of procedure of the orderly filing and disposition of requests for review of retail food stores or wholesale food concerns submitted in accordance with § 273.5 are issued in subpart B of this part. The Administrator, FNS, may subsequently issue amendments to such rules of procedure as he deems appropriate.

Subpart B—Rules of Procedure

§ 273.5 Manner of filing requests for review.

(a) Requests for review submitted by retail food stores or wholesale food concerns shall be mailed to or filed with "Food Stamp Review Officer, FNS, U.S. Department of Agriculture, Washington, D.C. 20250."

(b) Such requests shall be in writing and shall state the name and business address of the firm involved, and the name, address, and position with the firm of the person who signed the request. The request shall be signed by the owner of the retail food store or wholesale food concern, an officer or partner of the firm, or by counsel, and need not be under oath.

(c) Such a request shall be filed with the Food Stamp Review Officer within 10 calendar days of the date of delivery of the notice of the action for which review is requested. For the purpose of determining whether such a request was timely filed, the filing date shall be deemed to be the postmark date of the request, or equivalent if the written request is filed by a means other than mail.

§ 273.6 Content of requests for review.

(a) Requests for review shall clearly identify the administrative action from which the review is requested. Such identification shall include the date of the letter or other written communication notifying the firm of the administrative action, the name and title of the person who signed such letter or other communication, and whether the action under appeal concerns a denial of an application for participation, a disqualification from further participation, or a denial of all or any part of a claim.

(b) Such requests shall include information in support of the request showing the grounds on which the review is being sought from the administrative action, or it shall state that such information will be filed in writing at a later date. In such event, the Food Stamp Review Officer shall notify the firm of the date by which such information must be filed. The firm requesting review may ask for an opportunity to appear before the Food Stamp Review Officer in person: *Provided*, That any information so submitted in person shall, if directed by the Food Stamp Review Officer, be reduced to writing by the firm and subsequently filed with the Food Stamp Review Officer within such period as he shall specify.

§ 273.7 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of a disqualification action, the Food Stamp Review Officer shall notify the Director of the Food Stamp Division, FNS, in writing, of the action under review and shall direct that the administrative action shall be held in abeyance until the Review Officer has made his determination. Upon receipt of a request for review of a denial of application to participate in the program, or of a denial of a claim, the Food Stamp Review Officer shall notify the Director of the Food Stamp Division, FNS, in writing of the action under review and shall direct that the food retailer or food wholesaler shall not be approved for participation or paid any part of the disputed claim until the Review Officer has made his determination. In any case, notice to the Director shall be accompanied by a copy of the request filed by the firm.

(b) If the request filed by the firm includes a request for an opportunity to file written information in support of its position at a later date, the Food Stamp Review Officer shall promptly notify the firm of the date by which such information shall be filed. If the firm fails to file any information in support of its position by the designated date, the information submitted with the original request shall be deemed to be the only information submitted by the firm. In such event, if no information in support of the firm's position was submitted with the original request, the action of the appropriate FNS Regional Office, or of the Director, Food Stamp Division, FNS, whichever is applicable shall be final.

(c) If the firm filing the request for review asked for an opportunity to appear before the Food Stamp Review Officer in person, such Office shall promptly notify the firm of the date, time, and place set for such appearance. If such

firm fails to appear before the Food Stamp Review Officer as specified, any written information timely submitted in accordance with this section shall be deemed to be the only information submitted by such firm.

(d) The Food Stamp Review Officer shall require the Director, Food Stamp Division, FNS, to promptly submit, in writing, all information which was the basis for the administrative action for which the review has been requested.

§ 273.8 Determination of the Food Stamp Review Officer.

(a) The Food Stamp Review Officer shall make a determination based upon:

(1) The information submitted by the Director, Food Stamp Division, FNS;

(2) Information submitted by the firm in support of its position; and,

(3) Such additional information, in writing, as may be obtained by such Officer from any other person having relevant information.

(b) In the case of a request for review of a denial of an application to participate in the Program, the determination of the Food Stamp Review Officer shall sustain the action under review or shall direct that the firm be approved for participation.

(c) In the case of a request for review of action disqualifying a firm from participation in the program, the determination of the Food Stamp Review Officer shall sustain the action under review or specify a shorter period of disqualification, direct that an official warning letter be issued to the firm in lieu of any period of disqualification, or direct that no administrative action be taken in the case.

(d) In the case of a request for review of a denial of all or any part of a claim of a firm, the determination of the Food Stamp Review Officer shall sustain the action under review or shall specify the amount of the claim to be paid by FNS.

(e) The Food Stamp Review Officer shall notify the firm of his determination by certified mail. Such notification shall be sent to the representative of the firm who filed the request for review.

(f) The Food Stamp Review Officer shall send a copy of his notification to the firm to the Director, Food Stamp Division, FNS, who shall undertake such action as may be necessary to comply with the determination of such officer.

(g) The determination of the Food Stamp Review Officer shall take effect 15 days after the date of delivery of such determination to the firm.

§ 273.9 Legal advice and extensions of time.

(a) If any request for review involves any doubtful questions of law, the Food Stamp Review Officer shall obtain the advice of the Office of the General Counsel, U.S. Department of Agriculture.

(b) Upon timely written request to the Food Stamp Review Officer by the firm requesting the review, the Food Stamp Review Officer may grant extensions of time, if, in his discretion, additional time is required for the firm to fully present information in support of its position: *Provided,* That no extensions shall be made in the time allowed for the filing of a request for review.

Subpart C—Judicial Review

§ 273.10 Judicial review.

(a) A food retailer or food wholesaler aggrieved by the determination of the Food Stamp Review Officer, may obtain judicial review of such determinations, by filing a complaint against the United States in the U.S. district court for the district in which he resides or is engaged in business, or in any court of record of the State having competent jurisdiction. Such complaint must be filed within 30 days after the date of delivery or service upon him of the notice of determination of the Food Stamp Review Officer in accordance with § 273.8(e) otherwise such determination shall be final.

(b) Service of the summons and complaint in any such action shall be made in accordance with the Rules of Civil Procedure for the U.S. district courts. The copy of the summons and complaint required by such rules to be served on the officer or agency whose order is being attacked shall be sent by registered or certified mail to the person in charge of the applicable Regional Office of FNS listed in § 270.5 of this subchapter.

(c) The suit in the U.S. district court or in the State court, as the case may be, shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(d) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall remain in full force and effect, unless the firm makes application to the court upon not less than 10 days' notice, and, after hearing thereon and a showing of irreparable injury, the court temporarily stays the administrative action under review pending disposition of the de novo trial or an appeal therefrom.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

PART 274—EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

Subpart A—Major Disasters Declared by the President

Sec.

AUTHORITY: The provisions of this subpart issued under the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1755).

Subpart B—Other Disasters Declared by FNS

Sec.

AUTHORITY: The provisions of this subpart are issued under Public Law 88-525, 78 Stat. 703, as amended.

Subpart A—Major Disasters Declared by the President

§ 274.1 General purpose and scope.

Section 238 of the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1755) authorized the President to distribute through the Secretary of Agriculture emergency food coupon allotments to low-income households who are unable to purchase adequate amounts of nutritious food as a result of a major disaster. This subpart 274 implements section 238 of the Disaster Relief Act of 1970 in project areas where the Food Stamp Program is in operation. In areas where the program is not in operation, emergency food assistance need in a major disaster will be met as provided in regulations governing the distribution of federally-donated commodities.

§ 274.2 Administration.

(a) Executive Order 11575, December 31, 1970, delegated to the Secretary of Agriculture the authority provided the President by section 238 of the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1755).

(b) Within the Department, such authority is delegated to FNS, which shall act in behalf of the Department in the administration of section 238 of the Disaster Relief Act of 1970.

(c) Except as provided in this subpart, the regulations and procedures governing the administration of the program shall remain effective through the period during which emergency food assistance is being made available.

§ 274.3 Definitions.

For the purpose of this subpart the term:

(a) *Major disaster* means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe which is determined to be a "major disaster" by the President pursuant to the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1755).

(b) *Emergency food coupon allotment* means up to one-month's allotment of food coupons based upon the household size at no cost to the household.

§ 274.4 Determination of the need for emergency food assistance.

The distribution by the State agency of emergency food coupon allotments is authorized to households residing in a food stamp project area in an area determined to have been adversely affected by a major disaster, only upon a determination by FNS that such households, because of reduction in or inaccessibility of income or resources resulting from such major disaster, are in need of food assistance which cannot be met by the existing program in such project area.

§ 274.5 Certification of households and issuance of coupons.

(a) The eligibility of each applicant household for an emergency food coupon allotment shall be determined by the State agency or any designated disaster relief agency. Any such disaster relief agency must be designated by the State agency with the approval of FNS, or by FNS. An applicant household shall be determined eligible for an emergency food coupon allotment if such household establishes to the satisfaction of the State agency, or designated disaster relief agency, that it is in need of food assistance because of reduction in or inaccessibility of income or resources resulting from a major disaster.

(b) The issuance of emergency food coupon allotments shall be by the normal procedures in effect in a project area: *Provided*, That if such issuance is not practical because of the effects of the major disaster, the State agency, with FNS approval, may make temporary arrangements during the emergency period to facilitate issuance to eligible households. Such temporary arrangements shall in no way affect the accountability and the liability of the State agency for coupons and cash as provided for in §§ 271.6 and 271.7 of this subchapter.

§ 274.6 Duration of emergency food assistance.

(a) The period of time during which emergency food assistance shall be made available shall be for such period of time as FNS may prescribe, but not in excess of 30 days: *Provided*, That the emergency period may be extended by FNS on the basis of a redetermination that continuing emergency food assistance is necessary because of the continuing effects of the major disaster.

(b) Following the termination of the emergency period, the eligibility of households shall be determined through normal certification procedures including appropriate consideration of continuing hardship factors resulting from the major disaster.

§ 274.7 Reporting.

The State agency shall keep such records and submit such reports and other information concerning this subpart as may from time to time be required by FNS.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Subpart B—Other Disasters Declared by FNS

§ 274.8 General purpose and scope.

The Food Stamp Act provides that the Secretary may establish temporary emergency standards of eligibility, without regard to income and other financial resources, for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that such commercial channels have again become available to meet the temporary food needs of such households. This subpart implements these temporary emergency provisions of the Food Stamp Act in project areas where the program is in operation. In areas where the program is not in operation, emergency food assistance need in a disaster will be met as provided in regulations governing the distribution of federally-donated commodities.

§ 274.9 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the provisions of this subpart.

(b) Except as provided in this subpart, the regulations and procedures governing the administration of the program shall remain effective through the period during which emergency food assistance is being made available.

§ 274.10 Definitions.

For the purpose of this subpart, the term:

(a) *Temporary emergency situation* means any disaster, resulting from either natural or human causes, other than a major disaster as declared by the President under the Disaster Relief Act of 1970, which is determined by FNS to have disrupted commercial channels of food distribution.

(b) *Temporary standards of eligibility* means any deviation from national standards of eligibility for participation established by FNS.

(c) *Victims of a disaster* means households which as a result of a temporary emergency situation as defined in this section are in need of temporary food assistance due to a reduction in or inaccessibility of income or resources.

(d) *Commercial channels of food distribution* means food retailers or food wholesalers as defined in this subchapter.

§ 274.11 Determination of the need for temporary emergency food stamp assistance.

FNS shall determine the need for temporary food assistance for households which are victims of disasters, including the fact of the existence of a temporary emergency situation and the disruption of commercial channels of food distribution, and of the fact that commercial channels of food distribution have again become available to meet the temporary food needs of such households.

§ 274.12 Certification of households and issuance of coupons.

(a) The eligibility of each applicant for temporary emergency food stamp assistance under this subpart shall be determined by the State agency. An applicant household shall be determined eligible for temporary emergency participation if such household establishes to the satisfaction of the State agency that it is in need of food assistance because of a temporary reduction of or inaccessibility of income or resources resulting from a temporary emergency situation as determined by FNS and after a determination by FNS that commercial channels of food distribution are available to meet the temporary food needs of such households.

(b) Issuance of emergency food assistance in the form of food coupons shall be in an amount deemed by the State agency to be sufficient to meet the temporary food needs of the applicant household, but in no case shall such a coupon allotment exceed 1-month's issuance for the size of the household; such issuance shall be at no cost to the household; issuance for more than 1 consecutive month is not precluded.

§ 274.13 Duration of temporary emergency food stamp assistance.

(a) The period of time during which temporary emergency food stamp assistance shall be made available in a food stamp project area shall be for such period of time as FNS may prescribe, but not in excess of 30 days: *Provided*, That the emergency period may be extended by FNS on the basis of a redetermination that continuing temporary emergency food stamp assistance is necessary because of the continuing effects of the temporary emergency situation.

(b) Following the termination of the emergency period, the eligibility of households which were certified under emergency standards shall be determined through normal certification procedures, including appropriate consideration of the continuing need for the adjustment of income resulting from the temporary emergency situation.

§ 274.14 Reporting.

The State agency shall keep such records and submit such reports and other information concerning this subpart as may from time to time be required by FNS.

Effective date. This revision shall be effective upon publication.

RICHARD E. LYNG,
Assistant Secretary.

APRIL 13, 1971.

[FR Doc.71-5312 Filed 4-15-71;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Ch. II]

CONTRACT FORMS FOR CONSTRUCTION-DIFFERENTIAL SUBSIDY AND PROCEDURES FOR DETERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY

Extension of Time for Filing Comments

In F.R. Docs. appearing in the FEDERAL REGISTER issues as set forth below comments were invited to be submitted by close of business on April 26, 1971:

(1) 71-4332—March 27, 1971 (36 F.R. 5805); corrected on April 1, 1971 (36 F.R. 6009), in the matter of "Contract Forms for Construction-Differential Subsidy"; and

(2) 71-5057—April 9, 1971 (36 F.R. 6833), in the matter of "Procedures for Determination of Operating-Differential Subsidy for Wages of Officers and Crews."

In consideration of requests from interested parties, which are deemed to be reasonable, the time within which comments may be offered in respect to the public notices identified above is extended to May 4, 1971.

Dated: April 13, 1971.

By Order of the Maritime Subsidy Board and Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-5344 Filed 4-15-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

BABY-BOUNCERS OR WALKER-JUMPERS INTENDED FOR USE BY CHILDREN

Proposed Classification as Banned Hazardous Substances

The Child Protection and Toy Safety Act of 1969 (Public Law 91-113; 83 Stat. 187-90), which amended the Federal Hazardous Substances Act, provides that any article intended for use by children may be classified as a hazardous substance by the Secretary of Health, Education, and Welfare upon a determination that it presents a mechanical hazard. Such a determination may be made by regulation in accordance with the procedures prescribed by 5 U.S.C. 553.

The nature of a mechanical hazard is set forth in section 2(s) of the Federal Hazardous Substances Act. A determination that any toy, or other article intended for use by children, presents such a hazard classifies it as a banned hazardous substance. The authority to make these determinations has been delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Through investigations by the Food and Drug Administration and from other sources, the Commissioner has learned that walker-jumpers, also known as baby-bouncers and baby-walkers (hereinafter referred to as "articles"), intended to be used by infants while sitting, walking, bouncing, jumping, and/or reclining, have caused injuries to infants ranging from 4 months to 3 years of age. A partial list of injuries in 1970 and 1971 includes at least 21 amputations or near amputations of fingers and other severe finger injuries. Numerous other injuries, primarily laceration and fracture injuries of the fingers, have been associated with these articles. Required treatments have ranged from first aid to hospitalization. Some injuries have resulted in permanent finger disfigurement.

The Commissioner has determined that some models of these articles have mechanical hazards associated with their design which present an unreasonable risk of personal injury due to exposed moving parts. Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(d), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187-89; 15 U.S.C. 1261, 1262) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 191 be amended:

1. In § 191.9a by revising the section heading and the heading of paragraph (a) and by adding a new subparagraph (6) to paragraph (a), as follows:

§ 191.9a Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* * * *

(6) So-called "walker-jumpers," "baby-bouncers," "baby-walkers," and similar articles (referred to in this subparagraph as "article(s)") intended to be used by very young children (usually from about 4 months to 18 months old) while sitting, walking, bouncing, jumping, and/or reclining for napping, which because of their design, have any exposed moving parts capable of causing amputation, crushing, lacerations, fractures, hematomas, or other injuries to fingers, toes, or other parts of the anatomy of young children, are articles intended for use by children which present a mechanical hazard from moving parts and therefore present an unreasonable risk of personal injury. Included among, but not limited to, the design features of such articles which classify the articles as banned hazardous substances are:

(i) The areas about the points on each side of the article where the frame components are joined together to form an "X" shape capable of producing a scissoring or pinching effect.

(ii) Other areas where two or more parts are joined in such a manner as to permit a rotational movement capable of exerting a scissoring or pinching effect.

(iii) Exposed coil springs which may expand sufficiently to allow an infant's fingers, toes, or any part of the anatomy to be inserted and injured when caught between the coils of the spring or between the spring and another part of the article.

(iv) Holes in plates or tubes which provide an opportunity for the insertion of a finger that could then be injured by the movement of another part of the article.

2. In § 191.65a by revising the section heading and by adding a new subparagraph (4) to paragraph (a), as follows:

§ 191.65a Exemptions from classification as a banned toy or other banned article for use by children.

(a) * * *

(4) So-called "walker-jumpers," "baby-bouncers," "baby-walkers" and other similar articles (referred to in this subparagraph as "article(s)") described in § 191.9a(a)(6) provided:

(i) The frames are designed and constructed in such a manner as to prevent injury from any scissoring or pinching which may occur when the members of the frame or other components rotate about a common axis or fastening point; and

(ii) Coil springs which expand sufficiently to allow space for insertion of a finger, toe or another part of a child's anatomy are covered or otherwise designed to prevent injuries; and

(iii) Holes, slots, cracks, or hinged components in any portion of the article through which a child could insert a finger, toe, or another part of the anatomy are guarded or otherwise designed to prevent injuries; and

(iv) The articles are designed and constructed so as to eliminate from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and

(v) The article is labeled:

(*a*) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and

(*b*) To bear on the article itself and/or the package containing the article and/or the shipping container, in addition to the invoice(s) and shipping document(s), a code or mark in a form and manner that will permit future identification of any given batch, lot, or shipment by the manufacturer; and

(vi) A company manufacturing the article shall make, keep, and maintain for 3 years records of sale, distribution, and the results of the inspections and tests conducted in accordance with these regulations and shall make such records available upon request at all reasonable hours of any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare, and shall permit such offi-

cer or employee to inspect and copy such records and to make such inventories of stock as he deems necessary and otherwise to check the correctness of such records.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: April 9, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-5310 Filed 4-15-71;8:45 am]

Public Health Service

[42 CFR Part 78]

ELECTRONIC PRODUCTS SUBJECT TO STANDARDS

Proposed Requirements

Pursuant to the authority contained in section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), notice is hereby given of a proposal to amend subpart C of Part 78 as set forth below:

Sections 78.201 and 78.202 would be amended to make it clear that the required certification tag or label must be capable of being read upon an ordinary examination of the product when it is fully assembled for use. Section 78.202 would also be amended to make clear that full names and addresses shall be provided on labels. Furthermore §§ 78.201 and 78.202 would be amended to provide for other manner of certification which may, in the future, be required in certain of the performance standards. Finally, to enable the Secretary to identify the manufacturer of every product subject to a standard, § 78.202 would be amended to require manufacturers to provide the Secretary with a list identifying each brand name which is applied, together with the name and address of the company for which the product is manufactured. It is proposed to make these amendments effective on the date of their republication in the FEDERAL REGISTER.

Inquiries and comments may be submitted in writing to the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Subpart C of Part 78 would be amended as follows:

1. Section 78.201 would be amended by revising paragraphs (a), (b), and (d) as follows:

§ 78.201 Certification.

(a) Every manufacturer of an electronic product to which an applicable standard is in effect under this subpart shall furnish to the dealer or distributor, at the time of delivery of such product, the certification that such product conforms to all applicable standards under this subpart. The certification shall be in the form of a label or tag permanently affixed to or inscribed on such product unless the applicable standard prescribes some other manner of certification.

(b) In the case of products for which it is not feasible to certify in accordance with paragraph (a) of this section, upon application by the manufacturer, the Secretary may approve an alternate means by which such certification may be provided.

* * * * *

(d) The certification tag, label, or inscription required to be affixed in accordance with paragraph (a) of this section shall be located on the product so as to be legible and readily accessible to view when the product is fully assembled for use.

2. Section 78.202 would be revised as follows:

§ 78.202 Identification.

(a) Every manufacturer of an electronic product to which a standard under this subpart is applicable shall set forth the information specified in subparagraphs (1) and (2) of this paragraph. This information shall be provided in the form of a tag or label permanently affixed or inscribed on such product, or in such other manner as may be prescribed in the applicable standard.

(1) The full name and address of the manufacturer of the product: Abbreviations such as "Co.," "Inc.," or their foreign equivalents and the first and middle initials of individuals may be used. Where products are sold under a name other than that of the manufacturer of the product, the full name and address of the individual or company under whose name the product was sold may be set forth, provided such individual or company has previously supplied the Secretary with sufficient information to identify the manufacturer of the product.

(2) The month, year, and place of manufacture: This information may be expressed in code provided the manufacturer has previously supplied the Secretary with the key to such code.

(b) The tag or label affixed or inscribed in accordance with paragraph (a) of this section shall be located on the product so as to be legible and readily accessible to view when the product is fully assembled for use.

(c) Every manufacturer of an electronic product to which is applicable a standard under this subpart shall provide the Secretary with a list identifying each brand name which is applied to the product, together with the full name and address of the individual or company for whom each product so branded is manufactured.

Dated: April 12, 1971.

ROGER O. EGEBERG,
Assistant Secretary for Health and Scientific Affairs.

[FR Doc.71-5348 Filed 4-15-71;8:51 am]

[42 CFR Part 78]

CONTROL OF ELECTRONIC PRODUCT RADIATION

Record and Reporting Requirements

Pursuant to the authority contained in section 360A of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263i), notice is hereby given of a proposal to amend subpart H of Part 78 as set forth below:

Section 78.701 would be amended to exclude from the requirements of subpart H—other than that of reporting excessive radiation occurrences—manufacturers of electronic products which are intended for the United States Government and the functions or designs of which cannot be divulged for reasons of national security.

Section 78.710 would be amended to require manufacturers to provide sufficient test results to enable the Secretary to determine the effectiveness of the methods and procedures for testing or measuring each model with respect to radiation safety. Also, manufacturers would be required to provide, in accordance with section 360A of the Act, such other information as the Secretary may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the Act and standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

It is proposed to make these amendments effective on the date of their republication in the FEDERAL REGISTER. Inquiries and comments may be submitted in writing to the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered. Subpart H would be amended as follows:

1. In § 78.701, a new paragraph (c) would be added as follows:

§ 78.701 Applicability.

* * * * *

(c) Manufacturers of electronic products intended for use by the U.S. Government the function or design of which cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

2. Section 78.710 would be amended by redesignating paragraph (h) as (i) and adding new paragraphs (h) and (j) to read as follows:

§ 78.710 Initial reports.

* * * * *

(h) For those methods and procedures described in accordance with paragraphs (f) and (g) of this section, provide sufficient results of such tests to enable the Secretary to determine the effectiveness of the methods and procedures to accomplish the stated purpose.

* * * * *

(j) Provide upon request such other information as the Secretary may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the Act and any standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

3. In § 78.720(b) (1), the comma would be deleted.

4. The heading of § 78.741 would be revised to read:

§ 78.741 Exemptions for manufacturers of products intended for the U.S. Government.

5. In § 78.741, the phrase ". . . a manufacturer of . . ." would be inserted immediately after the phrase ". . . the provisions of this subpart. . . ."

Dated: April 12, 1971.

ROGER O. EGEBERG,
Assistant Secretary for Health and Scientific Affairs.

[FR Doc.71-5349 Filed 4-15-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 10769; Notice 71-2A]

COCKPIT VISION AND COCKPIT CONTROLS

Notice of Extension of Comment Period

The Federal Aviation Administration proposed in Notice 71-2 published in the FEDERAL REGISTER on January 19, 1971 (36 F.R. 829), to amend Part 25 of the Federal Aviation Regulations to introduce comprehensive cockpit vision standards and to change the range of pilot heights used for the location and arrangement of cockpit controls. The notice stated that consideration would be given to all communications received on or before April 16, 1971.

The Air Transport Association of America has requested an extension of the time for submission of comments until May 18, 1971. The petitioner states that the Society of Automotive Engineers S-7 Flight Deck and Handling Qualities Committee has scheduled a meeting to discuss this notice and that the closing date for comments provides inadequate time for the S-7 Committee to develop their data.

The S-7 Committee includes representatives of various segments of the aviation industry and has been instrumental in the development of cockpit vision standards. In view of this, I find that the petitioner has shown a substantive interest in the proposed rule changes, that good cause exists for an extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority contained in sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), the time within which comments on Notice 71-2 will be received is hereby extended to May 18, 1971.

Issued in Washington, D.C., on April 12, 1971.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[FR Doc.71-5294 Filed 4-15-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-51]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Brunswick, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Brunswick transition area described in § 71.181 (36 F.R. 2140) would be amended as follows: "* * * within 3 miles each side of Brunswick VOR 203° radial, extending from the Malcolm-McKinnon Airport 8.5-mile and Jekyll Island Airport 5-mile-radius areas to 8.5 miles south of the VOR * * * would be deleted and "* * * within 5 miles each side of Brunswick VORTAC 203° radial, extending from the Malcolm-McKinnon Airport 8.5-mile and Jekyll Island Airport 5-mile-radius areas to 8.5 miles south of the VORTAC * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for the added TACAN portion to AL-168 VOR RWY 4 Instrument Approach Procedure.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on April 6, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-5272 Filed 4-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-55]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Alma, Ga., control zone and transition area.

Interested persons may submit such written data, views or arguments as they desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Alma control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Bacon County Airport (Lat. 31°32'17" N., Long. 82°30'33" W.); within 3 miles each side of Alma VORTAC 146° and 344° radials, extending from the 5-mile radius zone to 8.5 miles SE. and NW. of the VORTAC. This control zone is effective from 0600 to 2200 hours, local time, daily.

The Alma transition area described in § 71.181 (26 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bacon County Airport (lat. 31°32'17" N., long. 82°30'33" W.). This transition area is effective from 0600 to 2200 hours, local time, daily.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Alma terminal

in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on April 9, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-5273 Filed 4-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-57]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Albany, Ga. (Albany-Dougherty County Airport) and NAS Albany, Ga., control zones and the Albany, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Albany-Dougherty County Airport and NAS Albany control zones described in § 71.171 (36 F.R. 2055) would be redesignated as:

ALBANY, GA. (ALBANY-DOUGHERTY COUNTY AIRPORT)

Within a 5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07" N., long. 84°11'41" W.); within 2.5 miles each side of Albany VORTAC 145° radial, extending from the 5-mile radius zone to 1 mile southeast of the VORTAC.

NAS ALBANY, GA.

Within a 5-mile radius of NAS Albany (lat. 31°35'50" N., long. 84°05'06" W.); within 3.5 miles each side of the 031° bearing from NAS Albany UHF RBN, extending from the 5-mile radius zone to 11.5 miles northeast of the RBN; within 2 miles each side of Albany VORTAC 110° radial, extending from the 5-mile radius zone to the VORTAC; excluding the portion within Albany-Dougherty County Airport control zone.

The Albany transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07" N., long. 84°11'41" W.); within 2 miles each side of Albany VORTAC 145° radial, extending from the 9.5-mile radius area to the VORTAC; within a 5.5-mile radius of Sylvester Airport (lat. 31°33'25" N., long. 83°53'33" W.); within 3 miles each side of the 194° bearing from Sylvester RBN (lat. 31°33'27" N., long 83°53'34" W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN; within a 10-mile radius of NAS Albany (lat. 31°35'50" N., long. 84°05'06" W.).

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Albany terminal in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on April 9, 1971.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[FR Doc.71-5274 Filed 4-15-71;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 179]

[Docket No. HM-84; Notice No. 71-12]

TRANSPORTATION OF HAZARDOUS MATERIALS

Chlorine in Tank Cars

The Hazardous Materials Regulations Board is considering amendment of §§ 173.314, 179.100, and 179.102 of the Hazardous Materials Regulations as they apply to the shipment of chlorine. It is proposed to: (1) Authorize the use of larger capacity cars; (2) authorize use of weld joint efficiency of 100 percent in design calculations; (3) require any size chlorine tank to be built to specification 105A500W; (4) authorize use of self-extinguishing polyurethane foam as an insulating material; (5) add a requirement for use of specific "fine grain practice" steels in construction; (6) require marking "CHLORINE ONLY" on each tank car; and, (7) prohibit the use of specifications ARA-V and Class 105A cars having forge welded anchors. Many of the changes being proposed appeared as proposals in Docket No. HM-10; Notice No. 68-8 (33 F.R. 17246). These have been segregated from that document and are repeated in this notice directed solely to chlorine in tank cars.

For several years, large quantities of chlorine have been transported under many special permits in 55-, 85-, and 90-ton capacity cars designed with a weld joint efficiency of 100 percent and constructed from AAR specification TC 128-70 steel. They are insulated with a minimum of 4 inches of self-extinguishing polyurethane foam. Experience with the use of these cars in the transportation of chlorine has been satisfactory.

On the basis of this experience, the Board is proposing to incorporate the terms of these special permits into the regulations. Further, it proposes to require that any chlorine tank car must be constructed to specification 105A500W rather than 105A300W, thereby providing an increase of 200 p.s.i. in the minimum design pressure. The increased design pressure will provide an additional safety factor above design parameters relating simply to the vapor pressure of the product. Also, the present AAR embargo on forge welded anchors would be incorporated into the regulations.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173 and 179 as follows:

I. *Part 173.* In § 173.314, paragraph (c) Table and Note 12 would be amended; Note 3 would be canceled as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a) (2) and (3)
Change	*Percent*	
Chlorine	125	DOT-106A500X, Note 7.
	125	DOT-105A500W, Note 12.

* * * * *

NOTE 3: Canceled.

* * * * *

NOTE 12: For special tank requirements applying to chlorine, see § 179.102-2. The quantity of chlorine loaded into a single-unit tank car must not exceed 90 tons. Nominal 16-, 30-, 55-, 85-, or 90-ton tank car tanks must be loaded to the nominal lading weights with a tolerance of plus 0, minus 2 percent. Existing tank cars, not larger than 30-ton chlorine capacity, built to ARA-V, ICC-105A300, or ICC-105A300W, may be continued in service if equipped with excess flow valves in accordance with § 179.102-2. ARA-V and class 105A cars having forge welded anchors must not be used for the transportation of chlorine.

* * * * *

II. *Part 179.* (A) In § 179.100-6 paragraph (a), the second explanation following the formula would be amended to read as follows:

§ 179.100 General specification applicable to pressure tank car tanks.

§ 179.100-6 Thickness of plates.

(a) * * *

E=0.9 welded joints efficiency; except E=1.0 for seamless aluminum alloy heads, and for calculating the minimum wall thickness of class 105A tank shells and seamless heads.

* * * * *

(B) In § 179.102–2, paragraph (a) would be amended to read as follows:

§ 179.102 **Special commodity requirements for pressure tank car tanks.**

§ 179.102–2 **Chlorine.**

(a) Each tank car used to transport chlorine must comply with all of the following:

(1) Each tank must be constructed in compliance with spec. DOT–105A500W. A tank car may be registered and the jacket stenciled either DOT–105A300W or DOT–105A500W, and each tank must be equipped with the safety relief valve required by the specification to which the car is registered.

(2) Interior pipes of liquid discharge valves must be equipped with excess flow valves of approved design.

(3) Insulation must be 4 inches minimum thickness of corkboard or of self-extinguishing polyurethane foam.

(4) Tanks must be fabricated from carbon steel complying with ASTM Specification A–516–69, Grade 70, or AAR Specification TC–128–70, Grade A or B.

(5) Each tank car jacket must be stenciled on both sides, in letters not less than 1½ inches high "CHLORINE ONLY".

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before June 15, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on April 12, 1971.

W. F. Rea III,
Rear Admiral, U.S. Coast Guard,
By direction of Commandant,
U.S. Coast Guard.

Carl V. Lyon,
Acting Administrator,
Federal Railroad Administration.

[FR Doc.71–5324 Filed 4–15–71;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71–8; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Effective Date of Standards Applicable to Firefighting Vehicles

The purpose of this notice is to propose the addition of a provision in Subpart A—General, that would establish an effective date of at least 2 years after issuance with respect to firefighting vehicles, for all standards applicable to such vehicles.

The National Fire Protection Association has brought to the attention of the NHTSA potential problems that may be caused to manufacturers and purchasers of firefighting vehicles, if safety standards are issued after purchase contracts are signed, to be effective before the manufacture of the vehicles in question is completed. The problem is of a special nature with respect to these vehicles, because they are often custom-built to the buyer's specifications, they require up to 18 months or more to complete after the contract is signed, and the buyer, typically a unit of municipal government, is often not in a position easily to renegotiate the contract and appropriate additional funds.

The National Fire Protection Association suggested that the date on which the purchase contract for a firefighting vehicle is signed might "be considered the date of compliance with the regulations." This solution does not appear to be satisfactory. It would be contrary to the mandate of section 108 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1397), which states that every vehicle "manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect" must conform to the standard. Furthermore, it would make it possible for manufacturers to produce vehicles for many years after standards were issued that did not conform to standards, if purchasers ordered them far in advance.

The most satisfactory solution appears to be to guarantee, in effect, a minimum of 2 years from issuance to effective date for this class of vehicles. Manufacturers and buyers will then be assured that the vehicles for which contracts are signed need only conform to standards on which the final rules have been issued at the time the contract is signed, as long as the vehicles are completed within 2 years of the signing date.

In consideration of the foregoing, it is proposed that the following amendments be made to Subpart A—General, of Part 571—Motor Vehicle Safety Standards, in Title 49 of the Code of Federal Regulations.

1. A new definition would be added to § 571.3 *Definitions*, in the proper alphabetical location:

"'Firefighting vehicle' means a vehicle designed exclusively for the purpose of fighting fires."

2. A new § 571.8 would be added, reading as follows:

§ 571.8 **Effective date.**

Notwithstanding the effective date provisions of the motor vehicle safety standards in this part, the effective date of any standard or amendment of a standard applicable to firefighting vehicles shall be, with respect to such vehicles, 2 years after the date on which notice of such standard or amendment is published in the Rules and Regulations section of the Federal Register, or the effective date specified in the notice, whichever is later.

Interested persons are invited to submit data, views, and arguments concerning the proposed standard. Comments should refer to the docket number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5217, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on June 14, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered. However, the rulemaking action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. Relevant material will continue to be filed, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: 30 days after the final rule is published in the Federal Register.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Rodolfo A. Diaz,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71–5325 Filed 4–15–71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19161]

CERTAIN FM BROADCAST STATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202 (b) of the Commission's rules, the FM Table of Assignments (West Allis, Berlin, Hartford, Neenah-Menasha, Shawano, Watertown, and Waupun, Wis., and Escanaba, Mich.; Coal City, Dwight, or Marseilles, Ill.; St. Charles and St. Louis, Mo.; Muncie, Ind., and Celina, Fostoria, and Lima, Ohio; Anamosa and Iowa City, Iowa; Terrell and Corsicana, Tex.; Sullivan, Bedford, and Paoli, Ind.; Orangeburg, S.C.; Danville, Ind.; Decatur, or Paris, Ill.; Manning, and Kingstree, S.C.), RM–1476, RM–1489, RM–1523, RM–1524, RM–1528, RM–1540, RM–1552, RM–1554, RM–1559, RM–1561, RM–1563, RM–1566, RM–1571, RM–1626, RM–1660.

1. This proceeding was begun by Notice of Proposed Rule Making (FCC 71–192) adopted February 24, 1971, released

March 1, 1971, and published in the FEDERAL REGISTER March 3, 1971, 36 F.R. 4064. The dates presently designated for filing comments and reply comments are April 13 and April 23, 1971, respectively.

2. On April 5, 1971, Radio Morris, licensee of WRMI, Morris, Ill., filed a requested 30-day extension in which to file comments. It states it is not feasible to assemble sufficient supporting data within the present time constraints, and therefore requests the additional time. It further states that Grundy County Broadcasters, Inc., petitioner in this proceeding, has consented to the requested extension.

3. We are of the view that the additional time is warranted and would serve the public interest. *Accordingly, it is ordered,* That the request of Radio Morris is granted to and including May 13, 1971, for the filing of comments and May 24, 1971, for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: April 8, 1971.

Released: April 13, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-5335 Filed 4-15-71;8:50 am]

[47 CFR Part 73]

[Docket No. 19200; RM-1628; FCC 71-352]

STANDARD BROADCAST STATIONS

Specification and Measurements of Power

1. Standard broadcast transmitters are type accepted for operation at discrete power output levels which correspond to the powers specified in the Commission's rules for the various classes of stations, i.e., 50 kw., 25 kw., 10 kw., 5 kw., 1 kw., 500 watts, and 250 watts. There is a rather large number of instances, however, in which a station, authorized for operation at one of these power levels cannot deliver the full output of its transmitter to its antenna without producing a radiated field which, from an allocations standpoint, is unacceptably high. In such an instance, a reduction in the power input to the antenna is necessary so that the radiated field will not exceed the permissible level. In authorizing an operation of this nature, the Commission requires that the transmitter be operated at its rated power output, and that output power in excess of what is needed by the antenna to produce the maximum permissible field be dissipated in a resistor inserted in the feed line at the base of the antenna.[1] Antenna power input has been limited by this method rather than by lowering the output power of the transmitter, primarily because the results of measurements submitted in support of applications for type acceptance of standard broadcast transmitters are obtained with operation at one or more of the separate power levels specified in § 73.41, and there is no assurance that such transmitters operating at other power levels will meet the performance requirements of § 73.40 (i.e., §73.40(a)(2)(3)(4)(5)(6)(12)(13)(14)).

2. There is no specific Commission rule dealing with the employment of such dissipating resistors. Rather, their use in appropriate cases is a matter of long established Commission policy, an expedient considered necessary to permit the maintenance of a specified limitation on radiated field with a transmitter considered to have a fixed power output. There are approximately 200 stations presently equipped with such resistors.

3. On May 25, 1970, the Chesapeake Broadcasting Corp., licensee of Station WASA, Havre de Grace, Md., filed a petition seeking such amendment and reinterpretation of the Commission rules as may be necessary to permit a reduction in antenna input power, authorized and required in a particular case, to be accomplished by reducing transmitter output power, thus eliminating need for a power dissipating resistor. It is Chesapeake's opinion that most transmitters, operating with power reduced to the degree which would be necessary if resistors were not utilized, would have no difficulty in meeting the performance requirements of § 73.40 of the rules. It suggests that the ability of each transmitter operating with reduced power to meet these requirements would be demonstrated by the equipment performance measurements outlined in § 73.47 of the rules. Such measurements are required to be made by each licensee of a standard broadcast station at yearly intervals.

4. Chesapeake argues that dissipating resistors are wasteful of power, generate heat which may have deleterious effects on other nearby equipment, are subject to failure, often must be custom made to the specific requirements of a particular station, and must be redesigned if any change occurs in the antenna resistance. It describes its own experience as illustrative of the trouble and expense which the use of such resistors involves, and submits measurements demonstrating that its own transmitter will perform satisfactorily with power output reduced approximately 20 percent.

5. On January 8, 1971, the National Association of Broadcasters (NAB) filed a statement in support of petition for rule making. It suggests that, in this instance, the notice and public procedure requirements may be dispensed with, and the ends sought by Chesapeake be accomplished by order, "since the amendments which are being sought will remove wasteful and unnecessary requirements from the rules." NAB notse that in the further notice of proposed rule making in Docket No. 16222 (34 F.R. 18950) a proceeding dealing with rules applicable to directional antennas, the Commission indicated it would permit a reduction in transmitter output power in instances where it was necessary to limit the field produced by the antenna. NAB suggests that such relief should redound almost automatically to stations with nondirectional antennas, which constitute the great majority of stations using dissipating resistors.

6. The specific application of this policy to directional antennas is set forth in § 73.152(a)(1) of the rules adopted in the report and order in the abovementioned proceeding (FCC 71-39, Mimeo 56153). While its range of application is limited to situations described in this rule, we agree wtih NAB and Chesapeake that the policy itself is deserving of broader application. However, we believe that rules which will properly implement this policy on a broad scale and, indeed, will effectively apply it even with respect to directional antennas, involve necessary or desirable rule changes of sufficient significance that they should not be adopted without affording interested parties a full opportunity to apprise the Commission of their views thereon. In the following paragraphs, without setting forth the specific language of proposed rules, we will outline the kind of rule amendments we have in mind, and our reasons for proposing these amendments.

7. We agree with Chesapeake that it should be possible to vary the power output of a typical broadcast transmitter over an appreciable range without a marked effect on its performance. Nevertheless we would note that power reductions made with dissipating resistors under present circumstances are sometimes very substantial—15 or 20 percent or more—and it cannot be safely assumed that transmitter power reductions of this magnitude may in all cases be accomplished without performance deterioration. Accordingly, we contemplate requiring that a party applying for an authorization to operate with transmitter output power reduced below a specified percentage of the normal power output include measurements demonstrating that at the proposed power level transmitter performance meets the requirements of § 73.40 of the rules. For a new installation, manufacturer's measurements on the type of transmitter employed at the proposed power level would be acceptable. In other instances, the demonstration would be made through the submission of equipment performance measurements made pursuant to § 73.47 of the rules. We would also require a showing of the means by which the power reduction is to be accomplished—the particular method employed may affect transmitter performance—and require that the same method be continued which resulted in satisfactory performance measurements. Transmitter efficiency at the reduced power level of course may differ from the figure

[1] The resistor is inserted at the common point, if the antenna is directional; in such an application it may be in one mesh of a power dividing network.

established by the manufacturer for full power operation. This circumstance may not be of importance when power is being determined directly, but we would require that the new efficiency factor be established for employment at such time as temporary operation with indirect power measurement may become necessary. We desire comments as to the percentage of power reduction at which such a special showing would be required. Our present view is that the limit should be in the vicinity of 15 to 20 percent of the transmitter power rating.

8. Chesapeake suggests that § 73.51 of the rules be amended to permit the specification of a ficticious value of antenna resistance in instances where stations are authorized to operate with actual antenna input power which is less than the normal level. Pursuant to such a rule amendment, the measured antenna resistance arbitrarily would be increased by an amount necessary to compensate for the reduced antenna current occasioned by reduced antenna input power, with the result that the I^2R product would remain constant and equal to the nominal power of the station.

9. This expedient is employed, of course, in specifying the input power to directional antennas. To compensate for losses in coupling and phasing networks, stations employing such antennas are permitted to deliver to their antennas (the "common point") power which is 8 percent higher, for stations of 5 kilowatts or less, and approximately 5 percent higher, for stations above 5 kilowatts, than the rated power of these stations. Provision for this excess power is made on the station license by adjusting the common point resistance to 92.5 percent (for stations 5 kw. and under) or 95 percent (for stations over 5 kw.) of the measured value. (See § 73.54(d).) (Thus, even though a station is actually delivering 5,400 watts to the common point of its directional antenna, its antenna input power, as computed from values entered on its license, is 5 kilowatts.)

10. While, as noted above, the practice of specifying fictitious values of antenna resistance has long been followed with respect to directional antennas, we think it has insufficient merit to justify its extension into a wholly new area. Rather, we are of the opinion that the instant proceeding affords an opportunity to review and perhaps revise the basic practice, with the end in view of modifying the licensing procedure so that each license would specify the true input power to the antenna system, together with the measured value of antenna or common point resistance, and the level of antenna current in this resistance necessary to maintain the specified input power. For administrative purposes, we, of course, would propose to continue to list and treat each station on the basis of its nominal power rating, and this figure would appear on the station license, as well as the antenna input power.[2]

11. As our rules are now constituted, "antenna power", "antenna input power", and "operating power" refer to the same value, which is made to equal the rated or nominal power of the station by a modification, where necessary, of the measured value of antenna resistance. To implement the proposal we have made above, the basic change necessary in our rules is the inclusion in § 73.14 of an additional term and definition for power, intended to indicate the power classification of the station. Possible terms which might be used are "Nominal Power", or "Rated Power", or "Station Power". While we might redefine "Operating Power" for this purpose, its long identification and interchangeable use with "antenna power" would seem to make such a change undesirable. We invite comments on a suitable name for this quantity.

12. If this approach is adopted, we would delete § 73.54(d) of the rules, and include elsewhere in the rules (probably in § 73.51) direct provision for the delivery of the additional power increment to directional arrays now taken care of indirectly by § 73.54(d).[3]

13. We believe that this method of specifying power for standard broadcasting stations is considerably more straightforward and informative than the present system, and certainly no more complicated than the method employed in the TV and FM broadcast services, where the transmitter output power and effective radiated power are separately specified.

14. If the rules were amended as proposed, we would contemplate no wholesale modification of the licenses of existing stations; rather, except in instances when applications for modification of permit are submitted, they would remain unchanged until renewal, at which time the new licenses would specify power and the parameters pertinent to its computation in accordance with the amended rules. Of course, the licensees of stations presently employing antenna power dissipating resistors and seeking authority for their removal would be free to file applications for modification of license at any time after the effective date of the rules.

15. Authority for adoption of rule amendments in general accordance with the proposals herein is found in sections 4 (i) and (j) and 303 of the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before May 21, 1971, and reply comments on or before June 1, 1971. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching a decision herein, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

17. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: April 8, 1971.

Released: April 13, 1971.

FEDERAL COMMUNICATIONS COMMISSION[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-5336 Filed 4-15-71;8:50 am]

[2] We contemplate no changes in the rules or circumstances under which antenna input power which differs from nominal station power would be authorized, and the requirements for minimum effective field intensity of § 73.189, based on nominal station power would continue to apply to each station. In short, we are not opening the door to "slug-ins", to use a term sometimes applied to substandard TV assignments.

[3] Presunrise operation (see § 73.99) is conducted pursuant to Presunrise Service Authority (PSA), a separate authorization granted each station engaging in such operation which sets forth the particular conditions for operation of that station during the presunrise period. The instant proceeding is not intended to effect any change in the rules and procedures applying in such cases.

[4] Chairman Burch absent.

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

BANK OF CALIFORNIA, N.A.

Notice of Application for Unlisted Trading Privileges

APRIL 9, 1971.

Notice is hereby given that the Detroit Stock Exchange, 2314 Penobscot Building, Detroit, MI 48226, has filed an application with the Comptroller of the Currency, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934, as amended, for unlisted trading privileges in the common stock of The Bank of California, N.A., San Francisco, Calif., which securities are listed and registered on the New York Stock Exchange.

Notice is hereby given that any interested person may, not later than April 30, 1971, at 5:30 p.m., submit to the Comptroller of the Currency in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Comptroller should order a hearing thereon. Any such communication should be addressed: Office of the Comptroller of the Currency, Attention: Mr. Robert Bloom, Chief Counsel, Treasury Building, Washington, D.C. 20220. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, an order disposing of the application herein may be issued by the Comptroller of the Currency upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Comptroller's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Comptroller of the Currency pursuant to delegated authority.

[SEAL] THOMAS G. DESHAZO,
Acting Comptroller of the Currency.

[FR Doc.71-5297 Filed 4-15-71;8:47 am]

Office of the Secretary

CHIEF DISBURSING OFFICER ET AL.

Order of Succession of Officials Authorized to Act as Commissioner of Accounts and Delegation of Authority Under Emergent Conditions

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 F.R. 2875), it is hereby ordered that the following officials of the Bureau of Accounts, in the order of succession enumerated herein, shall have the authority to act as Commissioner of Accounts and to perform all the functions of that office, during the absence or disability of the Commissioner of Accounts or when there is a vacancy in such office:

1. Heads of Divisions, in the order of incumbency (Currently, Chief Disbursing Officer; Comptroller; Director, Government Financial Operations).

2. Deputy Heads of Divisions, in the order of incumbency.

3. Directors, Disbursing Centers (GS-15), in the order of incumbency.

In the event of an enemy attack on the continental United States, the Chief Disbursing Officer, each officer in charge of a Bureau of Accounts Regional Office, or in his absence, such officer as is authorized to act in his place, is authorized to make such provisions as are necessary to insure continuous performance of all functions of the Bureau of Accounts now or hereafter assigned to such regional office. This authority, under the conditions specified, will authorize the Chief Disbursing Officer, each regional office head, or in their absence the officers authorized to act for them, to take any action with respect to the functions performed in his office that the Secretary of the Treasury, the Commissioner of Accounts or any of their subordinate officers would be authorized to take.

This order supersedes the previous order of this Bureau, dated July 1, 1969 (34 F.R. 11319).

Dated: April 12, 1971.

[SEAL] DAVID MOSSO,
Commissioner of Accounts.

[FR Doc.71-5351 Filed 4-15-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ROCKY BOY'S RESERVATION, MONT.

Ordinance Legalizing Introduction, Sale, or Possession of Intoxicants

APRIL 14, 1971.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83d Congress, first session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Rocky Boy's Reservaton, Mont., was adopted on March 26, 1971, by the Business Committee of the Chippewa Cree Tribe, which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

Whereas, Public Law 277, 83d Congress, approved August 15, 1953, provides that sections 1154, 1156, 3113, 3488 and 3618 of title 18, United States Code, commonly referred to as the Federal Indian Liquor Laws, shall not apply to any act or transaction within any area of Indian country, provided such act or transaction is in conformity with both the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the FEDERAL REGISTER, and

Whereas, Ordinance 1-54 enacted November 23, 1953, of the Rocky Boy's Business Committee relating to the application of the Federal Indian Liquor Laws on the Rocky Boy's Reservation permitted the introduction and possession of intoxicating liquor on the Reservation but did not permit the sale of the same, and

Whereas, it is now desired that these rules and regulations be modified to permit the sale of intoxicating liquor in addition to the use, introduction and possession thereof,

Therefore, be it ordained, that the introduction, sale, or possession of intoxicating liquor, including but not being limited to beer, wine, whiskey, etc., hereinafter collectively referred to as intoxicating liquor, shall be lawful within the Indian country under the jurisdiction of the Chippewa Cree Tribe, provided such act or transaction is in conformity with both the laws of the State of Montana and this Ordinance.

Be it further ordained, that said intoxicating liquor, as hereinabove defined, may be sold on the Rocky Boy's Reservation in accordance with the following provisions and restrictions:

1. Under this Ordinance only one outlet for the sale of intoxicating liquor shall be authorized for consumption on-premises and/or off-premises. Said outlet shall be operated only under a license issued by the Chippewa Cree Tribe, which may be owned by the Tribe or issued to a person, organization or business entity, selected and approved by the Tribe. All of the following rules and regulations shall apply to any party dispensing such intoxicating liquor.

2. The above-described license for the sale of intoxicating liquor may be operated only within the confines of that part of the Rocky Boy's Reservation which lies in the SE¼ of sec. 21 and all of sec. 22, T. 28 N., R. 16 E. of the Montana Meridian.

3. Any person authorized under the terms of this Ordinance, whether as a Tribal licensee or employed by the Tribe, selling intoxicating liquor shall abide by and be responsible for the following:

A. Operate so that any act or transaction carried on hereunder is in conformity both with the laws of the State of Montana, where applicable, and with this Ordinance.

B. Never sell intoxicating liquor on credit and not engage in pawnbroking, taking items in hock, lending money, or in any other activity which is designed to permit an indigent person or any customer from buying such products in his establishment. All sales of intoxicating liquor must be on a cash basis.

C. Continuously maintain order in the premises in which intoxicating liquor is sold, prohibit intoxicated persons from purchasing intoxicating liquor, assure that no sale of intoxicating liquor is made to a minor, prohibit consumption of intoxicating liquor on the premises purchased for off-premises consumption, and prohibit loud, boisterous, lascivious and profane language, prohibit begging or soliciting for drinks, prohibit fighting or threatening to fight on the premises, and prohibit any violation of the Tribal Law and Order Code by any person on the premises to the best of his ability.

D. To be and remain solely responsible to insure that any and all persons purchasing intoxicating liquor on such premises are not minors.

4. The Tribal licensee or employee of the Tribe operating an establishment selling intoxicating liquor under this Ordinance shall post a $500 cash bond with the Tribe which shall be forfeited to the Tribe if he or any of the employees under his supervision violate any of the provisions of this Ordinance.

5. The Law and Order Sub-Committee of the Tribal Business Committee shall meet quarterly during the year, and at such other times as they deem necessary, to review the effects of intoxicating liquor sales on the Reservation, and the conduct of the persons selling the same, and to recommend action to the Business Committee to enforce or amend the laws and regulations concerning such activity.

Be it further ordained, that this Ordinance shall become effective upon certification of the Secretary of the Interior and publication in the FEDERAL REGISTER (4–16–71), and that any ordinances, laws or resolutions previously enacted which differ or are not consistent with the intent of this Ordinance are hereby repealed.

Be it further ordained, that the Chairman and Secretary of the Business Committee, when authorized by the Business Committee, are empowered to execute any licenses or other instruments referred to in this Ordinance, on behalf of the Tribe.

LOUIS R. BRUCE,
Commissioner of Indian Affairs.

[FR Doc.71–5383 Filed 4–15–71;8:52 am]

Bureau of Land Management

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 6, 1971.

The National Park Service, U.S. Department of the Interior has filed an application, Serial No. R 3649, for the withdrawal of lands described below from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), and from leasing under the mineral leasing laws, and disposal of materials under the Act of July 31, 1947, 61 Stat. 681, as amended, 30 U.S.C. sections 601–604 (1964), subject to valid existing rights. The applicant desires the lands for an administration and maintenance building construction site necessary to the administration of Cabrillo National Monument.

For a period of 30 days from the date of publication of the notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, CA 92502.

The Department's regulations, 43 CFR 2351.4(c), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's need, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach an agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIFORNIA

A parcel of land in the city of San Diego, county of San Diego, State of California being a portion of the Fort Rosecrans Military Reservation as established and set aside by an order approved by the President on February 26, 1852, more particularly described as follows:

Beginning at the intersection of the easterly line of Catalina Boulevard, 80 feet wide, as said Catalina Boulevard is shown on the State of California, Department of Public Works, Division of Highways, drawings XI–SD–12–SD, approved, December 18, 1933, with the north line of that certain portion of said Fort Rosecrans Military Reservation as described in Presidential Proclamation 3273, published in the FEDERAL REGISTER February 5, 1959, as F.R. Doc. 59–1069, entitled "Enlarging the Boundaries of the Cabrillo National Monument, California;" said point of intersection being S. 89°31'35" W., 1,328.77 feet from the northeast corner of said Cabrillo National Monument, and being also a point on the arc of 960-foot-radius curve concave easterly at Highway Station 122 +44.50, a radial of said curve through said point bears S. 80°43'29" W.; thence from said point of intersection, northerly along said easterly line of Catalina Boulevard and along the arc of said 960-foot-radius curve, through an angle of 03°25'16" a distance of 57.32 feet; thence tangent to said curve N. 05°51'15" W., 182.49 feet to the beginning of a tangent 1,040-foot-radius curve, concave westerly; thence northerly, along the arc of said curve, through a central angle of 17°54'00" a distance of 324.91 feet; thence, tangent to said curve, N. 23°45'15" W., 101.91 feet to the beginning of a tangent 960-foot-radius curve concave easterly; thence northerly along the arc of said curve, through a central angle of 10°49'11" a distance of 181.29 feet; thence leaving said easterly line of said Catalina Boulevard, N. 89°31'35" E., parallel with the north line of said Cabrillo National Monument, 605.48 feet; thence S. 00°28'25" E., 180 feet; thence, S. 24°26'14" W., 703.46 feet, to an intersection with the north line of said Cabrillo National Monument; thence, S. 89°31'35" W., along said north line, 110 feet to the point of begining.

The above-described area aggregates approximately 6.88 acres in San Diego County.

WALTER F. HOLMES,
Assistant Land Office Manager.

[FR Doc.71–5288 Filed 4–15–71;8:47 am]

[Bureau Order No. 701, Amdt. No. 12]

LANDS AND RESOURCES

Redelegation of Authority

APRIL 9, 1971.

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

1. A new paragraph (c) is added to section 1.0 as follows:

SECTION 1.0 *Functions of the State Director.* * * *

(c) *Associate State Directors.* The Associate State Directors, under the supervision of the State Directors, may exercise the authority herein delegated to the State Directors.

2. A new Part II–A is added as follows:

PART II–A—REDELEGATION TO CHIEF, DIVISION OF TECHNICAL SERVICES, STATE OFFICES AUTHORITY IN GENERAL

The Chief, Division of Technical Services in each State Office is authorized to take action on the matters listed in sections 2.2 through 2.6, and 2.9 of this order.

3. Sections 4.6 and 4.10 are amended to read as follows:

SEC. 4.6 *Outer Continental Shelf Leasing.* The Manager, Outer Continental Shelf Office, New Orleans, La., is authorized to take all actions in connection with the following:[7]

(a) The making of determinations respecting the compliance or noncompliance of mineral leases issued by a State with the requirement of section 6 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.), provided that such determinations shall be submitted to the Solicitor for concurrence.

(b) Mineral leases pursuant to the Act of August 7, 1953, (67 Stat. 462; 43 U.S.C. 1331 et seq.), and the regulations under 43 CFR Part 3300 except the issuance of calls for the submission of requests for oil and gas or other mineral lease offerings pursuant to 43 CFR 3301.3 and the publication of notices of the offer of lands for lease pursuant to 43 CFR 3301.5.

[7] The New Orleans Outer Continental Shelf Office has responsibility for the Gulf of Mexico and the Atlantic and Pacific Coasts.

SEC. 4.10 *Designation of Acting Officials.* (a) The Manager, Outer Continental Shelf Office, New Orleans, La., may by written order, designate any qualified employee of the office to perform the functions of the Manager in his absence.

(b) Each employee who serves in such capacity shall prepare a memorandum to be kept in the office showing the date and hour of the commencement and termination of each period of his service in that capacity.

4. Part VI—*Authority of Hearing Examiners*—is revoked.

5. Part VII—*Appeals*—is revoked.

JOHN O. CROW,
Associate Director.

[FR Doc. 71-5289 Filed 4-15-71; 8:47 am]

ALASKA

Notice of Filing Plats of Survey

APRIL 9, 1971.

1. Plats of surveys of the lands described below will be officially filed in the Fairbanks District and Land Office, Fairbanks, Alaska, effective 10 a.m., May 15, 1971.

FAIRBANKS MERIDIAN

T. 14 S., R. 10 E. (Group 202),
Sec. 30, lots 1, 2, 3, 4, 5, 6, E½E½, NW¼NE¼, SW¼SE¼;
Sec. 31, lots 1, 2, 3, 4, 5, E½, E½SW¼, SE¼NW¼;
Sec. 34, all;
Sec. 35, all.
T. 15 S., R. 10 E. (Group 202),
Sec. 2, lots 1, 2, 3, 4, S½, S½N½;
Sec. 3, lots 1, 2, 3, 4, S½, S½N½;
Sec. 6, lots 1, 2, 3, 4, 5, SE¼NW¼, S½NE¼.

Containing an aggregate of 3,821.54 acres.

2. These surveys are located about 24 and 28 miles respectively, south of Big Delta. The land is situated on gently rolling to hilly tundra of alluvial silt. The easterly portions are drained by tributaries of Ober Creek and westerly portions by Donnelly Creek. There are several small lakes in the area. Timber consists of small spruce, birch, and aspen. An open pit coal mine is located adjacent to Ober Creek in sec. 34. A State operated camping area is located at the junction of Donnelly Creek and Delta River in sec. 30. The Richardson Highway traverses secs. 6 and 30.

3. Both surveys were initiated to provide adequate descriptions for coal claim leases and to accommodate Alaska State Selections in accordance with and subject to the limitations and requirements of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339).

4. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582 dated January 17, 1969, as modified and amended by Public Land Order 4962 dated December 11, 1970, and the requirements of applicable law, rules and regulations.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Land Offices, Post Office Box 1150, Fairbanks, AK 99707.

JOYCE A. FLESCHE,
Chief,
Division of Land Office.

[FR Doc.71-5304 Filed 4-15-71;8:48 am]

Office of Hearings and Appeals

[Docket No. M 71-11]

BIG BEN COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

APRIL 6, 1971.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 801 et seq., notice is hereby given that Big Ben Coal Co. (Petitioner) has filed a petition to modify the application of section 305(d) of the Act with respect to its Big Ben No. 1 Mine located at Chariton, Lucas County, Iowa 50049.

Section 305(d) provides:

All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

Petitioner proposes in effect that the designated mine be excepted from the application of the requirements of section 305(d) in view of the clear intent of the provision to eliminate the possibility of the ignition of any methane which might be present in air being returned from the face area; in view of the lack of any trace of methane present in the designated mine and coal mines in the State of Iowa, according to records kept since 1880; and in view of the alleged weakening of the soft shale roof of the haulageway which would follow from installation of an exhaust system of ventilation, and consequently increased hazard to workers who must travel under such roof conditions, for this and other reasons stated in the petition.

A copy of the petition is available for inspection in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203.

APRIL 6, 1971.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

[FR Doc.71-5302 Filed 4-15-71;8:48 am]

[Docket No. M 71-13]

HAZEL DELL COAL CORP.

Petition for Modification of Interim Mandatory Safety Standard

APRIL 6, 1971.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 801 et seq., notice is hereby given that Hazel Dell Coal Corp. (Petitioner) has filed a petition to modify the application of section 305(d) of the Act with respect to its Hazel Dell Mine located at New Windsor, Ill. 61465.

Section 305(d) provides:

All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

Petitioner proposes in effect that the designated mine be excepted from the application of the requirements of section 305(d) in view of the clear intent of the provision to eliminate the possibility of the ignition of any methane which might be present in air being returned from the face area; in view of the lack of any trace of methane present in the designated mine and coal mines in the State of Iowa, according to records kept since 1880; and in view of the alleged weakening of the soft shale roof of the haulageway which would follow from installation of an exhaust system of ventilation, and consequently increased hazard to workers who must travel under such roof conditions, for this and other reasons stated in the petition.

A copy of the petition is available for inspection in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203.

APRIL 6, 1971.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

[FR Doc.71-5303 Filed 4-15-71;8:48 am]

[Docket No. M 71-10]

LOVILIA COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 801 et seq., notice is hereby given that Lovilia Coal Co. (Petitioner) has filed a petition to modify the application of section 305(d) of the Act with respect to its Mine No. 4 located at Rural Route 2, Melrose, Iowa 52569.

Section 305(d) provides:

All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

Petitioner proposes in effect that the designated mine be excepted from the application of the requirements of section 305(d) in view of the clear intent of the provision to eliminate the possibility of the ignition of any methane which might be present in air being returned from the face area; in view of the lack of any trace of methane present in the designated mine and coal mines in the State of Iowa, according to records kept since 1880; and in view of the alleged weakening of the soft shale roof of the haulageway which would follow

from installation of an exhaust system of ventilation, and consequently increased hazard to workers who must travel under such roof conditions, for this and other reasons stated in the petition.

A copy of the petition is available for inspection in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203.

APRIL 6, 1971.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

[FR Doc.71-5301 Filed 4-15-71;8:48 am]

Office of the Secretary

INTERIM REGULATIONS AND PROCEDURES FOR IMPLEMENTING THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

The interim regulations and procedures set forth in this notice describe the conditions under which the provisions of Public Law 91-646, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, will be carried out by the Department of the Interior.

These interim regulations will be codified in final form in the Interior Property Management Regulations system (IPMR) not later than December 31, 1971. Any comments and suggestions for refinement of these interim regulations are invited and will be considered in preparation of final Departmental regulations and procedures. Any such comments or suggestions should be forwarded to the Office of Management Operations, Office of the Secretary, by November 1, 1971, to allow time for appropriate consideration and possible inclusion in the final regulations.

This is not published as proposed rulemaking since these interim provisions are effective on publication in the FEDERAL REGISTER. This is also not published in the Rules and Regulations section of the FEDERAL REGISTER because these are interim provisions prior to final regulations. This is published to provide public notice that these interim provisions will be observed in implementing the Act, and that comments and suggestions for amendments or revisions are solicited before final regulations are promulgated.

RICHARD R. HITE,
Deputy Assistant Secretary
for Administration.

APRIL 8, 1971.

INTERIM REGULATIONS AND PROCEDURES FOR IMPLEMENTING THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY AQUISITION POLICIES ACT OF 1970

1. *Purpose.* The purpose of these interim regulations is to implement the effective administration of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, to insure fair and equitable acquisition practices and uniform, fair, and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

2. *Effective date.* The Act and the amendments made by the Act shall take effect January 2, 1971, the date of its enactment, except as provided below:

A. Until July 1, 1972, sections 210 and 305 of the Act shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States.

B. The repeals made by paragraphs (4), (5), (6), (8), (9), (10), (11), and (12) of section 220(a) and section 306 of the Act shall not apply to any State so long as sections 210 and 305 of the Act are not applicable in such State.

3. *Definitions.* Terms used in these regulations are defined as follows:

A. The term "Act"—the Act of January 2, 1971 (84 Stat. 1894), Public Law 91-646.

B. "Federal Agency"—any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), and wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency) and the Architect of the Capitol, the Federal Reserve banks and branches thereof, but not including the National Park Foundation which although federally chartered is a private entity.

C. "State"—any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

D. "Bureaus and Offices"—means the following agencies of the Department of the Interior:

(1) Bureau of Sport Fisheries and Wildlife.
(2) Bureau of Mines.
(3) Bureau of Indian Affairs.
(4) Bureau of Land Management.
(5) Bureau of Outdoor Recreation.
(6) Bureau of Reclamation.
(7) National Park Service.
(8) Geological Survey.
(9) Bonneville Power Administration.
(10) Southeastern Power Administration.
(11) Southwestern Power Administration.
(12) Alaska Power Administration.
(13) Office of Saline Water.
(14) Office of Territories.
(15) Office of Coal Research.
(16) Office of Water Resources Research.

E. "Heads of Bureaus and Offices"—the head of the Bureaus and Offices listed in paragraph 3D, above, or his designee.

F. "Initiation of negotiations"—the date the Bureau or Office makes the first personal or letter contact with the owner or his representative where price is discussed.

G. "Dwelling"—includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost.

(1) For the purpose of sections 203 and 204 of the Act the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

H. "State Agency"—the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

I. "Federal financial assistance"—a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

J. "Person"—any individual, partnership, corporation, or association.

K. "Displaced person"—any person who, on or after the effective date of the Act, moves from real property, or moves his personal property from real property as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any Bureau or Office of the Department of the Interior or with Federal Financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring Bureau or Office to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

L. "Business"—any lawful activity, excepting a farm operation, conducted primarily:

(1) for the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) for the sale of service to the public;

(3) by a nonprofit organization; or

(4) solely for the purposes of section 202(a) of the Act (see paragraph 7 of these regulations) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

M. "Farm operation"—any activity conducted solely or primarily for the production of one or more agricultural

products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

N. "Mortgage"—such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

4. *Qualifications.* In order to qualify for benefits under the Act as a displaced person, either of two conditions must be fulfilled:

A. The person must have received a written notice to vacate which notice may be given before or after initiation of negotiations for acquisition of the property as prescribed by regulations; or

B. The subject real property must in fact have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by section 217 and 219 of the Act).

5. *Multiple occupancy.* Multiple occupancy shall be treated as single occupancy in the case of individuals, not families, in dealing with benefits for replacement housing. However, each individual displaced may receive benefits authorized under section 202(a) of the Act and in the case of families, each family shall be considered separately.

6. *Effects upon property acquisition.* The provisions of section 301 of the Act are mutually exclusive and create no rights or liabilities and shall not affect the validity of any real property acquisition.

A. For real property acquisition under Federal law, contracts on options to purchase real property shall not incorporate payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to or include in their appraisals any allowances for the benefits provided by title II of the Act. In the event of condemnation with a declaration of taking the estimated compensation should be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

B. Uniform "Application for Relocation Assistance" Forms DI–380, and DI–381, and instructions for their preparation, Forms DI–380a, and DI–381a, are prescribed for use by all Bureaus and Offices.

C. Nothing in these regulations shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of the enactment of the Act.

D. Determinations by the heads of Bureaus or Offices as to payments under the Act, shall be final. However, in the event of dissatisfaction by any displaced person the following rights of review will be followed:

(1) Any dispute concerning a question of fact arising under the Act which is not disposed of by agreement shall be decided by the head of the Bureau or Office who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the displaced person. This decision shall be final and conclusive unless, within 30 days from the date of receipt of such copy the displaced person mails or otherwise furnishes a written appeal addressed to the Secretary of the Interior. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive. In connection with any appeal proceeding under this condition, the displaced person shall be afforded an opportunity to be heard and to offer evidence in support of his appeal.

7. *Moving and related expenses.* Whenever the acquisition of real property for a program or project will result in the displacement of any person on or after the effective date of the Act, the head of the Bureau or Office shall make a payment to any displaced person upon application as approved by such official for the following, or the "in lieu" payments authorized by paragraph 9 of these regulations:

A. Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

B. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the Head of the Bureau or Office; and

C. Actual reasonable expenses in searching for a replacement business or farm operation. Payment for search cost in connection with locating replacement housing is not authorized under the Act.

8. *Implementation.* In the implementation of section 202(a) of the Act, heads of Bureaus and Offices shall be guided by the following provisions:

A. *Allowable expenses.* Actual reasonable expenses in moving may be allowed as follows:

(1) Transportation of individuals, families, and property from acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the head of the Bureau or Office determines that relocation beyond the 50 mile area is justified.

(2) Packing and crating of personal property.

(3) Advertising for packing, crating, and transportation when the head of the Bureau or Office determines that it is desirable.

(4) Storage of personal property for a period generally not to exceed 6 months when the head of the Bureau or Office determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment of machinery, equipment, appliances, and other items, not acquired as real property, including reconnection of utilities, which do not constitute an improvement (except when required by law) to the replacement site, and which were not acquired by the displacing Bureau or Office. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the displacing Bureau or Office is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined by the head of the Bureau or Office.

B. *Limitations.* (1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the Bureau or Office, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

C. *Actual direct losses by business or farm operation.* Whenever the acquisition of real property used for a business or farm operation causes any person to move from other real property used for his dwelling, or to move his personal property from such other real property, on or after the effective date of the Act, such person may receive payments for moving and related expenses and relocation advisory assistance under the provisions of the Act.

(1) When the displaced person does not move personal property he shall be required to make a bona fide effort to sell it.

(2) When personal property is sold and the business or farm operation reestablished, the displaced person is entitled to payment provided in paragraph 8.B(2) of these regulations.

(3) When the business or farm operation is discontinued, the displaced

person is entitled to the difference between the in-place value of the personal property and the sale proceeds, or the cost of moving, whichever is less.

(4) When the personal property is abandoned, the displaced person is entitled to payment for the difference between the in-place value and the amount which would have been received from the sale of the item, or the cost of moving, whichever is less.

D. *Exclusions on moving expenses and losses.* (1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.

(3) Improvements to the replacement site, except when required by law.

(4) Interest on loans to cover moving expenses.

(5) Loss of good will.

(6) Loss of profits.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Modification of personal property to adapt it to replacement site, except when required by law.

(11) Such other items as the head of the Bureau or Office determines should be excluded.

E. *Expenses in searching for replacement business or farm*—(1) *To be allowed:*

a. Travel costs.

b. Reasonable costs for meals and lodging.

c. Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

d. Broker or realtor fee to locate a replacement business or farm operation with the advance approval of the head of the Bureau or Office.

(2) *Limitation.* The total amount which a displaced person may be paid for searching expenses shall not exceed $500, unless the head of the Bureau or Office determines that a greater amount is justified based on the circumstances involved.

9. *Payments in lieu of moving and related expenses.* Any displaced person eligible for payments under paragraphs 7 and 8 of these regulations who is displaced from a dwelling and who elects to accept the payments authorized by this paragraph in lieu of the payments authorized by paragraphs 7 and 8 of these regulations may receive a moving expense allowance, determined in accordance with a schedule established by the head of the Bureau or Office, not to exceed $300; and a dislocation allowance of $200. These schedules should be based on moving allowance schedules maintained by the respective State highway departments.

A. Any displaced person eligible for payments under paragraphs 7 and 8 of these regulations who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this paragraph in lieu of the payment authorized by paragraphs 7 and 8 of these regulations, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made unless the head of the Bureau or Office is satisfied that the business: (1) Cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. The term "average annual net earnings" means one-half of the sum of the net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the Bureau or Office determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

B. *Businesses eligibility.* In order to be eligible for the payment authorized in paragraph 9A of these regulations, the business must contribute materially to the income of the displaced owner. This standard eliminates those part-time family occupations such as newspaper routes, part-time typing, etc., which do not contribute materially to a displaced person's income.

C. *Loss of existing patronage to a business.* The loss of existing patronage shall be determined by the head of the Bureau or Office only after consideration of all pertinent circumstances, including the following factors:

(1) The type of business conducted by the displaced concern.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location to the displaced business.

D. *Farms—partial taking.* In the case where an entire farm operation is not acquired, the payment provided by paragraph 9 of these regulations shall be made only if the head of the Bureau or Office determines that the farm meets the definition of a farm operation prior to the acquisition and that the real property remaining after the acquisition is no longer an economic unit.

10. *Replacement housing for homeowner.* A. In addition to payments otherwise authorized, the head of the Bureau or Office shall make an additional payment not in excess of $15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Bureau or Office, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market.

(2) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Bureau or Office was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

B. The additional payment authorized by this paragraph 10 shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the 1 year period beginning on the date on which he receives from the Bureau or Office final payment of all costs of the acquired dwelling or on the date on which he moves from the acquired dwelling, whichever is the later date.

C. Section 203(b) is not applicable to the Department of the Interior as the Department does not administer any laws under which Federal insurance mortgages are available.

D. Whenever a displaced person is eligible for a payment but has not yet purchased a replacement dwelling, the head of the Bureau or Office shall at the request of the displaced person provide a written statement to any interested person, financial institution or lending agency as to such person's eligibility for a payment and the requirements that must be satisfied before such payment can be made.

E. *Eligibility.* (1) A displaced owner-occupant is eligible for a replacement housing payment if he:

a. Actually owned and occupied the acquired dwelling for not less than 180

days immediately prior to the initiation of negotiations for the property and,

b. Meets the eligibility requirements of paragraph 10B of these regulations.

(2) A displaced owner-occupant of a dwelling who is determined to be ineligible under this paragraph may be eligible for a replacement housing payment under paragraph 11 of these regulations.

F. *Definition of suitable replacement dwelling.* A suitable replacement dwelling is one which when compared with the dwelling being taken is:

(1) Decent, safe, and sanitary.

(2) Functionally equivalent and substantially the same with respect to:

a. Number of rooms.

b. Area of living space.

c. Age.

d. State of repair.

(3) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(4) In areas not generally less desirable than the dwelling to be acquired in regard to:

a. Public utilities.

b. Public and commercial facilities.

c. Reasonably accessible to the relocatee's place of employment.

d. Adequate to accommodate the relocatee.

e. In an equal or better neighborhood.

f. Available on the market.

g. Within the financial means of the displaced family or individual.

G. *Computation of replacement housing payment.*—(1) *Differential payment for replacement housing.* The head of the Bureau or Office may determine the amount necessary to purchase a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

a. *Schedule method.* Bureaus and Offices may establish a schedule of reasonable acquisition cost for suitable replacement dwellings in the various types of dwellings required and available on the private market. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, Bureaus and Offices shall cooperate with such other agencies on the method for computing the Replacement Housing Payment and shall use the uniform schedules of sale housing in the community or areas.

b. *Comparative method.* Bureaus and Offices may determine the price of a suitable replacement dwelling by selecting a dwelling or dwellings representative of the dwelling unit acquired, which are available on the private market and meet the definition of suitable replacement dwelling. Asking prices are to be adjusted to reflect the market sale experience. A single dwelling shall only be used when additional comparable dwellings are not available.

c. *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(1) If the displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the differential payment, the replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) If the displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling no differential payment shall be made.

(2) *Interest payment.* The interest payment shall be based on present value of the reasonable cost of the interest differential including points paid by the purchaser on the amount refinanced not to exceed the amount of the unpaid debt for its remaining terms at the time of acquisition of the real property.

(3) *Incidental expenses.* a. The incidental expense payment is the amount necessary to compensate the homeowner for costs incident to the purchase of the replacement dwelling such as:

(1) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(2) Lenders, Federal Housing Administration, or Veterans' Administration appraisal fees.

(3) Federal Housing Administration application fee.

(4) Certification of structural soundness when required by lender, Federal Housing Administration, or Veterans' Administration.

(5) Credit report.

(6) Title policies or abstracts of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

b. No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90–321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

11. *Replacement housing for tenants and certain others.* In addition to amounts otherwise authorized, the head of the Bureau or Office shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under paragraph 10 of these regulations which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. The Bureau or Office shall notify the tenant or other occupant of the property in writing of the actual date of initiation of negotiations. Such payment shall be either:

A. The amount necessary to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000 or,

B. The amount necessary to enable such person to make a downpayment, including incidental expenses described in paragraph 10.G(3) of these regulations, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment.

C. Implementation of this paragraph shall be guided by the following provisions:

(1) *Eligibility.* A displaced tenant or owner-occupant of less than 180 days is eligible for a replacement housing payment if he meets both of the following requirements:

a. Actually occupied the dwelling for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

b. Meets the other eligibility requirements of this paragraph 11.

D. An owner-occupant otherwise eligible for a payment under paragraph 10.A of these regulations but who rents instead of purchases a replacement dwelling is eligible for replacement housing as a tenant.

E. *Computation of replacement housing payment for displaced tenants*—(1) *Rental replacement housing payment.* The Head of the Bureau or Office may establish the amount necessary to rent a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

a. *Schedule method.* Bureaus and Offices may establish a rental schedule for suitable replacement dwellings as described in paragraph 10.F of these regulations for the various types of dwellings required and available on the private market. The payment should be computed by determining the amount necessary to rent a suitable replacement dwelling for four years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last three months prior to initiation of negotiations if such rent is reasonable, or if not reasonable, 48 times the monthly economic rent for the dwelling unit as established by the displacing Bureau or Office. For purposes of these regulations, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, Bureaus and Offices shall cooperate with

such other Federal agencies on the method for computing the replacement housing payment and shall use the uniform schedules of average rental housing in the community or areas.

b. *Comparative method.* Bureaus and Offices may determine the average month's rent by selecting one or more dwellings representative of the dwelling unit acquired, available on the private market which meets the definition of a suitable replacement dwelling as described in paragraph 10.F of these regulations. The payment should be computed by determining the amount necessary to rent for 4 years a suitable replacement dwelling and subtracting from the amount so determined the lesser of 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations or if not reasonable, 48 times the monthly economic rent for the dwelling unit established by the displacing Bureau or Office.

c. *Exceptions.* The head of the Bureau or Office may establish the average month's rent by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing Bureau or Office, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

d. *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of $500 will be made in four equal installments on an annual basis. Before making each installment payment, the displacing Bureau or Office must verify that the tenant is still in decent, safe, and sanitary housing.

(2) *Purchases-replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses on the purchase of replacement housing.

a. The downpayment shall be the amount necessary to make a downpayment on a suitable replacement dwelling. Determination of the amount "necessary" for such downpayment shall be based on the amount of downpayment that would be required for a conventional loan.

b. Incidental expenses of closing the transaction are those as described in paragraph 10.G(3) of these regulations.

c. The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs shown on the closing statement.

d. If the displaced person cannot be paid or if payment cannot be computed under paragraph 11.E(2) of these regulations, payment should be computed as provided under paragraph 11.E(3) of these regulations.

(3) *Computation of replacement housing payments for certain others.* a. A displaced owner-occupant not eligible under paragraph 10 of these regulations because he elects not to purchase a replacement dwelling, but wishes to rent, may receive a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in paragraph 11.E(1) of these regulations with the following additional criteria:

(1) The present rental rate for the acquired dwelling shall be economic rent as determined by market data and,

(2) The payment may not exceed the amount which the displaced owner-occupant would have received had he elected to receive a replacement housing payment under paragraph 10 of these regulations.

b. A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 10 of these regulations because of the 180 day occupancy requirement and elects to rent is eligible for rental replacement housing payment not to exceed $4,000. The payment will be computed in the same manner as shown in this paragraph 11.E, except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

c. A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 10 of these regulations because of the 180 day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing cost not to exceed $4,000. The payment will be computed in the same manner as shown in this paragraph 11.E(2).

12. *Relocation assistance advisory services.* A. Whenever the acquisition of real property for a program or project undertaken by a Bureau or Office in any State will result in the displacement of any person on or after the effective date of the Act, the Bureau or Office shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in paragraph 12.C, below. If the head of the Bureau or Office determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

B. Bureaus and Offices administering programs covered by this Act shall cooperate to the maximum extent feasible with other Federal or State agencies to assure that displaced persons receive the maximum assistance available to them.

C. Each relocation assistance advisory program required by paragraph 12.A above, shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) Determine the need, if any, of displaced persons, for relocation assistance;

(2) Provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) Assure, that within a reasonable period of time, prior to displacement, replacement dwellings will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by these regulations. The dwellings shall be available to, and equal in number to, the number of such displaced persons who require such dwellings and reasonable accessible to their places of employment, except that the head of the Bureau or Office may waive such assurances. (See paragraph 13.B of these regulations).

(4) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

D. Land owners and tenants within the project area must be fully informed at the earliest possible time of the relocation program and such matters as the payments and assistance available, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right to appeal to the Secretary of the Interior, and the procedure for appealing.

E. The head of the Bureau or Office shall coordinate relocation activities with project work, and other planned or proposed Governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

13. *Determination availability.* Bureaus and Offices may not proceed with any phase of any project which will cause the displacement of any person until it has determined, or received satisfactory assurances that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means (including supplements provided by law) of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in paragraph 13.C, below, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

A. *Support.* This determination or assurance shall be based on a current survey and analysis of available replacement housing, by the Bureau or Office. Surveys to determine availability of replacement housing should be undertaken during the planning phase for each area wherein provisions of the Act may be

applicable. These surveys should include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys will list housing currently available. Information to develop and maintain the survey may be available from the Veterans Administration, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

B. *Waiver.* Pursuant to paragraph 12.C(3) of these regulations the head of the Bureau or Office may waive the requirement for suitable replacement housing only on the basis of an emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by paragraph 22 of these regulations.

C. *Decent, safe, and sanitary housing.* A decent, safe, and sanitary dwelling is one which is found to be in sound and weathertight condition, and which meets local housing codes. The head of the Bureau or Office shall consider the following criteria in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the cases of unusual or unique geographical areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the Bureau or Office causing the displacement.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Bureau or Office approved occupancy requirements or comply with local codes.

(4) *Facilities.* A dwelling unit meeting the physical and occupancy standards stated above, shall only be considered as suitable replacement housing when it is reasonably convenient to such community facilities as schools, stores, and public transportation.

D. *Absence of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the head of the Bureau or Office will establish the standards.

14. *Housing replacement by Federal agency as last resort.* A. If a project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Bureau or Office determines that such housing cannot otherwise be made available, he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project in conformance with criteria, guidelines and procedures to be issued by the Secretary of Housing and Urban Development.

B. No person shall be required to move from his dwelling on or after the effective date of the Act, on account of any project, unless the head of the Bureau or Office is satisfied that replacement housing is available to such person.

15. *State required to furnish real property incident to Federal assistance (local cooperation).* Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Bureau or Office program or project, the Bureau or Office may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 210 and 305 of the Act. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occuring prior to July 1, 1972, the Bureau or Office shall pay the first $25,000 of the cost of providing such payments and assistance.

16. *State acting as agent for Federal program.* Whenever real property is acquired by a State agency at the request of a Bureau or Office for a project or program, such acquisition shall, for the purposes of the Act, be deemed an acquisiion by the Bureau or Office having authority over such program or project.

17. *Public works programs and projects of the Government of the District of Columbia and of the Washington Metropolitan Area Transit Authority.* Whenever real property is acquired by the Government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 210 and 211 of the Act, and such acquisition will result in the displacement of any person on or after the effective date of the Act, the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by the Act. Whenever real property is acquired for such a program or project on or after such effective date, the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by title III of the Act.

18. *Requirements for relocation payments and assistance of federally assisted programs—assurances of availability of housing.* A. Notwithstanding any other law, the head of any Bureau or Office shall not approve any grant to, contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act, unless he receives satisfactory assurances from such State agency that:

(1) Fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under paragraphs 7, 10, and 11 of these regulations.

(2) Relocation assistance programs offering the services described in paragraph 12 of these regulations shall be provided to such displaced persons.

(3) Within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with paragraph 12.C(3) of these regulations.

(4) The affected persons will be adequately informed of the available benefits and the policies and procedures relating to the payment of these benefits.

B. *Inability to provide assurances.* A State agency's assurances shall be accompanied by a statement in which it specifies any provision of the assurances which it is unable to provide in whole or in part, under its laws. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement shall be supported by an opinion of the chief legal official of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances.

C. *Monitoring assurances.* Heads of Bureaus and Offices shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

19. *Federal share of costs.* A. The cost to a State agency of providing payments and assistance pursuant to paragraphs 14, 18, 23, and 26 of these regulations, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other project or program costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution, the Federal agency shall pay the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under paragraphs 14, 18, 23, and 26 of these regulations on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Bureau or Office shall loan such State agency the $25,000 of such cost.

B. No payment or assistance under paragraphs 18 and 26 of these regulations shall be required or included as a program or project cost under this paragraph, if the displaced person receives a

payment required by the State law of eminent domain which is determined by the head of the Bureau or Office to have substantially the same purpose and effect as such payment under this paragraph, and to be part of the cost of the program or project for which Federal financial assistance is available.

C. Any grant to, contract, or agreement with, a State agency executed before the effective date of the Act, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act, shall be amended to include the cost of providing payments and services under paragraphs 18 and 26 of these regulations. If the head of the Bureau or Office determines that it is necessary for the expeditious completion of a program or project, he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to paragraphs 14, 18, 23, and 26 of these regulations.

20. *Administration—relocation assistance in programs receiving Federal financial assistance.* In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under paragraphs 14, 18, and 23 of these regulations, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under the Act through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in paragraph 14 of these regulations, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration of similar housing assistance activities.

A. *Approval.* If a State agency elects to contract for services pursuant to this paragraph 20, it shall enter into a written contract which shall be consistent with regulations of the Bureau or Office administering the project or program causing the displacement. Such Bureau or Office shall take necessary action to assure that the contract will assist in providing a uniform and effective relocation program consistent with these regulations.

B. *Contents.* Any such contract shall include, but is not limited to, the following provisions:

(1) That payments or services shall be provided in accordance with these regulations implemented by Bureau and Office procedures.

(2) That records required by Bureau or Office regulations will be retained for a period of at least 3 years and shall be available for inspection by representatives of the Bureau or Office.

(3) Clauses required by regulations implementing title VI of the Civil Rights Act of 1964 (Public Law 88-352).

21. *Regulations and procedures.* In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Bureaus or Offices shall consult with each other and with other Federal agencies on the establishment of procedures for the implementation of such programs.

A. The head of each Bureau or Office is authorized to establish such procedures as he may determine to be necessary to assure that:

(1) The payments and assistance authorized by the Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) A displaced person who makes application for a payment authorized by these regulations shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) Any person aggrieved by a determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may have his application reviewed by the head of the Bureau or Office having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

B. The head of each Bureau or Office may prescribe such instructions and procedures, consistent with the provisions of these regulations, as he deems necessary or appropriate.

22. *Annual report.* A. Each Bureau and Office shall prepare and submit an annual report to the Assistant Secretary for Administrative with respect to the administration of the programs and policies established or authorized by the Act. This report shall contain summary statements concerning:

(1) The effectiveness of the provisions of the Act assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants;

(2) Actions taken by the Bureau or Office to achieve the objectives of the policies of Congress, declared in the Act, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for Bureau or Office, or federally assistant programs;

(3) The views of the head of the Bureau or Office on the progress made to achieve such objectives in the various programs conducted or administered by the Bureau or Office;

(4) Any indicated effects of such programs and policies on the public;

(5) Any recommendations the head of the Bureau or Office may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations;

(6) The estimated administrative costs of implemeting the Act;

(7) Waiver of assurances; and

(8) Statistics on relocation payments.

B. The report required by this paragraph shall be submitted as of June 30 of each year to reach the Assistant Secretary for Administration by September 1, with the first report covering the period January 2, 1971 through June 30, 1971.

23. *Planning and other preliminary expenses for additional housing.* A. In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any project, the head of the Bureau or Office may authorize loans as part of the cost of any project, or approve loans to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of the Bureau or Office. All other loans shall be without interest. The head of the Bureau or Office shall require repayment of loans made under this paragraph under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.

B. The Secretary of Housing and Urban Development will develop and issue criteria and procedures for implementing this paragraph 23 concerning loans for planning and other preliminary expenses for additional housing. Bureaus and Offices will be guided by the criteria and procedures developed

by the Secretary of Housing and Urban Development in the implementation of this paragraph.

24. *Payments not to be considered as income.* A. Heads of Bureaus and Offices shall make every effort to pay promptly any displaced person who makes application for payments authorized by these regulations after a move, or in hardship cases, advance payments may be authorized.

B. Bureaus and Offices shall advise all displaced persons that no payment received under title II of the Act shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal Law.

25. *Uniform real property acquisition policy.* A. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, the head of the Bureau or Office to the greatest extent practicable shall:

(1) Make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Appraise real property before the initiation of negotiations, and give the owner or his designated representative an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, shall establish an amount which he believes to be just compensation therefore and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the approved appraisal of the estimated fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Bureau or Office concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

B. The summary statement of the basis for the determination of just compensation should include the following:

(1) Identification of the real property and the estate or interest therein to be acquired.

(2) Identification of the buildings, structures, and other improvements considered to be part of the real property for which the offer of just compensation is made.

(3) A statement that the Bureau or Office's determinatiton of just compensation is based on the estimated fair market value of the property to be acquired. If only part of the property is to be acquired or the interest to be acquired in the property is less than the full interest of the owner, the statement should explain the basis for the determination of just compensation.

(4) A statement that the Bureau or Office's determination of just compensation is not less than its approved appraisal of the property.

(5) A statement, unless impracticable under applicable State law, that any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded by the Bureau or Office in making its determination of just compensation for the property.

C. If the head of the Bureau or Office acquires any interest in real property he shall acquire at least an equal interest in all buildings, structures or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put. If any buildings, structures, or other improvements comprising part of the real property are the property of a tenant who has the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of the tenant, shall be apportioned to the landowner and the tenant, so that the amount attributable to the tenant's improvements will be the greater of:

(1) The estimated fair market value of the tenant's leasehold estate in the property, or

(2) The contributive value of the tenant's improvements to the value of the entirety, which value shall not be less than the value of his improvements for removal from the property.

(3) Payment under this paragraph C shall not be a duplication of any payment otherwise authorized by law. No such payment shall be made unless the landowner disclaims all interests in the tenant's improvements. The tenant in consideration for such payment shall assign, transfer, and release to the Government all his rights, title, and interest in and to such improvements. The tenant may reject payment under this paragraph C and obtain payment in accordance with other applicable laws.

D. As a general rule, only one appraisal will be obtained on each tract, unless the head of the Bureau or Office determines that circumstances require an additional appraisal or appraisals.

(1) The Bureau or Office land acquisition records will show that the landowner or his designated representative has been given an opportunity to accompany the appraiser during the inspection of the property.

E. No owner or tenant who will become a displaced person will be required to surrender possession of his property before payment is made to him or deposited in the registry of the court. In all cases he shall be given at least 90 days notice to move from the acquired property. If permitted by the head of the Bureau or Office to remain in possession for a short period of time after acquisition, the rental charged for this occupancy will not be more than the fair rental value of the property to a short term occupier.

F. Condemnation, where required, will be instituted by the Government. The Government shall not intentionally make it necessary for an owner to institute proceedings to prove the fact of the taking of his property. Where the acquisition of a part of a property will leave its owner with an uneconomical remnant, the head of the Bureau or Office will offer to acquire the entire property.

G. Expenses incidental to transfer of title to United States. The head of the Bureau or Office shall amend all land purchase contract forms to provide for reimbursement to the vendor in an amount deemed by the head of the Bureau or Office to be fair and reasonable for the following expenses:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property;

(2) Penalty cost for prepayment of any preexisting recorded mortgage entered into in good faith encumbering said real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, which ever is the earlier.

H. Litigation Expenses. The head of the Bureau or Office in project planning shall take into consideration the possible liability for the payment of litigation expenses of a condemnee provided in section 304 of the Act.

26. *Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases*—A. *Provision of assurances.* Notwithstanding any other law, the head of a Bureau or Office shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of the Act, unless he receives satisfactory assurances from such State agency that:

(1) In acquiring real property, State agencies will be guided, to the greatest extent practicable under State law, by the land acquisition policies in paragraph 25 of these regulations and,

(2) Property owners will be paid or reimbursed for necessary expenses as specified in paragraph 25 of these regulations.

(3) The affected persons will be adequately informed of the available benefits, and the policies and procedures relating to the payment of these benefits.

B. *Inability to provide assurances.* A State agency's assurances shall be accompanied by a statement in which it specifies any provision of the assurances which it is unable to provide in whole or in part, under its laws. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement shall be supported by an opinion of the chief legal official of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances.

[FR Doc.71-5306 Filed 4-15-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

MEAT INSPECTION

Notice of Determination Not to Designate Ohio

On February 5, 1971, there was published in the FEDERAL REGISTER (36 F.R. 2524) a Notice of Intended Designation of the State of Ohio under section 301(c)(1) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(1)). This notice was based on information that Ohio had not developed and activated State meat inspection requirements, with respect to operations and transactions wholly within the State, at least equal to those imposed under titles I and IV of the Act. The Secretary had determined that the State of Ohio was not in a position at that time to enforce such requirements. Upon a subsequent review by this Department of the meat inspection program of the State of Ohio, it has been determined that the State has now developed and will enforce the prescribed State meat inspection requirements.

Accordingly, it has been determined that there is not now a basis for designation of the State of Ohio under section 301(c)(1) of the Act.

Done at Washington, D.C., on April 13, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-5334 Filed 4-15-71;8:50 am]

Food and Nutrition Service

[FSP No. 1971-1]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance

Pursuant to section 5(b) of the Food Stamp Act, as amended (7 U.S.C. 2014, Public Law 91-671), the maximum allowable monthly income standards for determining eligibility of all types of applicant households are prescribed as follows:

Household size	*Maximum allowable monthly income standards 48 States and D.C.*
One	$160
Two	210
Three	293
Four	360
Five	427
Six	493
Seven	547
Eight	600
Each additional member	+53

"Income" as the term is used in the notice is as defined in paragraph (b) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Public Law 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the 48 States and the District of Columbia are as follows:

Monthly net income	Monthly coupon allotments and purchase requirements—48 States and D.C.			
	For a household of—			
	1 person	2 persons	3 persons	4 persons
	The monthly coupon allotment is—			
	$32	$60	$88	$108
	And the monthly purchase requirement is—			
0 to $19.99	0	0	0	0
$20 to $29.99	$1	$1	0	0
$30 to $39.99	4	4	$4	$4
$40 to $49.99	6	7	7	7
$50 to $59.99	8	10	10	10
$60 to $69.99	10	12	13	13
$70 to $79.99	12	15	16	16
$80 to $89.99	14	18	19	19
$90 to $99.99	16	21	21	22
$100 to $109.99	18	23	24	25
$110 to $119.99	20	26	27	28
$120 to $129.99	22	29	30	31
$130 to $139.99	24	31	33	34
$140 to $149.99	25	34	36	37
$150 to $169.99	26	36	40	41
$170 to $189.99		42	46	47
$190 to $209.99		48	52	53
$210 to $229.99		54	58	59
$230 to $249.99			64	65
$250 to $269.99			70	71
$270 to $289.99			76	77
$290 to $309.99			79	83
$310 to $329.99				89
$330 to $359.99				95
$360 to $389.99				99

Monthly net income	For a household of—			
	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—			
	$128	$148	$164	$180
	And the monthly purchase requirement is—			
0 to $19.99	0	0	0	0
$20 to $29.99	0	0	0	0
$30 to $39.99	$5	$5	$5	$5
$40 to $49.99	8	8	8	8
$50 to $59.99	11	11	12	12
$60 to $69.99	14	14	15	16
$70 to $79.99	17	17	18	19
$80 to $89.99	20	21	21	22
$90 to $99.99	23	24	25	26
$100 to $109.99	26	27	28	29
$110 to $119.99	29	31	32	33
$120 to $129.99	33	34	35	36
$130 to $139.99	36	37	38	39
$140 to $149.99	39	40	41	42
$150 to $169.99	42	43	44	45
$170 to $189.99	48	49	50	51
$190 to $209.99	54	55	56	57
$210 to $229.99	60	61	62	63
$230 to $249.99	66	67	68	69
$250 to $269.99	72	73	74	75
$270 to $289.99	78	79	80	81
$290 to $309.99	84	85	86	87
$310 to $329.99	90	91	92	93
$330 to $359.99	96	97	98	99
$360 to $389.99	105	106	107	108
$390 to $419.99	114	115	116	117
$420 to $449.99	119	124	125	126
$450 to $479.99		133	134	135
$480 to $509.99		139	143	144
$510 to $539.99			152	153
$540 to $569.99			155	162
$570 to $599.99				171
$600 and up				171

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $16 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $599.99 or less per month.

2. For households with monthly incomes of $600 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $599.99, add $9 to the monthly purchase requirement shown for an eight-person household with an income of $599.99.

3. Maximum monthly purchase requirements for households of more than eight persons are: Nine persons $187, 10 persons $203, and add $16 for each person over 10.

Effective date. This notice shall be effective upon publication in the FEDERAL REGISTER (4-16-71).

RICHARD LYNG,
Assistant Secretary.

[FR Doc.71-5201 Filed 4-15-71;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

BUSINESS LOANS AND GUARANTEES

Memorandum of Understanding With Small Business Administration

This notice is published in exercise of authority delegated by the Secretary of Commerce to the Assistant Secretary for Economic Development by Department of Commerce, Department Organization Order 10-4 of April 1, 1970.

Pursuant to section 708 of the Public Works and Economic Development Act of 1965, as amended (Public Law 89–136; 79 Stat. 556), and Title III of Public Law 91–472 (84 Stat. 1040), the Economic Development Administration has entered into a Memorandum of Understanding with the Small Business Administration.

In conducting the business loan and guarantee program authorized by section 202 of the Public Works and Economic Development Act of 1965 (Public Law 89–136; 79 Stat. 556) the Economic Development Administration desires to procure certain limited supporting services from Small Business Administration.

It is therefore mutually agreed that all prior written understandings between EDA and SBA are hereby revoked and that from this date relations between EDA and SBA and the flow of responsibilities between EDA and SBA shall be governed by this agreement.

This agreement is for the purpose of delineating responsibilities and avoiding duplication of functions and efforts. This agreement is not intended to encompass working capital guarantees or business expansion (additional) loans except as the agreement relates to closing and liquidation functions and is not intended to supply internal procedures within EDA or SBA.

A. *Development of application prior to processing.* SBA field offices shall render only such counseling services as are requested by EDA's field offices. Such counseling services shall not include the making of feasibility, marketing, management, appraisal or engineering studies or surveys as contrasted to counseling with regard to such studies tendered by the proponent of the project. In the event the Washington office of EDA desires actual studies or surveys to be made by SBA, the EDA Washington office shall make specific request for such special services from the Office of Community Development, Washington. The Office of Community Development shall arrange the necessary work assignment with the appropriate SBA field office.

All other responsibilities, including the identification and initial screening of prospective applications, shall be those of EDA.

B. *Processing applications.* The Business Development Division, EDA Regional offices shall forward completed applications with supporting data to the SBA Regional office for the attention of the Chief, Community Economic Development Division. EDA's transmittal letter shall define the type of technical assistance it desires from SBA which may include feasibility, marketing, management, appraisal or engineering studies, reports, or surveys.

In addition to the technical assistance identified by EDA, SBA personnel shall be responsible for a general credit investigation, a report thereof with a complete finding of favorable and unfavorable factors and a draft authorization embracing terms and conditions of the loan proposed. If an application submitted to SBA by EDA is complete, SBA personnel shall accomplish all processing within 60 calendar days of receipt of the application.

Upon completion of processing, SBA's Regional Chief, Community Economic Development Division shall forward all material to the Chief of the Business Development Division of the EDA Regional office for consideration of final action by EDA at its appropriate level. EDA will arrange for acceptance of the loan authorization by the applicant.

C. *Preclosing and loan closing.* 1. Preclosing. Accepted authorizations and the complete files related thereto shall be forwarded by EDA's Regional Offices to the Regional Chief, Community Economic Development Division who shall consult with SBA's Regional counsel for assignment of the case to SBA counsel for preclosing and closing functions.

SBA shall have full preclosing function responsibilities and EDA shall have any final decision responsibility.

SBA's assigned closing counsel shall arrange for a preclosing conference on every loan, which shall be attended by representatives of EDA, SBA, and participant or other lender or injector, the operating company and any other party deemed necessary by SBA counsel. SBA counsel shall discuss the requirements of the loan authorization item by item as authorized and shall act as EDA's agent.

2. Closing. EDA shall have final decision responsibility. SBA counsel shall have closing function responsibility assisted by such SBA personnel as required. Loan funds will be disbursed by SBA counsel as directed by EDA; however, it shall be SBA counsel's responsibility to ascertain that all capital injections required by loan authorizations have been made before EDA may direct disbursement. Where other loan conditions require action by the EDA Regional Director, SBA will make recommendations to the Director for his decision. Any required reports justifying the disbursements shall be prepared by SBA field offices. In cases where interim loans are provided by conventional lenders, arrangements shall be made for SBA personnel to monitor the construction with the same diligence and care used in monitoring construction where interim loan funds are not available. SBA personnel monitoring construction of projects shall advise EDA Regional Director of any adverse change of circumstances which may become known and which may relate to the ability of the borrower to complete and operate the project facility as intended. Any substantive change in plans and specifications as approved or any overruns shall be considered an adverse change and shall be reported immediately to the EDA Regional Director together with a recommendation. Regardless of the recommendation, SBA shall cease disbursement until EDA authorizes further disbursement.

EDA shall furnish the SBA Regional Offices with the prevailing wage rate schedules and SBA shall determine compliance with the Davis-Bacon Act Requirements.

EDA Office of Equal Employment Opportunity will determine compliance of employment of local labor and the nondiscrimination provisions of the Executive Order No. 11246 and Title VI of the Civil Rights Act.

Loan servicing, an EDA responsibility as hereinafter specifically described, shall not commence prior to final disbursement except in those cases where borrower commences business operations prior to final disbursement. SBA counsel shall promptly notify EDA of the commencement of borrower's business operations.

D. *Servicing.* Upon completing disbursement, SBA counsel shall transmit all files to EDA Regional Director. In his letter of transmittal, SBA counsel shall itemize the information necessary for EDA to establish tickler systems for the preservation of any collateral and insurance by timely action. EDA shall be responsible for all servicing functions, including visits, billings, collections, rerecording of all collateral documents and financial statement analysis.

E. *Care, protection and liquidation of collateral.* In the event that a project is transferred to the Collateral Protection Division of EDA, SBA may be requested to provide care and protection for collateral. Care and protection shall be provided by SBA in accordance with EDA's written instructions (except in emergency situations where written instructions will follow an authoritative oral request) to SBA's Director of the Office Loan Administration, Central Office. The written instructions shall be accompanied by all pertinent information, data and documents on each account referred with a current report covering status of account, taxes, insurance, and a resume of all liens. EDA shall continuously pursue a policy of project rehabilitation and shall report to SBA current and complete information of all negotiations by EDA in efforts to avoid formal liquidation.

In connection with the care and preservation of collateral, the liquidation of accounts, and other projects in the portfolio of the Collateral Protection Division of EDA, SBA will provide legal assistance, appraisals, feasibility studies and other services as may be requested by EDA, and when necessary, SBA will contract for the services of third parties in order to provide such services.

Until authorized in writing by EDA to liquidate, SBA will take no action nor assume any responsibility with respect to liquidation.

EDA will keep SBA informed on a continuing basis as to any negotiations on the properties.

Upon receipt of written authorization from EDA to liquidate the account, SBA shall follow the procedures for liquidation of its own accounts and shall pursue a policy of maximum recovery in minimum time. SBA will recommend the protective bids to be entered at foreclosure sales for EDA's approval.

In the event SBA acquires, for EDA, any of the collateral or other assets of any obligor on the account, SBA will report such acquisition to EDA, advise EDA of all pertinent information concerning and affecting the collateral, and

provide care and protection for the acquired property. SBA will take no further action until EDA directs it to do otherwise.

Upon receipt of EDA's written authorization to sell an acquired property, SBA shall follow its procedures for sale of property acquired in the liquidation of its own accounts, unless EDA identifies specific requirements in its sale authorization.

SBA will submit monthly reports to EDA concerning the status of EDA's accounts and the results of authorized actions. To enable EDA to keep informed on a timely basis of project status, SBA and its field offices shall provide EDA with copies of all documents reflective of significant events relating to EDA projects requiring the services of SBA.

F. *Reimbursement.* It is understood that the services rendered by SBA are to be on a reimbursable basis at such financial level and upon such terms as shall be mutually agreed to between EDA and SBA or as may be provided by law.

G. *Discontinuance.* Both EDA and SBA reserve the right on a reasonable notice to discontinue the arrangements herein contemplated in whole or part, it being the express intention that the arrangements contemplated shall be and continue to be mutually satisfactory. It is understood further, however, that any discontinuance or curtailment involving reduction of financial support of activities to be performed by SBA shall only be effected in a manner as will permit the orderly reduction of manpower costs and other expenses by SBA.

Dated: March 10, 1971.

ROBERT A. PODESTA,
Assistant Secretary, Economic Development Administration.

THOMAS S. KLEPPE,
Administrator, Small Business Administration.

[FR Doc.71-5292 Filed 4-15-71;8:47 am]

Maritime Administration

CONSTRUCTION OF ORE/BULK/OIL VESSELS OF ABOUT 160,000 DWT

Notice of Intent To Compute Estimated Foreign Costs for Construction

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign costs for the construction of Ore/Bulk/Oil vessels of about 160,000 DWT pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended. The vessels to be constructed will have the following approximate characteristics:

Length	about 1,000 ft.
Beam	about 143 ft.
Depth	about 81 ft.
Deadweight	about 160,000 DWT.
Power	about 28,800 SHP steam.
Crew	32.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on May 7, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: April 13, 1971.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-5343 Filed 4-15-71;8:51 am]

Office of the Secretary

HUMBOLDT STATE COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribed the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00372-33-46500. Applicant: Humboldt State College, Arcata, Calif. 95521. Article: Ultramicrotome, Model OM U2, and accessories. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for investigations concerning the development of vascular tissues in plants; subcellular structure of avion muscles, the physiological effects of fluorides on plant cells; the ultrastructure of the larval stages of helminth parasites; and the origin and development of the mitotic spindle apparatus in normal and abnormal divisions. Application received by Commissioner of Customs: January 29, 1971.

Docket No. 71-00373-33-77040. Applicant: The Mount Sinai School of Medicine, The City University, New York, Fifth Avenue and 100th Street, New York, NY 10029. Article: Mass spectrometer, Model JMS-01SC. Manufacturer: Japan Electron Optics Lab., Japan. Intended use of article: The article will be used in the Automation Development Laboratory, a new section of the Department of Chemistry. The primary objectives of this laboratory is to develop new and advanced methodology in automatic techniques in clinical chemical analyses. Emphasis is on the development of screening processes which, by providing a wide chemical "profile", enable early diagnosis of inborn errors of metabolism of newborn infants. Application received by Commissioner of Customs: February 2, 1971.

Docket No. 71-00374-33-46040. Applicant: New York State Institute for Research in Mental Retardation, 1050 Forest Hill Road, Staten Island, NY 10314. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article will be used for studies of viruses and virus infected cells and tissues. Experiments will be conducted in order to study viral ultrastructure after opening up or breaking down the virus particles by various techniques. Junior scientists and technicians will be trained in electron microscope techniques. Application received by Commissioner of Customs: February 2, 1971.

Docket No. 71-00375-33-46040. Applicant: University of Virginia, Department of Biology, Gilmer Hall, Charlottesville, VA 22903. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to train graduate students and some undergraduates in the use and maintenance of a high resolution instrument. Biology courses in which the electron microscope will be used are entitled Techniques in Electron Microscopy, Research in Cell Ultrastructure, Dissertation Research, and Introduction to Independent Research. Application received by Commissioner of Customs: February 2, 1971.

Docket No. 71-00377-00-07700. Applicant: National Aeronautics and Space Administration, Manned Spacecraft Center, R & D Procurement Branch, Space Station Contract Section/JC76, Houston, TX 77058. Article: Skylab lenses. Manufacturer: Nippon Kogaku, Japan. Intended use of article: The lenses will be used for the 16-mm. Data Acquisition Camera Program of Skylab Flights. Application received by Commissioner of Customs: February 2, 1971.

Docket No. 71-00378-65-77040. Applicant: University of Connecticut, Storrs, Conn. 06268. Article: Mass spectrometer, Model MS-902. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for research concerning structure elucidation of natural products, synthetic organic and inorganic compounds; isotope labelling studies; and for GLC-mass spectrometry for the identification of flavor components in milk and for characterization of odorous substances from micro-organisms. Application received by Commissioner of Customs: February 2, 1971.

Docket No. 71-00379-00-00520. Applicant: Wayne State University, Physics Research Building, 666 West Hancock, Detroit, MI 48201. Article: Accessories for electrostatic accelerator. Manufacturer:

Nukem, West Germany. Intended use of article: The article will be used in studies of the properties of various atomic nuclei using an ion beam from a Van de Graff electrostatic accelerator. Application received by Commissioner of Customs: February 4, 1971.

Docket No. 71–00380–33–46040. Applicant: Barrow Neurological Institute of St. Joseph's Hospital and Medical Center, 350 West Thomas Road, Phoenix, AZ 85013. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic NVD, The Netherlands. Intended use of article: The article will be used for vascular leakage studies, morphological investigation of radiofrequency lesions; systematic ultrastructural study of brain tumors as well as selected brain biopsies; and for studies of viral diseases of the central nervous system. Application received by Commissioner of Customs: February 4, 1971.

Docket No. 71–00381–01–77040. Applicant: Purdue University, Lafayette, Ind. 47907. Article: MS–9 magnet fitted with low voltage coils, magnet trolley, electrostatic analyzer, lower inner frame, with runners for the magnet trolley, three-part assembly, with isolation valve, stilts, and heater, MS–9 insertion lock with direct insertion probe, a length of bent analyzer tubing, assorted flanges and bolts, and source supply chassis including a d.c. converter, high voltage cable, and isolation transformer. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: These components will be used in the construction of an ion kinetic energy spectrometer. Application received by Commissioner of Customs: February 4, 1971.

Docket No. 71–00382–33–46500. Applicant: Princeton University, Purchasing Department, Post Office Box 33, Princeton, NJ 08540. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in a wide range of studies of biological materials such as viruses, bacteria, protein macromolecules, protozoa, and normal and cancer tissue culture cells. Application received by Commissioner of Customs: February 4, 1971.

Docket No. 71–00383–33–70700. Applicant: Michigan State University, MSU/AEC Plant Research Laboratory, Wilson Boulevard, East Lansing, MI 48823. Article: Three channel magnetic tape recorder for amino acid analysis and manual tape playback unit. Manufacturer: Infotronics Corp., Shannon, Ireland. Intended use of article: The article will be used for research concerning cell wall proteins and associated polysaccharides in plants; chemical structure including amino acid sequence; a study of cell wall proteins; and chromatography (both liquid and gas-liquid) of amino acids, sugars, and derivatives. Application received by Commissioner of Customs: February 4, 1971.

Docket No. 71–00384–33–46040. Applicant: University of North Carolina, Dental Research Center, Chapel Hill, NC 27514. Article: Electron microscope, Model EM–801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in several fine structural studies of oro-facial growth and development in tissues taken mainly from experimental animals. Particular studies to be carried out include, investigations of the relationship between satellite cells and nerve cells in the trigeminal ganglion, the development of the myelin sheaths in the peripheral branches of the trigeminal nerve, and studies of palatal development and closure. Application received by Commissioner of Customs: February 5, 1971.

Docket No. 71–00385–33–46040. Applicant: University of Wisconsin, Pathology Department, Madison, Wis. 53706. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article will be used mainly for teaching and training purposes. The courses include Molecular and Ultrastructural Pathology, Experimental Pathology, Research in Pathology, and three elective courses. Research purposes include the examination of macrophages in tissue culture and renal biopsies from humans and experimental animals. Application received by Commissioner of Customs: February 5, 1971.

Docket No. 71–00386–33–46040. Applicant: Temple University School of Medicine, 3400 North Broad Street, Philadelphia, PA 19140. Article: Electron Microscope, Model EM–9S. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used in training medical students, graduate students, postgraduate students, interns and residents in applied aspects of electron microscopy as a portion of their regular curriculum. These students will be instructed in the basic and actual operation of an electron microscope and how it can be effectively used as a tool in the area of pathology. Research includes the diagnosis and management of kidney disease, malignant melanoma, and of other neoplastic diseases. Application received by Commissioner of Customs: February 5, 1971.

Docket No. 71–00387–33–77030. Applicant: University of North Carolina, School of Pharmacy, Department of Medicinal Chemistry, Chapel Hill, N.C. 27514. Article: NMR spectrometer, Model JNM–C–60HL. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used to study enzyme systems and their kinetics, sulphur and nitrogen heterocycles; fatty ethers and plasmologens; anticholinergic compounds, such as stilbazoles; and biologically active natural products, such as alkaloids, steroids, and terpenoids. Application received by Commission of Customs: February 5, 1971.

Docket No. 71–00388–65–39700. Applicant: Purdue University, Lafayette, Ind. 47907. Article: MRC sterometric analyzing system. Manufacturer: Wild Heerbrugg Instruments, Inc., Switzerland. Intended use of article: The article will be used for research involving powders of metals, metal oxides, and semiconductors; thick film resistors and conductors; and polycrystalline ceramics and metal alloys. The volume fraction and particle size distribution of each phase present will be determined. The shape factor of each of the phases will also be measured. Application received by Commission of Customs: February 8, 1971.

Docket No. 71–00390–00–60800. Applicant: Michigan State University, MSU/AEC Plant Research Laboratory, Wilson Road, East Lansing, MI 48823. Article: Achromatic-aplanatic phase contrast and interference contrast (Nomarski) condenser, and other accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The articles are accessories for a Zeiss Photoscope I used for research on plants and leaves. Application received by Commissioner of Customs: February 10, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–5281 Filed 4–15–71;8:46 am]

MASSACHUSETTS GENERAL HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00015–33–43780. Applicant: Massachusetts General Hospital, Fruit Street, Boston, MA 02114. Article: Six total hip joint replacements. Manufacturer: Protek Ltd., Switzerland.

Intended use of article: The articles will be used for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is a combination of the Charnley apparatus which combines a metal femoral head prosthesis with a head diameter of 32 millimeters and a high-density polyethylene acetabulum which accepts only this sized head, and the Mueller apparatus which has a larger femoral head size and acetabular component made of metal but with three polyethylene bearing points in the cup.

The combination of characteristics described above is pertinent to the purposes for which the article is intended to be used. We know of no equivalent prosthesis which is being manufactured in the United States which provides this combination of characteristics. We cite as a precedent the prior recommendation of the Department of Health, Education, and Welfare relating to Docket No. 70–000488–33–43780 which conforms to the captioned application.

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

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–5282 Filed 4–15–71;8:46 am]

SMITHSONIAN INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70–00514–33–46070. Applicant: Smithsonian Institution, 10th and Constitution Avenue NW., Washington, DC 20560. Article: Scanning electron microscope, Model Mark II. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used to study the transformation of morphologic configurations and topography of micro-organism structure, macro-organism parts or organ sections, and skeletal tissue to isometric photographic replicates for functional examination and taxonomic comparison; and to study specimens and phenomena properties of various organic structures of a series of specimens contained in the U.S. National Museum of Natural History ranging from segments of dinosaur bone to midge fly larvae.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or appartus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Captioned application is a resubmission of Docket No. 69–00707–33–46070 which was received on June 30, 1969, and denied without prejudice to resubmission due to informational deficiencies contained therein. The applicant requires high quality micrographs for use in establishing cataloging and identification criteria for micro- and macro-organisms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model SM–2 scanning electron microscope manufactured by Ultrascan Corp. (Ultrascan) which was formerly doing business as K Square Corp. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 23, 1970, that the micrographs produced routinely with the foreign article were superior in quality to the micrographs that could be routinely produced with the Model SM–2 at the time the foreign article was ordered. HEW further advises that this difference in picture quality is pertinent to the applicant's research studies.

We therefore, find that the Model SM–2 was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

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

SETH M. BODNER,
Director,
Office of Import Progams.

[FR Doc.71–5283 Filed 4–15–71;8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70–00737–88–46070. Applicant: University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Scanning electron microscope, Model JSM–2, and accessories. Manufacturer: Japan Electron Optics Lab., Co., Ltd., Japan.

Intended use of article: The article will be used for instruction and thesis research for graduate students, postdoctoral students, and undergraduate majors in paleobotany, botany, zoology, paleontology, mineralogy, geochemistry, and related sciences. It will also be used as a research instrument for geology, botany, and zoology faculty projects. Areas of study include the ultrastructure of Precambrian, Paleozoic, and younger microfossils; study of lunar rock and dust samples; and a study of microfossils from subsurface and deep-sea sediments of various ages to identify and correlate strata containing such organisms.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 30, 1969).

Reasons: The foreign article provides a goniometer stage which permits rotation and tilting at constant specimen level and a rapid TV-scan attachment which provides a picture having continuous motion instead of the interrupted motion provided by the conventional mode of presentation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 25, 1970, that the combination of both of the characteristics of the article which are described above is pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument which provided the pertinent combination of characteristics at the time the foreign article was ordered.

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

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–5284 Filed 4–15–71;8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70–00671–65–46070. Applicant: University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Scanning electron microscope, Model Mark II–A. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used to investigate fracture modes and mechanisms in alloy steels, vanadium, and titanium alloys, and composite materials, in particular, directionally solidified Al–Al3Ni eutectics and silica-epoxy composites. This research is being performed by students working for advanced degrees. Other research concerns dental restoratives, copper, and alloys.

The article is to be also used to demonstrate fracture modes in a course, "Scanning Electron Miscroscopy."

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an 18° focussed and 11° collimated 2 theta deflection of the beam which permits the production of meaningful pseudo Kikuchi patterns, whereas the published specifications of available domestic scanning electron microscope do not indicate a similar capability. The capability of providing these patterns is pertinent to the applicant's research studies. We are advised by the National Bureau of Standards (NBS) in its memorandum dated December 11, 1970, that it knows of no comparable domestic instrument which has provided this pertinent capability. We cite as a precedent NBS's prior recommendation relating to Docket No. 70-00438-65-46070 which conforms in many particulars to the captioned application.

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

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-5285 Filed 4-15-71;8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70-00526-33-46070. Applicant: University of California, Davis, Calif. 95616. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will become a part of the facility for advanced instrumentation. As a research tool, it will be used by a large number of investigators from the College of Agriculture, the College of Engineering and the School of Veterinary Medicine. Studies concern the surfaces of plant pathogenic fungal spores and bacteria; the surface topography of nucleating thin films, diagnostics of integrated circuits, and emulsion studies of hologram plates; and the mucosa of the respiratory system, relating to ultrastructural studies concerning the reaction of the respiratory system to injury, especially that produced by air pollutants.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 13, 1969).

Reasons: Captioned application is a resubmission of Docket No. 69-00693-33-46070 which was received on June 26, 1969, and denied without prejudice to resubmission due to informational deficiencies contained therein. The applicant requires micrographs of the highest quality for a variety of studies including the examination of the details of bacteria, the illucidation if viral-insect relationships and the improvement of preparative methods for biological specimens. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model SM-2 scanning electron microscope manufactured by Ultrascan Corp. which was formerly doing business as the K Square Corp. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated June 5, 1970, that the micrographs produced routinely with the foreign article were superior in quality to the micrographs that could be routinely produced with the Model SM-2 at the time the foreign article was ordered. HEW further advises that this difference in picture quality is pertinent to the applicant's research studies. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00514-33-46070 which conforms in many particulars to the capitioned application.

We, therefore, find that the Model SM-2 was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

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

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-5286 Filed 4-15-71;8:46 am]

UNIVERSITY OF DAYTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70-00380-65-46070. Applicant: University of Dayton, 300 College Park Avenue, Dayton OH 45409. Article: Scanning electron microscope with liquid nitrogen cold finger, Models JSM-U3 and JSM-LNT. Manufacturer: Japan Electron Optics Lab. Co., Japan.

Intended use of article: The article will be used for research purposes such as the determination of secondary electron emission coefficients for ceramic oxides under 5- to 50-kv. incident electron probes; high resolution transmission scanning electron microscopy of ceramic orthopedic implants; initial stage sintering of ultrafine particles; and surface diffusion and grain boundary grooving in oriented bicrystals. The article will also be used for educational and instructional purposes.

Comments: Comments have been received from K Square Corp. (K Square) now doing business as Ultrascan Corp. (Ultrascan) dated January 8, 1970 which alleged inter alia that it offers a domestic instrument which can meet or exceed all of the specifications of the foreign article.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a guaranteed resolving power of 200 angstroms combined with a guaranteed specimen height during tilting and rotation for stereo-pair viewing without refocusing for specimens greater than 14 millimeters (mm.). The most closely comparable instruments are the Model 700, scanning electron microscope (SEM), manufactured by the Materials Analysis Co. (MAC) and the Model SM-2, SEM, manufactured by K Square—Ultrascan. Neither of these instruments provide both a resolving power of 200 angstroms and a guaranteed specimen height during tilting and rotation for stereo-pair viewing without refocusing for specimens greater than 14 mm. We are advised by the National Bureau of Standards (NBS) in its memorandum dated September 30, 1970, that the combination of a resolving power of 200 angstroms and a guaranteed specimen height during tilting and rotation for stereo-pair viewing without refocusing for specimens greater than 14 mm., are pertinent characteristics for the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model 700 and Model SM-2 are not of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-5287 Filed 4-15-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ENVIRONMENTAL EDUCATION PROGRAM

Notice of Closing Date for the Submission of Applications

The Environmental Education Act, Public Law 91-516, authorizes a program of grants to institutions of higher education, State and local educational agencies, regional educational research organizations and other public and private nonprofit agencies, organizations, and institutions to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance.

I. From funds appropriated for fiscal year 1971, applications may be submitted for the support of the following listed activities. These activities are divided between two general priority groups. Activities falling within Priority Group I are considered to be of primary importance and applications for their support will generally be preferred to those activities falling within Priority Group II. However, in some cases, where justified by special circumstances such as an exceptionally promising and well formulated proposal or in order more appropriately to supplement other environmental education activities being carried out in the area to be served, an application for an activity falling within Priority Group II may be considered on the same basis as those activities falling within Priority Group I. The activities within each priority group are not listed in order of preference. In the exceptional case where a proposal for a comprehensive environmental education model meets the requirements of paragraph E below, it shall receive special consideration.

PRIORITY GROUP I

A. *Community environmental education projects.* Pilot and demonstration broadly based community environmental education projects, including those projects which provide for participation of adults, which are designed to promote understanding of the environment and of local environmental problems and to encourage individual participation in resolving such problems;

B. *Special evaluation and dissemination activities.* Research and demonstration projects to be conducted by task forces meeting the criteria set out at Part II-J below and designed to evaluate the effectiveness of environmental education activities, whether or not such activities are otherwise assisted under the Environmental Education Act;

C. *Environmental education centers.* The development and operation of pilot and demonstration environmental education centers designed to provide services and resources to assist students, teachers, and community organizations in their efforts to pursue environmental studies; such centers must be designed to meet specific needs of groups within a broad (generally multi-county) area of a State;

D. *Noneducational personnel development—inservice.* Pilot and demonstration short-term, inservice training projects for public service and government employees and business, labor and industrial leaders and employees designed to prepare them to recognize and deal with issues of environmental quality and ecology;

E. *Comprehensive environmental education models.* Demonstration models in comprehensive education activities to be conducted by community organizations and institutions; such projects differ from community environmental education projects described under A above in that they must (1) provide for substantial participation of schools; such participation must include out of classroom learning experiences for students; and (2) further a comprehensive community environmental education plan, which (a) has been developed by all major community institutions and groups including local educational agencies, (b) is designed to contribute significantly to the long-term improvement of both the educational process and the quality of life in the community; and (c) serves persons at all educational levels;

PRIORITY GROUP II

F. *Educational personnel training—inservice.* Pilot and demonstration training projects designed to prepare teachers and administrators of local educational agencies, community colleges, and technical institutes to carry out environmental education plans formulated by such agencies, colleges, and institutes. Such projects shall be carried out by or under the supervision of local educational agencies, community colleges, and technical institutes, and shall provide for reinforcement of any formal training made available for at least 6 months following its conclusion;

G. *Curriculum development — supplementary materials.* The development by students and teachers of demonstration instructional materials designed to supplement existing environmental education curricula and/or to introduce environmental studies into traditional curricula. Where an applicant is an educational institution, it must demonstrate a commitment to use materials developed. In the case of projects funded under this part in an amount in excess of 50 percent of their total cost, preference will be given to the development of materials which can be completed and ready for use within 12 months of receipt of Federal assistance;

H. *Evaluation projects.* Demonstration projects to be conducted by educational organizations, agencies and institutions designed to evaluate the effectiveness of environmental education activities, whether or not such activities are otherwise assisted under the Environmental Education Act. Such projects must significantly assist planning and program development at Federal, State, and local levels and must employ an evaluation design which contains elements which may be used to evaluate any environmental education program in the United States;

I. *Dissemination.* The dissemination through both print and nonprint media of a broad range of information about environmental education by private agencies, institutions and organizations to organizations concerned with issues of environmental quality ad ecology as well as to the general public;

J. *Curriculum development—new curricula.* Pilot and demonstration projects to be conducted by educational agencies, organizations, and institutions to develop new curricula in the preservation and enhancement of environmental quality and ecological balance; curricula developed under this part shall

(1) Grow out of an empirical investigation of one or more environmental problems;

(2) Be multidisciplinary or adisciplinary;

(3) Making maximum use of community resources and encourage student exploration of environmental problems;

(4) Make significant use of student experiences and provide for maximum possible student self-direction in the establishment and achievement of educational objectives;

(5) Be an integral part of an environmental education program;

K. *Workshops for government personnel.* Pilot or demonstration in-service training workshops for government employees designed to assist government agencies and instrumentalities in carrying out their functions in an environmentally sound manner and in developing and administering environmental education programs; preference under this part will be given to those workshops serving employees who either administer environmental education programs or administer resources used by or of potential use to such programs. No agency or instrumentality of Federal, State, or local government shall be eligible under this part to receive a grant to conduct a workshop for its own employees. Workshops supported under this part may be made available only to employees of agencies which

(1) Demonstrate that they are unable to conduct such workshops themselves or, in the case of Federal agencies, through the Civil Service Commission;

(2) Approve the participation of their employees and support such participation through such measures as providing paid leave time and defraying per diem and travel expenses incurred in attending the workshops;

(3) Provide reasonable assurance that they will use the training provided by the workshops;

L. *Elementary and secondary education programs.* Provide for demonstration projects in environmental education to be conducted by local educational agencies in elementary and secondary schools. Assurance must be given that the project will be able to continue after withdrawal of Federal support either in a self-sustaining fashion or as part of a community environmental education program;

M. *Noneducational personnel training—preservice.* Pilot preservice training projects to be conducted by institutions of higher education for persons preparing for professional careers in fields other than education designed to acquaint them with the relationships of environmental issues to their professions;

N. *Educational personnel training—preservice.* Demonstration preservice training projects to be conducted by institutions of higher education designed to prepare teachers, administrators and other educational personnel of local educational agencies, community colleges and technical institutes to carry out programs of environmental education;

II. Grants for the activities described in Part I may be made available only upon application to the Commissioner of Education. An application may be approved only if it

A. Meets the criteria set out at section 3(a)(3)(A) of the Environmental Education Act;

B. Provides for submission to the Office of Environmental Education of all materials produced under the project and of the evaluations of project activities undertaken pursuant to section 3(a)(3)(A)(iii) of the Act;

C. Except for project involving development of new curricula, dissemination of curricular materials and evaluation, provides that at least 20 percent of the cost shall be defrayed by the applicant; within this general standard, the percentage of project costs to be funded under this program will depend on (1) the extent to which funding from other sources is available to the applicant, and (2) the quality of the project;

D. Provides in the case of pilot and demonstration projects, a description of the conditions under which the project could be replicated and the obstacles to successful replication;

E. Provides, to the extent possible, for the participation of students in the development and implementation of the project;

F. Assures that reasonable efforts have been made to secure funds from all other likely sources of support for the proposed project;

G. Demonstrates that the project will make maximum use of all relevant resources of the community to be served;

H. Demonstrates that the project will build upon and in no case duplicate previously undertaken activities;

I. In the case of applications by local educational agencies, indicates that the State educational agency has been notified of the application and been given an opportunity to offer recommendations;

J. In the case of applications submitted under Part I–B above, demonstrates that in the State where the project is to be conducted, the applicant task force is engaged in and has as a principal purpose the development of a comprehensive environmental education plan either for the entire State or for a designated area within the State, as a step toward the development of a statewide plan. A task force should (1) have broad representation from fields such as public and private elementary and secondary education, higher education, conservation, health, environmental protection, journalism, business and industry, and labor; (2) have enlisted the cooperation of the major environmental and educational institutes, agencies, and resources within the State, and (3) demonstrate that sufficient funds from other than Federal sources will be available to carry out the planning effort.

III. *Small grant programs.* Under this program, grants, in amounts not to exceed $10,000 annually may be made to nonprofit organizations such as citizens groups, volunteer organizations working in the environmental field, and other public and private nonprofit agencies, institutions or organizations for conducting courses, workshops, seminars, symposiums, institutes and conferences, especially for adults and community groups. Priority of funding will be given to those proposals demonstrating innovative approaches to environmental education except that an application may be approved only if it (a) demonstrates that the applicant organization has been in existence for at least one year prior to the submission of its application, (b) provides for submission to the Office of Education of all materials produced under the grant and (c) provides, in the case of public agencies, that at least 20 percent of the cost of the project shall be defrayed by the applicant.

IV. In order to be assured of consideration for funding from appropriations for fiscal year 1971, an application for assistance under the Act must be postmarked not later than 40 days following the publication of this notice in the FEDERAL REGISTER. Application forms may be obtained from and are to be filed with the Office of Priority Management, Office of Education, 400 Maryland Avenue SW., Washington, DC 20201. All grants for the support of activities covered by this notice shall be made subject to standard terms and conditions appropriate thereto. A copy of such terms and conditions shall be made available to prospective applicants together with the grant application procedures.

Assistance made available under the Environmental Education Act is subject to the regulation in 45 CFR Part 80 issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (20 U.S.C. 4000d).

Except as otherwise provided by law, this notice is effective 30 days after its publication in the FEDERAL REGISTER.

Dated: April 6, 1971.

S. P. MARLAND, Jr.,
U.S. Commisioner of Education.

Approved: April 14, 1971.

JOHN G. VENEMAN,
Acting Secretary, Health, Education, and Welfare.

[FR Doc.71-5384 Filed 4-15-71;8:52 am]

Public Health Service

ASSISTANT SECRETARY FOR HEALTH AND SCIENTIFIC AFFAIRS AND BUREAU OF OCCUPATIONAL SAFETY AND HEALTH

Delegations of Authority

Notice is hereby given that the following delegations of authority have been made under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

1. Delegation from the Secretary, DHEW, to the Assistant Secretary for Health and Scientific Affairs to exercise all authorities vested in the Secretary by the Act except the authority: (1) to designate members of the National Advisory Committee on Occupational Safety and Health or any committee established under section 7 of the Act, and (2) to appoint the Director of the National Institute for Occupational Safety and Health established by section 22 of the Act. The delegated authority may be redelegated.

2. Delegation from the Assistant Secretary for Health and Scientific Affairs to the Director, Bureau of Occupational Safety and Health to exercise all authorities delegated to the Assistant Secretary for Health and Scientific Affairs by the Secretary under the Occupational Safety and Health Act of 1970.

Dated: April 8, 1971.

RONALD BRAND,
Deputy Assistant Secretary for Management.

[FR Doc.71-5346 Filed 4-15-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

ASSISTANT ADMINISTRATOR, OFFICE OF PROGRAM OPERATIONS

Revocation of Redelegation of Authority With Respect to Urban Mass Transportation Program

The redelegation of authority to William O. Adams, Transportation Representative, Office of Program Operations.

Urban Mass Transportation Administration, dated February 13, 1969 (34 F.R. 2370), is hereby revoked, effective April 8, 1971.

Issued in Washington, D.C., on April 8, 1971.

CARLOS C. VILLARREAL,
Urban Mass Transportation Administrator.

[FR Doc.71-5354 Filed 4-15-71;8:52 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-130]

NORTHERN STATES POWER CO.

Order Authorizing Dismantling of Facility

By Application Amendment No. 50 dated February 26, 1971, and supplement thereto dated March 23, 1971, the Northern States Power Co. of Minneapolis, Minn., requested authorization to dismantle the Pathfinder Generating Plant under Facility License No. DPR-11 in accordance with the "Pathfinder Dismantling Plan" dated January 19, 1971, included as an attachment to the amendment. The Pathfinder Generating Plant, located near Sioux Falls, S. Dak., has been shut down since September 16, 1967, and has been maintained in a deactivated status since 1969.

We have reviewed the application amendment in accordance with the provisions of the Atomic Energy Commission's regulations and have found that the dismantlement, decontamination, and disposal of the component parts and byproduct and special nuclear materials in accordance with the regulations in 10 CFR Chapter I and the application amendment will not be inimical to the common defense and security to to the health and safety of the public.

Accordingly, it is hereby ordered that the Northern States Power Company may dismantle the Pathfinder Generating Plant covered by Facility License No. DPR-11, as amended, in accordance with its Application Amendment No. 50 dated February 26, 1971, and the Commission's regulations.

After completion of the dismantlement of the Pathfinder facility, decontamination of the facility site, disposal of the component parts and byproduct and special nuclear materials, the submission of a report describing the condition of the remaining structures, the issuance of a byproduct material license to cover any remaining radioactivity, and an inspection by representatives of the Atomic Energy Commission, consideration will be given to the issuance of a further order terminating Provisional Facility License No. DPR-11.

Concurrent with the issuance of this order, the Commission is issuing Change No. 20 which completely revises the Technical Specifications of Facility License No. DPR-11 for the Pathfinder Generating Plant to reflect those conditions pertinent to dismantling of the facility and its subsequent dismantled status.

Date of issuance: April 8, 1971.

This order is effective as of the date of issuance.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-5298 Filed 4-15-71;8:47 am]

SAFETY GUIDES FOR NUCLEAR POWER PLANTS

On November 13, 1970, the Atomic Energy Commission announced the development of a series of safety guides to provide guidance as to the acceptability of specific safety-related features of water cooled nuclear power plants. The primary purpose of the safety guides is to make available to the industry positions that have been developed by the Regulatory Staff and the Commission's Advisory Committee on Reactor Safeguards on safety issues. The safety guides are not regulatory requirements and compliance with them is not required. They will, however, specifically identify safety issues that should be considered in the design and in the evaluation of water cooled nuclear power plants and will describe a set of principles and specifications which will represent an acceptable solution to the Regulatory Staff and Advisory Committee on Reactor Safeguards on these issues. If different solutions are chosen by an applicant, the present procedure of evaluation on an individual basis will be followed.

Four guides with the following titles were made available on November 13, 1970:

1. Net Positive Suction Head for Emergency Core Cooling and Containment Heat Removal System Pumps.
2. Thermal Shock to Reactor Pressure Vessels.
3. Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss of Coolant Accident for Boiling Water Reactors.
4. Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss of Coolant Accident for Pressurized Water Reactors.

Nine guides have been completed since the first guides were issued and are now available for distribution. Titles of the guides are:

5. Assumptions Used for Evaluating the Potential Radiological Consequences of a Steam Line Break Accident for Boiling Water Reactors.
6. Independence Between Redundant Standby (Onsite) Power Sources and Between Their Distribution Systems.
7. Control of Combustible Gas Concentrations in Containment Following a Loss of Coolant Accident.
8. Personnel Selection and Training.
9. Selection of Diesel Generator Set Capacity for Standby Power Supplies.
10. Mechanical (Cadweld) Splices in Reinforcing Bars of Concrete Containments.
11. Instrument Lines Penetrating Primary Reactor Containment.
12. Instrumentation for Earthquakes.
13. Fuel Storage Facility Design Basis.

Other safety guides currently being developed include the following:

Assumptions Used for Evaluating the Potential Radiological Consequences of a Fuel Handling Accident for Boiling and Pressurized Water Reactors.
Industrial Sabotage.
Reactor Coolant Pump Flywheel Integrity.
Vibration Monitoring.
Testing of Reinforcing Bars for Concrete Structures.
Radioactive Gas Storage Tank Failure Assumptions.
Reactor Coolant Pressure Boundary Leakage Detection.
Monitoring and Reporting of Effluents and Environmental Levels.
Quality Assurance for Design of Nuclear Power Plants.
Structural Acceptance Tests for Concrete Containments.
Reporting of Safety Information.

Comments and suggestions for improvements in the guides are encouraged. Comments and requests for copies of the guides should be sent to the Director, Division of Reactor Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated: April 3, 1971.

For the Atomic Energy Commission.

HAROLD L. PRICE,
Director of Regulation.

[FR Doc.71-5290 Filed 4-15-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23279; Order 71-4-53]

BELLAIR EXPEDITING SERVICE, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of April 1971.

By tariff revision [1] filed March 9, 1971, and marked to become effective April 12, 1971, Bellair Expediting Service, Inc. (Bellair), an air freight forwarder, proposes to increase from 15 to 20 cents its excess valuation charge for each $100, or fraction thereof, by which the declared value of a shipment exceeds 50 cents per pound or $50 per shipment, whichever is higher. No complaints have been filed.

Most major forwarders currently have in effect an excess value charge of 15 cents per $100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess value charges above this level where no showing has been made that existing excess value revenues do not cover the amount of

[1] Revision to Bellair Expediting Service, Inc. Tariff CAB No. 1.

claim expense stemming from declarations of excess value.[2] Bellair has not submitted any data on the relationship between its excess value revenues and losses attributable to declarations of excess valuation or any other statement supporting its proposal.

Upon consideration of all relevant factors, the Board finds that the proposed excess valuation charges may be unjust, unreasonable, unjustly discriminatory unduly preferential, unduly prejudicial or otherwise unlawful, and should be investigated. We further conclude that the proposed charge should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof.

It is ordered, That:

1. An investigation be instituted to determine whether the charge and provisions in Rule No. 110(2) on 1st Revised Page 9 of CAB No. 1 issued by Bellair Expediting Service, Inc., and rules, regulations, or practices affecting such charge and provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, Rule No. 110(2) on 1st Revised Page 9 of CAB No. 1 issued by Bellair Expediting Service, Inc., is suspended and its use deferred to and including July 10, 1971, 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;

3. The proceeding herein designated as Docket 23279, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Bellair Expediting Service, Inc., who is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-5329 Filed 4-15-71;8:50 am]

[2] The Board suspended, pending investigation, increased excess valuation charges proposed by: (1) Shulman Air Freight (Order 69-5-78, May 19, 1969, and Order 69-9-107, Sept. 18, 1969); (2) Eagle Air Dispatch, Inc. (Order 69-10-155, Oct. 31, 1969); (3) Satellite Air Freight, Inc. (Order 70-10-92, Oct. 19, 1970); (4) Hop Air Freight Forwarder, Inc. (Order 70-11-84, Nov. 19, 1970); (5) L.T.C. Air Cargo Inc. (Order 71-2-117, Feb. 26, 1971); and (6) Trans Air Freight System (Order 71-3-94, Mar. 17, 1971).

[Docket No. 20993; Order 71-4-47]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 8, 1971.

By Order 71-3-143, dated March 24, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 71-3-143 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22096, R-13 through R-24, be and hereby is approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall not be made to implement the agreement prior to this date, and such tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-5330 Filed 4-15-71;8:50 am]

[Docket No. 22628; Order 71-4-51]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority April 9, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement amends an IATA resolution recently approved by the Board[1] as agreed upon at the 1970 Worldwide Passenger Fare Conference, held in Honolulu, in that it would permit, as regards the special fares for groups of 100 or more originating in Germany, the travel group to include dependents of military personnel and excludes the military and their dependents from the solicitation, payment, and ticketing provisions which normally apply to group transportation.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Agreement CAB 22366, JT12(Mail 766)076e is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22366 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-5331 Filed 4-15-71;8:50 am]

[Docket No. 23271; Order 71-4-45]

SOUTHERN AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of April 1971.

By tariff revisions[1] effective April 22, 1971, Southern Airways, Inc. (Southern) proposes to establish adult standby fares in 19 markets. The proposed fares are 66⅔ percent of the applicable standard-class fare, and are valid only on flights making two or more intermediate stops. The fares apply at all times and standby passengers may not be disembarked en route. The fares are marked to expire December 31, 1971.

In support of its proposal, Southern alleges that there is a substantial market of bus/train users (who are not on the rigid time schedule of businessmen) who are extremely cost-conscious, and that it is this group of potential passengers that will be attracted to its standby fares. The carrier further asserts that the fares will create sources of new revenue which can be realized at below normal costs, and that the fares will be stimulative in nature rather than diversionary from itself or other carriers. It also alleges that its proposal is almost identical with the adult standby tariff of Frontier Airlines, Inc. (Frontier)—the only difference being that its tariff is more restrictive in that Frontier's fares are applicable on flights making one or more intermediate stops while Southern's is applicable on flights making two or more stops. Southern estimates that the proposed fares will generate $250,000 in additional revenue during 1971.

[1] Order 71-3-87, Mar. 16, 1971.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB Nos. 136 and 142.

Delta Air Lines, Inc. (Delta) and Eastern Air Lines, Inc. (Eastern) have filed complaints against Southern's proposal. Both carriers contend that Southern's instant proposal contains the same infirmities as its earlier adult standby filing which was suspended by the Board.[2] The complaints against Southern's proposal. be diversionary—primarily from the trunkline carriers operating in the markets and to a limited extent from Southern itself. It is further alleged that Frontier's adult standby fares are clearly distinguishable because that carrier has a significant participation in most of the markets where it offers adult standby fares, whereas Southern's maximum participation in any of the proposed markets is 3.2 percent (based on 1969 origin and destination data). Delta and Eastern assert that the risk of the experiment will be borne by carriers other than the one proposing the fare, and that the proposal is thus clearly unreasonable.

In answer to the complaints Southern submits that the inability of passengers to confirm a seat plus the extended elapsed time of his travel (because of the two - intermediate - stop requirement) combine to support a conclusion that only minimal, if any, regular-fare traffic will be diverted. With respect to its 1969 traffic participation, Southern states that it was authorized to serve two of the markets beginning the latter part of 1969, and in 11 other markets service was not inaugurated until February or April of 1970. Southern further asserts that its present proposal was structured so as to remove the Board's objections to its previous filing, and that this has been achieved by limiting the fares to markets where it provides single-plane service and has a legitimate market interest.

Southern's instant adult standby fare proposal is substantially the same as the proposal which the Board suspended earlier this year—the only difference being that this proposal is limited to 19 markets which have single-plane service whereas the earlier proposal contained 43 markets, many of which entailed connecting service. We continue to believe that the proposal may be unlawful, since in our view it would result primarily in diversion, with little or no new traffic generation. We are also concerned with the fact that Southern's traffic participation in the proposed markets, like its earlier proposal, is quite limited, and other carriers would bear the risk of this experiment. In view of the foregoing we find it necessary to suspend the proposal pending investigation of its lawfulness.

Upon consideration of the tariff filing, the complaints and answer thereto, and all relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. We further conclude that these fares should be suspended pending investigation.

[2] Order 71-1-145, Jan. 29, 1971.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the SU class fares and provisions described in Appendix A hereto, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[3] are suspended and their use deferred to and including July 20, 1971, 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;

3. Except to the extent granted herein, the complaints of Delta Air Lines, Inc., in Docket 23223, and Eastern Air Lines, Inc., in Docket 23225 are hereby dismissed;

4. The investigation ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. A copy of this order be filed with the aforesaid tariffs and be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., and Southern Airways, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-5332 Filed 4-15-71;8:50 am]

[3] Dissenting statement of Members Murphy and Minetti and Appendix A filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

ATHENA CORP.

Denial of Petition for Food Additive Chlordane

In the FEDERAL REGISTER of January 21, 1970 (35 F.R. 820) notice was given of the filing of a petition (FAP OH2489) by Athena Corp., 4838 Woodall, Dallas, TX 75247, proposing the issuance of a regulation to provide for the safe use of the insecticide chlordane as a component of shelf paper.

Based on consideration of the data submitted in the petition and other relevant material, it is concluded that residues in exposed food from the proposed use of chlordane-treated shelf paper could vary from nondetectable up to about 16 parts per million depending upon the type and form of food, ventilation of the area, and the length of time the food is exposed to the shelf paper; that the usage would result in residues higher than reasonably necessary to accomplish the intended effect since the insecticide would be transmitted to the food continuously even in the absence of insects; and that the proposed use could result in an appreciable increase in the amount of chlordane in the human diet. Therefore, on the basis of the above and the demonstrated toxicity of chlordane, the proposed use of chlordane-treated shelf paper is not considered safe.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1)(B), 72 Stat. 1786; 21 U.S.C. 348(c)(1)(B)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), the petition (FAP OH2489) is denied and it is so ordered.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1)(B), 72 Stat. 1786; 21 U.S.C. 348(c)(1)(B))

Dated: April 8, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-5266 Filed 4-15-71;8:45 am]

PENNWALT CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)) notice is given that a petition (PP 1F1057) has been filed by Pennwalt Corp., Post Office Box 1297, Tacoma, WA 98401, proposing the establishment of a tolerance (21 CFR Part 420) of 0.2 part per million for negligible residues

of endothall (7-oxabicyclo (2.2.1) heptane-2,3-dicarboxylic acid) in or on the raw agricultural commodity potatoes from use of its mono-*N,N*-dimethylalkylamine salt as a desiccant.

The analytical method proposed in the petition for determining residues of endothall is a procedure in which the endothall residues are reacted with 2-chloroethylamine hydrochloride to produce the corresponding imide derivative. The imide is determined by microcoulometric gas chromatography with a nitrogen detection system.

Dated: April 8, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-5267 Filed 4-15-71;8:45 am]

FEDERAL MARITIME COMMISSION

ROYAL VIKING LINE A/S

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Royal Viking Line A/S, Gabelsgate 1 B, Oslo 2-Norway.

Dated: April 12, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-5340 Filed 4-15-71;8:51 am]

HOUSEHOLD GOODS FORWARDERS ASSOCIATION OF AMERICA RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval purusant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Calvin W. Stein, president, Household Goods Forwarders Association of America, Inc., Suite 525, 1500 Massachusetts Avenue NW., Washington, DC 20005.

Agreement No. 9510-1, among the members of the Household Goods Forwarders Association of America Rate Agreement, modifies the basic agreement self-policing provisions pursuant to General Order 7 (Revised) by deleting the existing paragraph (12) and substituting therefor a new paragraph (12).

Dated: April 13, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-5341 Filed 4-15-71;8:51 am]

TOLEDO OVERSEAS TERMINALS CO. AND CERES INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. Thomas D. Wilcox, 919 Eighteenth Street NW., Washington, DC 20006.

Agreement No. T-2509, between Toledo Overseas Terminals Co. (TOT) and Ceres Incorporated (Ceres), provides for the sale of Ceres' terminal facilities and equipment at the Presque Isle site of the Toledo-Lucas County Port Authority to TOT. The agreement further provides that Ceres will assign to TOT the lease entered into between Ceres and the Toledo-Lucas County Port Authority, covering Berths 5, 6, and 7 at the Authority's Presque Isle site. The above assignments are subject to the Authority's approval. As compensation for the above, TOT will pay Ceres $125,000. The agreement also provides that TOT will appoint Ceres its Soliciting Agent under terms and conditions set forth in a Soliciting Agency Agreement which is attached to and made a part of Agreement No. T-2509.

Dated: April 13, 1971.

By order the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-5342 Filed 4-15-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI71-921, etc.]

CONTINENTAL OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

APRIL 7, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

[1] Does not consolidate for hearing or dispose of the several matters herein.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-921	Continental Oil Co.	339	3	El Paso Natural Gas Co. (Angels Peak, Aztec, and Blanco Fields, San Juan County, N. Mex.) (San Juan Basin).	$5,700	3-15-71		[11] 5-16-71	[28] 13.0	[28] 14.0	
RI71-922	Mobil Oil Corp.	448	2	Transwestern Pipeline Co. (Rock Tan K (Morrow) Field, Eddy County, N. Mex.) (Permian Basin).	133	3-12-71		[11] 5-13-71	16.48	[1] 17.2564	
	do	469	1	Transwestern Pipeline Co. (South Carlsbad (Morrow) Field, Eddy County, N. Mex.) (Permian Basin).	645	3-12-71		[11] 5-13-71	[2] 24.64	[2] 29.839	
RI71-923	W. A. Moncrief	4	1	El Paso Natural Gas Co. (Moncrief-Masten Devonian Field, Cochran County, Tex.) (Permian Basin).	48,600	3-15-71		5-16-71	22.0	26.5	
RI71-924	Atlantic Richfield Co.	241	17	Transcontinental Gas Pipe Line Corp. (La Gloria Field, Jim Wells and Brooks Counties, Tex., RR. District No. 4).	[7] 46,185	3-15-71		[11] 5-16-71	[4] 11.04407 [5] 12.0444 [6] 13.0481	[12] 19.0	
RI71-925	The California Co., a division of Chevron Oil Co.	66	1	Texas Eastern Transmission Corp. (Northeast Nada Field, Colorado County, Tex., RR. District No. 3).	3,937	3-15-71		[11] [13] 5-16-71	17.0	18.07875	
	do	51	[8] 7	Sea Robin Pipe Line Co. (Block 41, South Marsh Island Area, Offshore Louisiana).	2,472	3-17-71		[16] 5-2-71	[14] [38] 17.1292	[9] [38] 21.25	
RI71-926	American Petrofina Co. of Texas.	37	[10] 5	Valley Gas Transmission Co. (McNeil Field, Live Oak County, Tex., RR. District No. 2).	266	3-17-71		[11] 5-18-71	15.05625	16.06	RI70-1578.
RI71-927	The California Co., a division of Chevron Oil Co.	63	1	Transcontinental Gas Pipe Line Corp., (High Island Area, Offshore Jefferson County, Tex.).	109,500	3-17-71		[11] 5-18-71	15.81	16.81	
RI71-928	Pennzoil Producing Co.	253	[17] 12	United Gas Pipe Line Co.[16] (West Tuleta Field, Bee County, Tex., RR. District No. 2).		3-12-71	4-12-71	[37] Accepted			
	do	253	13	do	46,133	3-12-71	4-12-71	9-12-71	17.2601	24.25 RI 70-282.	
RI71-929	Gilfring Oil Co.	1	[19] 9	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Agua Dulce Field, Neuces County, Tex., RR. District No. 4).		3-17-71	4-17-71	[37] Accepted			
	do	1	10	do	137,725	3-17-71	4-17-71	9-17-71	[18] [39] 17.24347	24.25	
RI71-930	Sun Oil Co.	251	[10] 2	Southern Natural Gas Co. (Main Pass Field, Offshore Southern Louisiana).	33,018	3-8-71		[15] 4-23-71	[21] 17.0 [20] [38] 18.5	[9] [38] [22] 26.046	
RI71-931	Robert P. Evans et al.	1	[26] 4	United Gas P/L Co. (Sibley Field, Webster Parish, Northern Louisiana).		3-15-71	4-15-71	[37] Accepted			
	do	1	5	do	8,940	3-15-71	4-15-71	4-16-71	[24] [25] 13.5508	[25] 16.0	
RI71-932	Marathon Oil Co.	83	[27] 14	Lone Star Gas Co. (East Durant Field, Bryan County, Oklahoma Other Area).	2,931	3-18-71		[11] 5-19-71	15.0	19.015	
RI71-933	Phillips Petroleum Co.	276	4	Louisiana-Nevada Transit Co. (Red Rock and North Shongaloo Fields, Webster Parish, Northern Louisiana).	135	3-18-71		[11] 5-19-71	[28] [38] 18.75	[28] [38] 19.75	RI66-324.
RI71-934	Tenneco Oil Co.	95	[29] 12	Arkansas Louisiana Gas Co. (Sentell Field, Bossier Parish, Northern Louisiana).		3-19-71	4-19-71	[37] Accepted			
	do	95	13	do	[30] 29,469	[34] 3-9-71		[11] 5-10-71	[31] [33] [38] 14.8533 [31] [35] [38] 14.8533	[31] [33] [38] 19.0 [31] [35] [38] 21.0	

See footnotes at end of document.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-935..	Cities Service Co. et al.	22	15	Texas Eastern Transmission Corp. (Greenwood Area, Caddo Parish, Northern Louisiana).	8,197	3-22-71	.....	[11] 5-23-71	[35] [36] [38] 15.75	[36] [38] 17.8519	

*Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes 0.10 cent deduction for treating costs.
[2] 22-cent base rate plus upward B.t.u. adjustment for 1,126 B.t.u.'s from a base of 1,050 B.t.u.'s per cubic foot.
[3] 26.5-cent base rate plus upward B.t.u. adjustment for 1,126 B.t.u.'s from a base of 1,000 B.t.u.'s per cubic foot.
[4] For gas that does not require compression or for gas compressed by buyer.
[5] For gas presently compressed by buyer, the facilities for the operation of which seller may elect to take over.
[6] For gas requiring compression, the facilities for which seller elects to maintain and operate.
[7] Based on the assumption that all gas was sold at 12.0444 cents which may or may not be true as the gas may be sold at one, two, or three rates.
[8] For casinghead gas only.
[9] Increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413 issued Oct. 27, 1970.
[10] As corrected.
[11] 61 days from date of filing.
[12] Unilateral increase upon expiration of contract on Apr. 1, 1971.
[13] Or 1 day from date of initial delivery, whichever is later.
[14] Inclusive of B.t.u. adjustment.
[15] 45 days from date of filing.
[16] Both buyer and seller are wholly owned subsidaries of Pennzoil United, Inc.
[17] Agreement dated Feb. 24, 1971, provides among other things for extension of contract term and for renegotiated rates specified therein.
[18] Subject to a 0.21931-cent dehydration charge for gas dehydrated by buyer. ESR in Docket No. RI60-441.
[19] Agreement dated Mar. 1, 1971, provides among other things for extension of contract term and for renegotiated rates specified therein.
[20] For Casinghead gas.
[21] For gas well gas.
[22] Includes 4.796-cent upward B.t.u. adjustment for 1,287 B.t.u.'s gas.
[23] Previously shown as 17.02416 cents which is the rate after deduction of 0.21931 cent dehydration charge.
[24] Includes 1.5-cent tax reimbursement.
[25] Subject to a deduction for compression of 0.75 cent paid by seller to buyer.
[26] Amendment dated Jan. 1, 1971, provides for increased rate and extends term of contract 10 years.
[27] Applicable only to acreage added by Supplement No. 12.
[28] Base rate subject to downward B.t.u. adjustment.
[29] Amendment dated Feb. 9, 1971, provides for increased rates.
[30] No production shown.
[31] Includes 1.3333-cent tax reimbursement.
[32] For all gas from the surface down to and including the Bodcaw Sand.
[33] For all gas below the Bodcaw Sand.
[34] As corrected by later filing of Mar. 25, 1971.
[35] Settlement rate in Docket No. G-8921 et al., issued Dec. 26, 1962.
[36] Includes 1.75-cent tax reimbursement.
[37] Accepted to become effective on the date shown in the "Effective Date" column. The acceptance of the agreements filed by Gillring and Tenneco are subject to the conditions prescribed elsewhere in this order.
[38] Pressure base is 15.025 p.s.i.a.

The agreements filed by Tenneco Oil Co. and Gillring Oil Co. in addition to providing for the proposed increased rates also provide for future escalations to any higher area ceiling or settlement rate prescribed by the Commission. The provisions relating to the area rate do not conform with § 154.93(b-1) of the Commission's regulations. Consistent with Commission action taken on similar filings not in conformity with § 154.93(b-1), the agreements are accepted for filing upon expiration of statutory notice with the condition that the provisions relating to the area rate will only apply upon the Commission's approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage. Additionally such agreements are accepted for filing only insofar as they pertain to the reserves specified therein and the increases are limited only to gas produced from such reserves. Also, respondents are advised that the acceptance of such agreements does not constitute any authorization to abandon any acreage covered by the original contracts which is not covered by these agreements.

All of the Southern Louisiana increases are suspended for a period ending 45 days from the respective dates of filing or 1 day from the requested or contractually due dates, whichever is later, consistent with prior Commission action on Southern Louisiana increases exceeding the area rates set forth in Opinions Nos. 546 and 546-A. The proposed increased rates in areas outside Southern Louisiana which exceed the corresponding rate limitation for increased rates in Southern Louisiana are suspended for 5 months upon expiration of statutory notice period. The proposed increase of Robert P. Evans is suspended for 1 day from the date of expiration of 30 days' notice because the contract is dated subsequent to the date of issuance (September 28, 1960) of the Commission's statement of general policy No. 61-1 and the proposed rate does exceed the applicable area initial rate ceiling set forth in such policy statement.

Certain respondents request either waiver of notice or effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc.71-5191 Filed 4-15-71;8:45 am]

[Docket No. CP71-164]

CITY OF DeQUEEN, ARK., AND LOUISIANA-NEVADA TRANSIT CO.

Order Granting Interventions and Setting Date for Hearing

APRIL 12, 1971.

On December 22, 1970, pursuant to section 7(a) of the Natural Gas Act, city of De Queen, Ark. (applicant) filed an application in Docket No. CP71-164, for an order directing Louisiana-Nevada Transit Co. (respondent) to sell and to deliver to applicant an additional 11,500 Mcf per day of firm gas for resale, as more fully set forth in the notice of application issued on January 8, 1971 (36 F.R. 569).

On February 19, 1971, respondent filed its answer opposing the applicant's request, asserting that the application filed by applicant should be rejected on grounds that it is deficient in several material respects regarding information required by the Commission's regulations. Further, respondent asserts that it has neither the necessary gas supply nor the required capacity to meet applicant's request for additional volumes and still maintain its present level of service to its existing customers.

Petitions to intervene were timely filed by Hope Brick Works, Ideal Basic Industries, Inc., and Cotton Valley Solvents Co., all maintaining that applicant's request for additional volumes would gravely jeopardize the supply of gas available to them. Notice of intervention was filed by the Arkansas Public Service Commission.

The notice of application fixed February 2, 1971, as the final date for filing protests or petitions to intervene in the above-captioned proceedings.

It appears that the petitioners have alleged sufficient interest in the above-captioned application to warrant intervention in this proceeding.

The Commission finds:

(1) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The expeditious disposition of these proceedings will be effectuated by the submission by applicant and respondent of their respective direct testimony and exhibits on or before May 4, 1971.

(3) The expeditious disposition of these proceedings will be furthered by the commencement of a formal hearing on May 25, 1971.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave 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.

(B) Pursuant to § 2.62(c) of the Commission's rules of practice and procedure, the applicant shall serve copies of its

filing upon all intervenors promptly, unless such service has already been effected pursuant to Part 157 of the regulations of the Natural Gas Act.

(C) Each party shall file with the Commission and serve on all other parties and the Commission staff the proposed evidence comprising its case-in-chief, including any prepared testimony of witnesses and exhibits, on or before May 4, 1971. All other procedural matters, including the time for the filing of rebuttal cases, if any, are left to the discretion of the presiding examiner.

(D) Pursuant to the provisions of § 1.20(a) of the Commission's rules of practice and procedure, a formal hearing before a duly designated presiding examiner shall commence at 10 a.m., e.d.s.t., on May 25, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-5321 Filed 4-15-71;8:49 am]

[Docket No. CP71-239]

GRAND VALLEY TRANSMISSION CO.

Notice of Application

APRIL 12, 1971.

Take notice that on April 6, 1971, Grand Valley Transmission Co. (applicant), Post Office Box 986, Billings, MT 59103, filed in Docket No. CP71-239 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of Commission authorization, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $30,000 with no single project costing in excess of $10,000 which cost applicant states will be financed from funds on hand and short-term bank borrowings. Applicant requests waiver of the requirements of § 2.58(a) of the Commission's General Policies and Interpretations and states that because of the relatively small size of its utility plant, a literal application of the formula prescribed in § 2.58(a) would result in investment limits too low to be practical.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 3, 1971, 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,
Acting Secretary.

[FR Doc.71-5322 Filed 4-15-71;8:49 am]

[Docket No. CP71-237]

PANHANDLE EASTERN PIPE LINE CO. AND PAN EASTERN EXPLORATION CO.

Notice of Application

APRIL 9, 1971.

Take notice that on April 1, 1971, Panhandle Eastern Pipe Line Co. (Panhandle) and Pan Eastern Exploration Co. (Exploration) (applicants), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-237 a joint application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity and an order permitting and approving an abandonment by sale of certain gas producing leases and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Panhandle proposes to abandon by sale all of its natural gas production facilities and equipment and all of its interests in developed and undeveloped leases in Kansas, Oklahoma, and Texas, to Exploration, a newly formed, wholly owned subsidiary of Panhandle. Panhandle states that it will receive, in return, shares of Exploration's common stock equal in value to the net depreciated cost of all the properties to be transferred. Exploration proposes to sell and Panhandle to purchase all the natural gas produced from the transferred acreage during the remaining life of the leases.

Applicants state that the basic purpose for the transfer proposed herein is to implement a major exploratory effort for gas supplies for the entire Panhandle system to meet the increasing gas supply requirements of its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1971, 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-5318 Filed 4-15-71;8:49 am]

[Docket No. CP68-14]

UNITED GAS PIPE LINE CO.

Notice of Petition To Amend

APRIL 9, 1971.

Take notice that on April 5, 1971, United Gas Pipe Line Co. (United), Post Office Box 1407, Shreveport, LA 71102, filed in Docket No. CP68-14 a petition to amend the Commission's order issued March 11, 1968, in Docket Nos. CP67-307 et al., 39 FPC 248, to obtain an extension of time to November 1, 1971, within which to construct the remaining 3.8 miles of 30-inch pipeline which have not yet been completed under the certificate

originally issued in Docket No. CP68–14, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The petition states that the aforementioned order of March 11, 1968, was previously amended by order issued October 14, 1969, 42 FPC 848, to delete therefrom authorization to construct 11.9 miles of the 52.1 miles of 30-inch pipeline originally certificated. United avers that it thereafter obtained an extension of time until May 1, 1971, within which to complete the remaining 3.8 miles of 30-inch pipeline by letter from the Commission's Secretary dated October 22, 1970.

United states that it has not yet completed the 3.8 miles of pipeline because of its inability to acquire significant additional gas reserves, but it seeks the extension of time in anticipation of "* * * possible improvements in the overall gas supply situation and in order for United to be in position to further analyze and re-evaluate the current economical and operational feasibility of constructing and placing in service the remaining 3.8 miles of 30-inch pipeline authorized in this docket * * *."

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 29, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–5323 Filed 4–15–71;8:49 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

Entry or Withdrawal From Warehouse for Consumption

APRIL 9, 1971.

On January 29, 1971, the U.S. Government requested the Government of the Republic of Haiti to enter into consultations concerning exports to the United States of cotton textile products in Category 62 produced or manufactured in the Republic of Haiti. Public notice of this request was published in the FEDERAL REGISTER on February 11, 1971 (36 F.R. 2883). In that request the U.S. Government indicated the specific level at which it considered that exports in this category from the Republic of Haiti should be restrained for the 12-month period beginning January 29, 1971 and extending through January 28, 1972. Since no solution has been mutually agreed upon the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 3, paragraph 3 and Article 6(c) which relates to nonparticipants, is establishing restraint at the level indicated in that request for the 12-month period beginning January 29, 1971, and extending through January 28, 1972. This restraint does not apply to cotton textile products in Category 62, produced or manufactured in the Republic of Haiti exported to the United States prior to the beginning of the designated 12-month period.

There is published below a letter of April 2, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textile products in Category 62, produced or manufactured in the Republic of Haiti, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning January 29, 1971, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

APRIL 2, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning January 29, 1971, and extending through January 28, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 62, produced or manufactured in the Republic of Haiti, in excess of a level of restraint for the period of 43,598 pounds.[1]

In carrying out this directive, entries of cotton textile products in Category 62, produced or manufactured in the Republic of Haiti and which have been exported to the United States from the Republic of Haiti prior to January 29, 1971, shall not be subject to this directive.

Cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

[1] This level has not been adjusted to reflect any entries made on or after Jan. 29, 1971.

A detailed description of Category 62, in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Haiti and with respect to imports of cotton textiles and cotton textile products from the Republic of Haiti have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965–69). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71–5291 Filed 4–15–71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5014]

CONSOLIDATED NATURAL GAS CO. ET AL.

Notice of Proposed Acquisition of Notes and Capital Stock of Subsidiary Companies, Open Account Advances to Subsidiary Companies, and Issue and Sale of Commercial Paper and Short-Term Notes to Banks

APRIL 9, 1971.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, and its subsidiary companies, Consolidated Gas Supply Corp. (Gas Supply), The East Ohio Gas Co. (East Ohio), The Peoples Natural Gas Co. (Peoples), The (River Gas Co. (River), and West Ohio Gas Co. (West Ohio), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes to make loans aggregating up to $65 million to the subsidiary companies set forth below, for the purpose of financing capital expenditures. The proposed loans will be initially made in the form of open account advances, payable on or before December 31, 1971, and will bear interest at the lowest prime rate available to Consolidated in the city of New York on the date of the first advance to the

respective subsidiary company. Consolidated plans to issue and sell debentures during 1971, and, following such sale, the open account advances outstanding to subsidiary companies, at that time will be converted into long-term notes of such subsidiary companies, and, thereafter, Consolidated's loans to subsidiary companies in 1971 for construction will be evidenced by long-term notes of such subsidiary companies. The subsidiary companies propose to issue to Consolidated, and Consolidated proposes to acquire, such long-term notes, which will bear interest at a rate substantially equal to the effective cost of money to Consolidated through the issuance and sale of its debentures in 1971, in principal amounts set forth below. The long-term notes will be repaid in equal installments during the years 1976 to 1995, with the remaining notes to mature in 1996.

Consolidated also proposes to issue and sell up to $55 million of short-term notes to a group of banks during 1971. The names of said banks are to be filed by amendment. Such notes will bear interest at the prime commercial rate in effect at The Chase Manhattan Bank on the date of the first borrowing. Prepayments may be made in whole or in part, from time to time, upon 5 days' notice, without penalty or premium. There will be no closing or related charges with respect to the obtaining of such bank loans. The notes will mature not more than 12 months from the date of the first borrowing. The proceeds will be used to finance the seasonal increase in gas storage inventories of subsidiary companies.

Consolidated proposes to make open account advances to its subsidiary companies aggregating up to $55 million for gas storage inventories, payable not more than 12 months from the first advance to each such subsidiary company. The advances to subsidiary companies will bear interest at the same rate as the related borrowings by Consolidated and will be made in amounts as set forth below. Consolidated further proposes to make open account advances of $20 million on similar terms to subsidiary companies for the purpose of supplying them with working capital. The principal amounts of the open account advances are also set forth below.

Subsidiary company	Advances for construction purposes to be converted into long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Gas supply	$42,500,000	$31,000,000	$13,100,000
East Ohio	12,800,000	16,000,000	3,900,000
Peoples	8,300,000	8,000,000	2,500,000
West Ohio	1,100,000	----------	400,000
River	300,000	----------	100,000
Total	65,000,000	55,000,000	20,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated, from time to time during 1971, capital stock up to the following amounts at the par value thereof:

Subsidiary company	Number of shares	Aggregate par value
Gas Supply	70,000 ($100 par)	$7,000,000
Peoples	30,000 ($100 par)	3,000,000
Total		10,000,000

In order to permit the acquisition of such common stocks, Gas Supply and Peoples propose to amend their certificates of incorporation by increasing the authorized shares of their common stock from 1,200,000 to 1,500,000 and 566,350 to 626,350, respectively. The proceeds derived from the proposed sale of stock will be used for construction purposes. The subsidiary companies' plant expenditures for the year 1971 are estimated at $53,080,000 for Gas Supply, $24,975,000 for East Ohio, $12,190,000 for Peoples, $565,000 for River, and $1,610,000 for West Ohio.

Consolidated requests, for the period commencing on the granting of this application-declaration and ending May 15, 1972, that the exemption from section 6(a) of the Act afforded to it by section 6(b) thereof, relating to the issue and sale of short-term notes, be increased from 5 percent to 8 percent to permit Consolidated to have outstanding at any one time up to $50 million principal amount of short-term notes.

Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50 million outstanding at any one time to a dealer in commercial paper from time to time up to May 15, 1972. The commercial paper will have varying maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $1 million directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the discount rate or the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from commercial banks on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of 1 percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers in a list (nonpublic) prepared in advance by the dealer. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer, such paper will be reoffered to others in the group of 200 customers. The issue and sale of commercial paper is to provide up to $20 million for the making of working capital advances to subsidiary companies and up to $30 million for working capital requirements of Consolidated.

Consolidated proposes, to the extent that it becomes impracticable to issue commercial paper, to borrow, repay, and reborrow from The Chase Manhattan Bank, from time to time up to May 15, 1972, an aggregate principal amount not to exceed $25 million outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment in whole or in part at any time or from time to time without prior notice and without premium. The amount of commercial paper notes and notes payable to commercial banks will not collectively exceed $50 million outstanding at any one time. There will be no closing or related charges with respect to the obtaining of such bank loans.

Consolidated also requests exception from the competitive bidding requirements of Rule 50 with respect to the commercial paper, stating that such commercial paper will have maturities of 9 months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. In addition, Consolidated proposes that the Rule 24 certificate of notification regarding the issue and sale of the commercial paper and the subsidiary company financing be filed on a quarterly basis.

The application-declaration states that the Public Service Commission of West Virginia has jurisdiction over the proposed long-term and short-term borrowings of Gas Supply and that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings proposed by East Ohio, River, and West Ohio. It is further stated that the Pennsylvania Public Utility Commission has jurisdiction over the long-term borrowings proposed by Peoples and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated to not exceed $6,750, including $6,000 for service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested person may, not later than May 4, 1971, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if

the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-5352 Filed 4-15-71;8:52 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

APRIL 9, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 11, 1971 through April 20, 1971.

By the Commission.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-5353 Filed 4-15-71;8:52 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.3 (Revision 1)]

DISASTER COORDINATORS

Delegation of Authority for Disasters Designated Class A

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759 and 36 F.R. 653), there is hereby redelegated to Disaster Coordinators for disasters designated Class A, the following authority:

A. *Financing Program.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters), except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of $1 million and to decline such loans in any amount.

3. To enter into disaster loan participation agreements with banks.

4. To execute loan authorizations for Central Office approved loans and for loans approved under delegated authority, said execution to read as follows:

(*Name*), *Administrator,*
By ----------
(Name)
Disaster Coordinator
---------- Disaster

5. To cancel, reinstate, modify, and amend authorizations for disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired.

10. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Loan Administration Program.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all disaster loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) exclusive of matters in litigation, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents, and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) to compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

C. *Eligibility Determinations.* To determine eligibility of applicants for assistance under the disaster loan program of the Agency (excluding displaced business and coal mine health and safety loan programs and the economic injury disaster loan program in connection with declarations made by the Secretary of Agriculture for natural disasters), in accordance with Small Business Administration standards and policies.

D. *Size Determinations.* To make initial size determinations in all disaster loan cases (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters), within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

II. The specific authority in the subsections may be redelegated.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as acting disaster coordinator for the specified disaster.

IV. All authority previously delegated by the Associate Administrator for Financial Assistance to Disaster Coordinators and redelegated by them is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to effective date hereof.

Effective date: March 15, 1971.

ANTHONY S. STASIO,
Acting Associate Administrator for Financial Assistance.

[FR Doc.71-5279 Filed 4-15-71;8:46 am]

[Delegation of Authority No. 4.4 (Revision 1)]

REGIONAL DIRECTORS ET AL.

Delegation of Authority for All Disasters Designated Class B

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759 and 36 F.R. 653), the following authority is hereby redelegated:

A. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan:

1. Regional Directors.
2. Chiefs and Assistant Chiefs, Regional Financing Divisions.
3. District Directors.
4. Chiefs, District Financing Divisions.

B. To decline direct disaster and immediate participation disaster loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) in any amount and to approve such loans up to the total SBA funds of $50,000:

1. Supervisory Loans Officers, Regional Financing Divisions.

C. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

1. Regional Directors, $1 million.
2. Chiefs and Assistant Chiefs, Regional Financing Divisions, $500,000.
3. Supervisory Loan Officers, Regional Financing Divisions, $50,000.
4. District Directors, $500,000.
5. Chiefs, District Financing Division, $350,000.

D. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

1. Regional Directors.
2. Chiefs and Assistant Chiefs, Regional Financing Divisions.
3. District Directors.

E. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:

1. Regional Directors.

II. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

III. All authority previously delegated by the Associate Administrator for Financial Assistance to Regional Directors, Regions I through X, and redelegated by the regional directors to positions under their jurisdiction is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to effective date hereof.

Effective date: March 15, 1971.

ANTHONY S. STASIO,
Acting Associate Administrator for Financial Assistance.

[FR Doc.71-5280 Filed 4-15-71;8:46 am]

DEPARTMENT OF LABOR

Office of the Secretary

CALIFORNIA

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b)(2) of the Act, notice is hereby given that Gilbert L. Sheffield, Director, California Department of Human Resources Development, has determined that there was a State "on" indicator in California for the week beginning November 29, 1970, and that an extended benefit period began in the State with the week beginning December 20, 1970.

Signed at Washington, D.C., this 9th day of April 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-5299 Filed 4-15-71;8:48 am]

KANSAS

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b)(2) of the Act, notice is hereby given that Leo J. Phalen, Executive Director, Kansas Employment Security Division, has determined that there was a State "on" indicator in Kansas for the week beginning January 10, 1971, and that an extended benefit period began in the State with the week beginning January 31, 1971.

Signed at Washington, D.C., this 9th day of April 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-5300 Filed 4-15-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 681]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 13, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. 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-72638. By order of April 9, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to Denver-Climax Truck Line, Inc., Denver, Colo., of the certificate of registration in No. MC 97186 (Sub-No. 2) issued March 24, 1970, to Richard H. Eshe and Lois Mae Eshe, a partnership, doing business as South Park Motor Lines, Denver,

Colo., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the authority granted in certificate No. PUC 1179 dated prior to October 15, 1962, and transferred to the partnership by Decision No. 73878 dated November 24, 1969, by the Public Utilities Commission of Colorado. Raymond B. Danks, 401 First National Bank Building, Denver, Colo. 80202, attorney for applicants.

No. MC-FC-72668. By order of April 7, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to C. T. Wolfmeier, Fulton, Mo., of certificate No. MC 13134 (Sub-No. 11), issued to Grant Trucking, Inc., Oak Hill, Ohio, authorizing the transportation of: Refractories, between points in specified counties in Missouri, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Ohio, Kentucky, Pennsylvania, West Virginia, and New York, subject to certain restrictions. Eugene T. Liipfert, attorney, 1660 L Street NW., Washington, DC 20036.

No. MC-FC-72792. By order of April 9, 1971, the Motor Carrier Board approved the transfer to Dean Hoffman, Jefferson, S. Dak. 57038, of the operating rights in certificate No. MC 59304 issued August 12, 1963, to Francis Hoffman doing business as Associated Truckers, Jefferson, S. Dak. 57038, authorizing the transportation of general commodities, with the usual exceptions, between points in Big Sioux, Brule, Civil Bend, Elk Point, Jefferson, Richland, Sioux Valley, and Spink Townships, Union County, S. Dak., and those in Fairview and Prairie Center Townships, Clay County, S. Dak., on the one hand, and, on the other, Sioux City, Iowa.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-5345 Filed 4-15-71;8:51 am]

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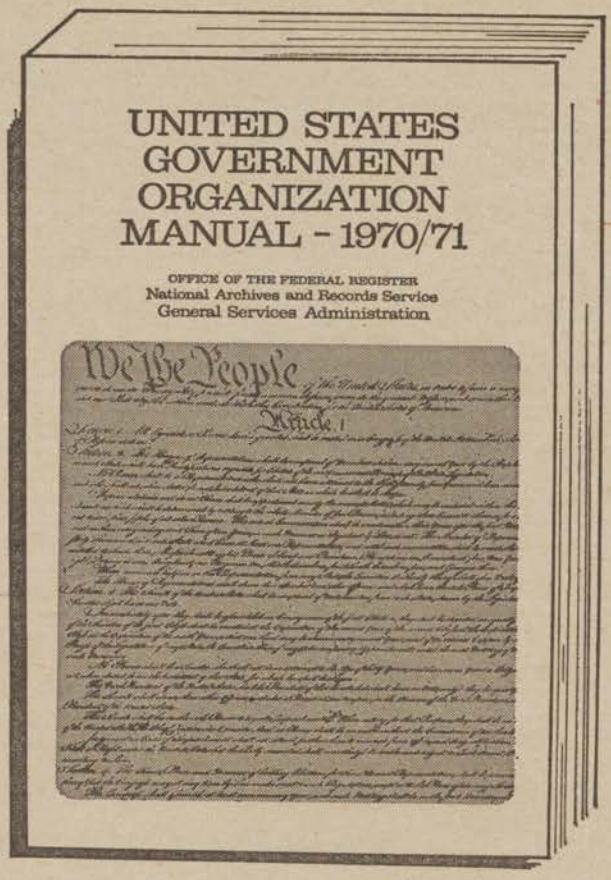

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