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PART I

(Part II begins on page 18001)

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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Title 3—The President

EXECUTIVE ORDER 11684

Amendment of Executive Order No. 11554, Suspending the Provisions of Section 5707(c) of Title 10, United States Code, Which Relate to Promotion of Navy and Marine Corps Officers

By virtue of the authority vested in me by section 5711(b) of title 10, United States Code, Executive Order No. 11554 [1] of August 29, 1970, is amended to read as follows:

"The operation of so much of the provisions of section 5707(c) of title 10 of the United States Code as restrict, to a percentage of five percent of the total number of officers that a board is authorized to recommend for promotion, the number of Navy and Marine Corps officers below the appropriate promotion zone who may be recommended as best fitted for promotion to the grade concerned, is hereby suspended until June 30, 1974."

Richard Nixon

THE WHITE HOUSE,
August 30, 1972

[FR Doc.72-15128 Filed 9-1-72; 10:20 am]

[1] 35 F.R. 14189; 3 CFR, 1966–1970 Comp., p. 955.

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Khapra Beetle

TERMINATION OF QUARANTINE AND REGULATIONS

The khapra beetle quarantine and regulations thereunder, in 7 CFR 301.76, 301.76–1 through 301.76–11, are hereby terminated effective September 2, 1972. However, such provisions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

The khapra beetle, a notorious pest of stored products, was first found in the United States in California in 1953. It was subsequently found in Arizona, New Mexico, and Texas. In 1955 the khapra beetle Federal domestic plant quarantine was promulgated and eradication procedures were started immediately. Three hundred forty-six properties were found infested in California, 288 in Arizona, 29 in Texas, and 19 in New Mexico. All infested properties have received an eradication treatment and no established infestation has been reported since 1966. Therefore, it has been determined that the khapra beetle has been eradicated from the United States and that the quarantine should be terminated. No properties have been regulated under the quarantine since 1966 and therefore no restrictions have been applicable to the interstate movement of any articles under the quarantine since that time.

This action eliminates obsolete provisions and it does not appear that public participation in rule making procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that public participation with respect to this action is impracticable and unnecessary and good cause is found for making this action effective less than 30 days after publication hereof in the FEDERAL REGISTER.

(Secs. 8 and 9, 37 Stat. 318, as amended; 7 U.S.C. 161, 162; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

This termination of quarantine and regulations thereunder shall become effective September 2, 1972.

Done at Washington, D.C., this 30th day of August 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–15042 Filed 9–1–72;8:48 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 406, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.706 (Valencia Orange Regulation 406, 37 F.R. 17048) during the period August 25 through August 31, 1972, are hereby amended to read as follows:

§ 908.706 Valencia Orange Regulation 406.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 342,000 cartons.

(ii) District 2: 358,000 cartons.

* * * * *

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

Dated: August 30, 1972.

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

[FR Doc.72–15040 Filed 9–1–72;8:48 am]

[Lemon Reg. 549]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.849 Lemon Regulation 549.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions

and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 29, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 3, through September 9, 1972, is hereby fixed at 200,000 cartons.

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

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

Dated: August 30, 1972.

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

[FR Doc.72-00000 Filed ??-??-72;?8?? am]

PART 991—HOPS OF DOMESTIC PRODUCTION

Expenses of Hop Administrative Committee and Rate of Assessment for the 1972–73 Marketing Year

Notice was published in the August 18, 1972, issue of the FEDERAL REGISTER (37 F.R. 16678) regarding proposed expenses of the Hop Administrative Committtee for the 1972–73 marketing year and rate of assessment for that marketing year, pursuant to §§ 991.55 and 991.56 of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic produtcion. The amended order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments, with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Hop Administrative Committee, and other available information, it is found that the expenses of the Hop Administrative Committee and rate of assessment for the marketing year beginning August 1, 1972, shall be as follows:

§ 991.307 Expenses of the Hop Administrative Committee and rate of assessment for the 1972–73 marketing year.

(a) *Expenses.* Expenses in the amount of $166,300 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1972, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1972, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.

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

Dated: August 30, 1972.

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

[FR Doc.72-15039 Filed 9-1-72;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

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

PART 77—TUBERCULOSIS IN CATTLE

Interstate Movement

Pursuant to provisions of sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 4 and 5 of the Act of May 29, 1884, as amended (21 U.S.C. 111–113, 120, 121), Part 77, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of tuberculosis, is hereby amended in the following respects:

A new § 77.9 is added to read as follows:

§ 77.9 Other movements.

The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service may, upon request in specific cases, permit the movement, not otherwise provided for in this part, of animals not known to have reacted to a test for tuberculosis, and not otherwise known to be affected with tuberculosis, under such conditions as he may prescribe in each case to prevent the spread of tuberculosis. The Deputy Administrator will promptly notify the appropriate livestock sanitary officials of the State involved of any such action.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended; 21 U.S.C. 111–113, 120, 121, 29 F.R. 16210, as amended, 37 F.R. 6327, 6505)

Effective date. The amendment shall become effective upon publication in the FEDERAL REGISTER (9–2–72).

The foregoing amendment authorizes the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service to permit the movement, not otherwise provided for in this part, of animals not known to have reacted to a test for tuberculosis and not otherwise known to be affected with tuberculosis, under such conditions as said Deputy Administrator may prescribe in each case to prevent the spread of tuberculosis. Under the provisions of the amendment, movement of tuberculosis exposed cattle across a State line may be permitted when deemed helpful to the tuberculosis eradication program, as well as other movements of cattle involving similar situations.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of disease and 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 the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of August 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-15041 Filed 9-1-72;8:48 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[No. 72-1011]

PART 500—FUNCTIONAL ORGANIZATION AND AUTHORITY

Assessments Necessary To Meet Expenses

AUGUST 29, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 500.10 of the general regulations of the Federal Home Loan Bank Board (12 CFR 500.10) for the purpose of changing the basis for assessing the several Federal Home Loan Banks to meet certain expenses of such Board. Accordingly, on the basis of such consideration, the Federal Home Loan Bank Board hereby amends said § 500.10 by revising it to read as follows, effective September 1, 1972:

§ 500.10 Assessments.

Beginning with the assessment for the last half of calendar year 1972, each semiannual assessment under the provisions of subsection (b) of section 18 of the Federal Home Loan Bank Act, as amended, to meet the estimated expenses of the Federal Home Loan Bank Board (referred to in this subchapter as "Board") shall be made on the following basis: Each Federal Home Loan Bank will be assessed such amount as may be necessary to meet the Board's expenses, such assessment to be upon the several Banks in the same proportion as the total paid-in value of capital stock of the respective Banks bears to the total paid-in value of capital stock of all the Banks at the same point in time. For the assessment for the first half of a calendar year, total paid-in value of capital stock shall be determined from information contained in the reports of the respective Banks as of November 30; and for the assessment for the last half of the calendar year, such determination shall be made from information contained in the reports of the respective Banks as of May 31.

(Secs. 17, 18, 47 Stat. 736, 737, as amended; 12 U.S.C. 1437, 1438. Reorg Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp. p. 1071)

Resolved further, that since comments and recommendations regarding the subject matter of the above amendment have been received from all of the Federal Home Loan Banks, the Board hereby finds that additional notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553 (b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would delay the making of the above assessment and in the opinion of the Board it is in the public interest that the above assessment be made without such delay, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72-15048 Filed 9-1-72;8:49 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter III—Economic Development Administration, Department of Commerce

PART 305—GRANTS, LOANS, AND GUARANTEES

Supplementary Grants

Part 305 of Chapter III, Title 13 of the Code of Federal Regulations (31 F.R. 11296; 31 F.R. 16677 and 33 F.R. 6854) is amended to provide for 30 percent (30%) supplemental grants to areas also designated as Disaster Areas by the President, under section 101(c) of the Public Works and Economic Development Act of 1965, as amended.

1. Section 305.4(b)(3)(G) is renumbered 305.4(b)(3)(H).

2. Section 305.4(b)(3)(G) now provides as follows:

§ 305.4 Supplementary grants.

* * * * *

(b) * * *
(3) * * *

G. Areas designated under title I and title IV of the Act and which have been designated as Disaster Areas by The President of the United States under the Disaster Relief Act of 1970 (Public Law 91-606) for so long a period as such areas retain both EDA and Disaster designations but not to exceed 1 year from the date such areas become concurrent EDA designated areas and Disaster areas..... 80

* * * * *

Effective on date of publication (9-2-72).

Dated: August 28, 1972.

ROBERT A. PODESTA,
Assistant Secretary for Economic Development.

[FR Doc.72-14994 Filed 9-1-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-36-AD, Amdt. 39-1511]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Musketeer Airplanes

AD 72-1-4, Amendment 39-1372 (37 F.R. 12), applicable to Beech Musketeer airplanes with a total time in service of 525 hours and equipped with carburetor engines, is an Airworthiness Directive which requires modification of the carburetor air box valve in accordance with Beechcraft Service Instructions 0471-241.

Subsequent to the issuance of AD 72-1-4, a report received by the FAA indicates that carburetor air box valve failure can occur at any time in those airplanes covered by the AD. Accordingly, in the interest of safety, AD 72-1-4 is being amended to reduce its compliance time to 25 hours' time in service for all affected airplanes. In addition, Beechcraft Service Instructions No. 0471-241 has been revised since the issuance of AD 72-1-4, and consequently the AD is being amended to reflect this change.

Since this amendment is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not necessary 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, Amendment 39-1372, is amended as set forth below:

1. The compliance paragraphs are being amended to now read as follows:

Compliance: Required as indicated, unless already accomplished. To prevent engine power loss caused by ingestion of pieces of failed carburetor air box valves, within the next 25 hours' time in service after its effective date, accomplish the following:

2. Change the Service Instructions information referenced in the AD as follows:

Add the phrase "or revisions" following the phrase "Beechcraft Service Instructions No. 0471-241".

This amendment becomes effective September 8, 1972.

(Secs. 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 Kansas City, Mo., on August 25, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-14998 Filed 9-1-72;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

SELECTIVE SERVICE REGULATIONS

Whereas, on July 20, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 14411 of July 20, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

The proposed amendments to §§ 1622.25(a), 1622.26, and 1623.7, which were included in the FEDERAL REGISTER on July 20, 1972, will not be made effective.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.d.s.t., on September 2, 1972, as follows:

PART 1602—DEFINITIONS

Section 1602.15 is added to read as follows:

§ 1602.15 Computation of time.

The period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice to him is posted or mailed.

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

Part 1611, Duty and Responsibility to Register, is amended to read as follows:

Sec.
1611.1 Persons required to be registered.
1611.2 Persons not required to be registered.
1611.3 Change of status.
1611.4 Inmate of institution.
1611.5 Voluntary registration.

AUTHORITY: The provisions of this Part 1611 issued under the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.).

§ 1611.1 Persons required to be registered.

(a) Except as otherwise provided by the regulations in this part, it shall be the duty of the following male persons to present themselves for and submit to registration under the provisions of section 3 of the Military Selective Service Act:

(1) Each citizen of the United States who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth;

(2) Each person, other than a citizen of the United States or an alien in a medical, dental, or allied specialist category, residing in, or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth;

(3) Each alien in a medical, dental, or allied specialist category, who resides in the United States, or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 35th anniversary of the day of his birth; and

(4) Each alien residing in the United States who shall have attained the 18th anniversary of the day of his birth and who shall have not attained the 35th anniversary of the day of his birth who receives a degree in a medical, dental, or allied specialty.

(b) Persons required to register in accord with paragraph (a) of this section shall present themselves for and submit to registration at the times and places indicated:

(1) Citizens of the United States shall present themselves for registration on the day they attain the 18th anniversary of the day of their birth or within a period of 60 days commencing 30 days before such date before a duly designated registration official or the local board having jurisdiction in the area in which they have their permanent home or in which they may happen to be or before a diplomatic or consular officer of the United States who is a citizen of the United States or any other person who may be designated by the Director of Selective Service as chief registrar or registrar;

(2) Persons residing in the United States other than citizens of the United States shall present themselves for registration before a duly designated registration official or Selective Service local board on the day they attain the 18th anniversary of the day of their birth or within a period of 60 days commencing 30 days before such date;

(3) Persons entering the United States other than citizens of the United States shall present themselves for registration before a duly designated registration official or Selective Service local board within the period of 6 months following the day on which they enter the United States; and

(4) Aliens who receive a degree in a medical, dental, or allied specialty, and who are residing in the United States, who shall have attained the 26th anniversary of the day of their birth and who shall not have attained the 35th anniversary of the day of their birth shall present themselves for registration before a duly designated registration official or Selective Service local board within 30 days following their receipt of such degree.

(c) Any person other than a person described in § 1611.4, subject to registration who, because of circumstances over which he has no control, is prevented from presenting himself for and submitting to registration on the day or any of the days fixed for registration by paragraph (b) of this section shall notify the nearest local board of his name, place of residence, and the reason he is unable to comply, and, unless his liability to register has expired, shall present himself for and submit to registration immediately upon its becoming possible for him to do so.

§ 1611.2 Persons not required to be registered.

Persons in the following categories are not required to be registered under the Military Selective Service Act:

(a) Any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status, in the United States;

(b) Any person described in section 6 of the Military Selective Service Act as not being required to register;

(c) Any person who is a national of a country with which there is in effect a treaty or international agreement exempting nationals of that country from military service while they are within the United States; and

(d) Any person who is separated from the Armed Forces after having served honorably on active duty, other than active duty for training, for not less than 6 months, or who has served as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service for not less than 24 months.

§ 1611.3 Change of status.

Every male person who would have been required to be registered in accord with the provisions of § 1611.1 except for the fact that he was in one of the categories described in § 1611.2 shall present himself for and submit to registration before a local board within 30 days after a change in his status removes him from such category.

§ 1611.4 Inmate of institution.

Unless he has already been registered, every person subject to registration who is an inmate of an insane asylum, jail, penitentiary, reformatory, or similar institution, shall be registered on the day he leaves the institution.

§ 1611.5 Voluntary registration.

Any male person who entered the Armed Forces before being required to be registered in accord with the provisions of § 1611.1 and is separated therefrom after having served honorably on active duty, other than active duty for training, for not less than 6 months, may present himself for and submit to registration before a local board.

PART 1617—REGISTRATION CERTIFICATE

§§ 1617.1, 1617.10, and 1617.13 [Revoked]

Section 1617.1 *Effect of failure to have unaltered registration certificate in personal possession,* is revoked.

Section 1617.10 *Duty of registrant separated from active duty in Armed Forces,* is revoked.

Section 1617.13 *Return of registration certificate to local board,* is revoked.

PART 1621—PREPARATION FOR CLASSIFICATION

§ 1621.15 [Revoked]

Section 1621.15 *Subpena power of local board,* is revoked.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

Section 1622.2 *Classes,* is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1-A: Available for military service.
Class 1-A-O: Conscientious objector available for noncombatant military service only.
Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1-D: Member of reserve component or student taking military training.
Class 1-H: Registrant not currently subject to processing for induction.

Class 1–O: Conscientious objector available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a medical specialty.
Class 2–S: Registrant deferred because of activity in study.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Registrant exempted from service during peace.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

Paragraph (a) of § 1622.30 *Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents* is amended to read as follows:

§ 1622.30 Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

(a) In Class 3–A shall be placed any registrant whose induction into the Armed Forces would result in extreme hardship (1) to his wife, divorced wife, child, parent, grandparent, brother, or sister, who is dependent upon him for support, or (2) to a person under 18 years of age, or a person of any age who is physically or mentally handicapped, whose support the registrant has assumed in good faith.

* * * * *

1. Section 1622.40 is amended by revising paragraph (a) and subparagraphs (1) and (4) of paragraph (a) to read as follows:

§ 1622.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or Class 1–D who is within any of the following categories:

(1) A registrant who subsequent to September 16, 1940, was discharged for the convenience of the Government after having served honorably on active duty for a period of not less than 6 months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

* * * * *

(4) A registrant who while an alien has served on active duty subsequent to June 24, 1948, for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States subsequent to June 24, 1948, for a period of not less than 12 months: *Provided*, That in computing such 12-month period, there shall be credited any active duty performed by the registrant prior to June 24, 1948, in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities: *And provided further*, That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in English language.

* * * * *

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.2 *Consideration of classes*, is amended to read as follows:

§ 1623.2 Consideration of classes.

Every registrant shall be placed in Class 1–A under the provisions of § 1622.10 of this chapter except that when grounds are established to place a registrant in any one of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 4–A considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternate service.
Class 2–A: Registrant deferred because of civilian occupation except agriculture.
Class 2–C: Registrant deferred because of agriculture occupation.
Class 2–S: Registrant deferred because of activity in study.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a medical specialty.
Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 1–H: Registrant not currently subject to processing for induction.
Class 4–G: Registrant exempted from service during peace.
Class 4–F: Registrant not qualified for military service.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.
Class 1–D: Member of reserve component or student taking military training.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–A: Registrant who has completed military service.

§§ 1623.5 and 1623.6 [Revoked]

Section 1623.5 *Persons required to have Notice of Classification (SSS Form 110) in personal possession*, is revoked.

Section 1623.6 *Wrongful possession of, or making, altering, forging, or counterfeiting, Notice of Classification (SSS Form 110) prohibited*, is revoked.

PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

Paragraph (a) of § 1624.1 *Opportunity for personal appearance*, is amended to read as follows:

§ 1624.1 Opportunity for personal appearance.

(a) Every registrant after his classification is determined by the local board, except his initial administrative classification into Class 1–H or a classification which is determined upon an appearance before the local board under the provisions of this part, shall have an opportunity to appear in person before the local board.

* * * * *

PART 1625—REOPENING AND CONSIDERING NEW REGISTRANT'S CLASSIFICATION

§ 1625.1 [Amended]

Paragraph (b) of § 1625.1 *Classification not permanent*, is revoked.

Section 1625.14 *Cancellation of order to report for induction or for alternate service by reopening of classification*, is amended to read as follows:

§ 1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.

The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to the registrant, except that if the registrant has failed to comply with either of those orders, the reopening of his classification thereafter by the local board pursuant to § 1622.42(c) of this chapter for the purpose of placing him in Class 4–C or removing him from Class 4–C shall not cancel the order with which he failed to comply.

PART 1626—APPEAL TO LOCAL BOARD

Paragraph (d) of § 1626.3 *Procedure for taking an appeal*, is amended by adding the following:

§ 1626.3 Procedure for taking an appeal.

* * * * *

(d) Whenever the registrant's principal place of employment or residence

is outside the United States he may request that the appeal be considered by the Appeal Board for the District of Columbia. "Principal place of employment" as used in this paragraph means the geographical location at which the registrant usually performs the duties of his employment.

* * * * *

PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.10 [Revoked]

Section 1628.10 *Duty of registrant to report for and submit to armed forces examination,* is revoked.

PART 1630—VOLUNTEERS

Paragraph (a) of § 1630.1 *Who may volunteer,* is amended to read as follows:

§ 1630.1 Who may volunteer.

(a) Any registrant who has attained the age of 18 years and who has not attained the age of 26 years and who has not discharged his current military obligation under the Military Selective Service Act may volunteer for induction into the Armed Forces by completing and filing with his local board an Application for Voluntary Induction (SSS Form 254) which shall be completed and filed in duplicate if he has not attained the age of 18 years and 6 months.

* * * * *

PART 1631—ALLOCATION OF INDUCTIONS

Paragraph (d)(7) of § 1631.6 *Action by Local Board upon receipt of allocation,* is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(d) * * *

(7) A registrant in category (b), (2), (3), or (4) (paragraph (b), (2), (3), or (4) of this section) will not be inducted under those provisions after he has attained the age of 26 years.

* * * * *

PART 1632—DELIVERY AND INDUCTION

Section 1632.10 *Transfer for induction,* is amended to read as follows:

§ 1632.10 Transfer of induction.

(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for induction to such local board or local boards as he shall designate.

(b) Whenever a transfer of induction has been directed in accord with paragraph (a) of this section, such transfer will be accomplished in the manner prescribed by the Director of Selective Service.

§ 1632.14 [Revoked]

Section 1632.14 *Duty of registrant to report for and submit to induction,* is revoked.

PART 1641—DUTY OF REGISTRANTS

Part 1641 is amended to read as follows:

Sec.

1641.1 Reporting by registrants of their current status.
1641.2 Effect of mailing a communication to the registrant.
1641.3 Waiver of right or privilege.
1641.4 Duty to report for and submit to Armed Forces examination.
1641.5 Duty to report for and submit to induction.
1641.6 Duty to have unaltered Registration Certificate in personal possession.
1641.7 Duty of registrant separated from active duty in Armed Forces.
1641.8 Duty to return Registration Certificate to local board.
1641.9 Duty to have notice of Classification (SSS Form 101) in personal possession.

AUTHORITY: The provisions of this Part 1641 issued under the Military Selective Service Act, as amended, (50 App. U.S.C. sections 451 et seq.).

§ 1641.1 Reporting by registrants of their current status.

(a) It shall be the duty of every classified registrant until his liability for training and service has terminated, to keep his local board currently informed in writing of (1) the address where mail will reach him, (2) his receipt of any professional degree in a medical, dental, or allied specialist category, and (3) in accord with instructions of the Director of Selective Service, facts concerning his status that the local board requests.

(b) The registrant shall submit to his local board information concerning his status within 10 days after the date on which the local board mails him a request therefor, or within such longer period as may be fixed by the local board.

§ 1641.2 Effect of mailing a communication to the registrant.

The mailing of an order, notice, or blank form, to a registrant to the address last reported by him in writing to his local board shall constitute notice to him of the contents of the communication, whether he actually receives it or not.

§ 1641.3 Waiver of right or privilege.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege.

§ 1641.4 Duty to report for and submit to Armed Forces examination.

(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 223) is mailed and prior to the time fixed therein for the registrant to report for his armed forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for Armed Forces examination is postponed, it shall be the duty of the registrant to report for Armed Forces examination upon the termination of such postponement and he shall report for Armed Forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for Armed Forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for Armed Forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for Armed Forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his Armed Forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for Armed Forces examination, (3) to appear at the place where such examination will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his examination will be accomplished, (5) to submit to examination, and (6) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his Armed Forces examination takes place.

§ 1641.5 Duty to report for and submit to induction.

(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for induction to his local board.

(b) Upon reporting for induction, it shall be the duty of the registrant (1) to follow the instructions of a member or clerk of the local board as to the manner in which he shall be transported to the location where his induction will be accomplished, (2) to obey the instructions

of the leader or assistant leaders appointed for the group being forwarded for induction, (3) to appear at the place where his induction will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his induction will be accomplished, (5) to submit to induction, and (6) if he is found not qualified for induction, to follow the instructions of the representatives of the Armed Forces as to the manner in which he will be transported on his return trip to the local board.

§ 1641.6 Duty to have unaltered Registration Certificate in personal possession.

It is the duty of every registrant to have in his personal possession until his liability for training and service has terminated his Registration Certificate (SSS Form 2) which has not been altered after its preparation by the local board. The failure of any person to have his Registration Certificate (SSS Form 2) in his personal possession shall be prima facie evidence of his failure to register. When a registrant is inducted into the Armed Forces, or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Registration Certificate (SSS Form 2) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the certificate to the local board that issued it.

§ 1641.7 Duty of registrant separated from active duty in Armed Forces.

Every registrant who is separated from active duty in the Armed Forces prior to the 26th anniversary of the date of his birth, who has not discharged his current military obligation under the Military Selective Service Act, and who does not have a Registration Certificate (SSS Form 2) shall, within 10 days after the date of his separation, request his local board to return his Registration Certificate (SSS Form 2) if available or to issue to him a duplicate Registration Certificate (SSS Form 2). The registrant shall make this request by a letter mailed to his local board or on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) which he shall file with his own or any other local board.

§ 1641.8 Duty to return Registration Certificate to local board.

Whenever a registrant at the time he receives a duplicate Registration Certificate (SSS Form 2) from his local board has in his possession any such certificate previously isuued to him by the local board or thereafter finds or regains possession of any such certificate previously issued to him, it shall be the duty of the registrant to immediately return to the local board the certificate previously issued to him upon his receipt of the duplicate certificate or upon his thereafter finding or regaining possession of such certificate previously issued to him.

§ 1641.9 Duty to have Notice of Classification (SSS Form 110) in personal possession.

It is the duty of every registrant to have in his personal possession until his liability for training and service has terminated a valid Notice of Classification (SSS Form 110) issued to him showing his current classification. When any registrant is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Notice of Classification (SSS Form 110) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the notice to the local board that issued it.

BYRON V. PEPITONE,
Acting Director.

AUGUST 25, 1972.

[FR Doc.72-15001 Filed 9-1-72;8:46 am]

SELECTIVE SERVICE REGULATIONS

Whereas on July 20, 1972, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulation 37 F.R. 14415 of July 20, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

The proposed amendment to § 1617.11 which was included in the FEDERAL REGISTER on July 20, 1972, will not be made effective.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.d.s.t., on September 2, 1972, as follows:

PART 1604—SELECTIVE SERVICE OFFICERS

Section 1604.25 *Disqualification,* is amended to read as follows:

§ 1604.25 Disqualification.

No appeal board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is an employer, employee, or fellow employee, or stands in the relationship of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the appeal board. If because of such provision, or for any other reason, an appeal board cannot act on the case of a registrant, and there is no panel of the appeal board to which the case may be transferred, the appeal board shall transmit such case to the State Director of Selective Service for transfer to another appeal board.

Section 1604.26 *Organization and Meeting,* is amended to read as follows:

§ 1604.26 Organization and meeting.

Each appeal board or panel shall elect a chairman and a secretary. A majority of the members of an appeal board or panel when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the board, the chairman, a member or employee of the board or panel concerned shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

Section 1604.55 *Disqualification,* is amended to read as follows:

§ 1604.55 Disqualification.

No local board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is a fellow employee or employer, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the board. If because of this provision a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

Section 1604.56 *Organization and meetings,* is amended to read as follows:

§ 1604.56 Organization and meeting.

Each local board shall elect a chairman and a secretary. A majority of the membership of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the local board, the chairman, a member, or employee of the local board shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

Section 1604.81 is amended to read as follows:

§ 1604.81 Interpreters.

(a) The local board is authorized to use interpreters when necessary. An appeal board and the National Selective Service Appeal Board are authorized to use interpreters during the personal appearance of a registrant.

(b) The following oath shall be administered to an interpreter each time he is used:

You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

PARTS 1605, 1606, 1607 [REVOKED]

Part 1605, Compensated Civilian Employees, is revoked.

Part 1606, General Administration, is revoked.

Part 1607, Finance Administration, is revoked.

PART 1608—PUBLIC INFORMATION

Paragraph (f)(2) and (3) § 1608.12 *Available information,* is amended to read as follows:

§ 1608.12 Available information.

* * * * *

(f) * * *

(2) The names of local board members and the names and addresses of advisors to registrants will be posted in an area available to the public at each board office to which such personnel are assigned.

(3) Personal data concerning board members that relate to their legal qualifications for appointment and/or continuation in office are a matter of official record. Upon request, the executive secretary or clerk of a local board or appeal board will verify that a member of that board was legally qualified for appointment and for continuation in office without disclosing the personal data pertaining to such member without the member's consent.

PART 1609—CLAIMS

The title of Part 1609 is amended to read as set forth above:

§§ 1609.1, 1609.2, 1609.11, 1609.12, 1609.21, 1609.22, 1609.31, 1609.41, 1609.42, 1609.43, 1609.44 and 1609.45 [Revoked]

Section 1609.1 *Procurement,* is revoked.

Section 1609.2 *Requisition,* is revoked.

Section 1609.11 *Lease of Offices,* is revoked.

Section 1609.12 *Alterations, improvements and repairs,* is revoked.

Section 1609.21 *Telephone; authorization,* is revoked.

Section 1609.22 *Certification of bills,* is revoked.

Section 1609.31 *Invoices and other claims,* is revoked.

Section 1609.41 *Travel; authorization,* is revoked.

Section 1609.42 *Travel and subsistence expenses,* is revoked.

Section 1609.43 *Special provisions concerning travel and subsistence expenses,* is revoked.

Section 1609.44 *Government requests for transportation,* is revoked.

Section 1609.45 *Government requests for meals or lodgings for civilian registrants,* is revoked.

PART 1610 [REVOKED]

Part 1610 *Property accountability,* is revoked.

BYRON V. PEPITONE,
Acting Director.

AUGUST 25, 1972.

[FR Doc.72-15002 Filed 9-1-72;8:46 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CDG 72-91R]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Dangerous Cargoes

The purpose of this amendment to the dangerous cargo regulations is to improve the requirements for preshipment preparation of radioactive materials packages by prescribing certain examinations and test procedures.

In the May 24, 1972, issue of the FEDERAL REGISTER (37 F.R. 10515) a notice of proposed rule making was published concerning this amendment. Interested persons were given 34 days in which to comment and a public hearing was held on June 20, 1972. Four written and three oral comments were received on this notice. One comment pointed out that § 146.19-1(p) was not in agreement with the Hazardous Materials Regulations Board's proposal. This is being brought into agreement in this amendment. Two comments wanted the 1-year requirement left out of this particular section (146.19-1(p)). The Board received similar comments. The Board rejected the suggestions in their amendment published at page 17969 of this issue of the FEDERAL REGISTER. The Board's reasoning has been adopted by the Coast Guard. Certain other changes made to 146.19-10 are due to comments received by the Board and are dealt with in the Board's document.

In consideration of the foregoing Part 146 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By adding paragraphs (o) and (p) to § 146.19-1, to read as follows:

§ 146.19-1 Radioactive materials; definitions.

* * * * *

(o) Containment system—containment system of a radioactive materials package is those components of the packaging, including special form encapsulation where used, which have been specified by the package designer as intended to retain the radioactive contents during transport, whether or not individual vessels in the packaging retain their integrity of containment.

(p) Maximum normal operating pressure—maximum normal operating pressure is the maximum pressure above atmospheric pressure at mean sea level that would develop in the containment system in a period of 1 year, under the conditions of temperature and solar radiation corresponding to environmental conditions of transport in absence of venting, external cooling by an ancillary system, or operational controls during transport.

2. By adding paragraphs (l) and (m) to § 146.19-10, to read as follows:

§ 146.19-10 General packaging requirements.

* * * * *

(l) Prior to the first shipment of any package, the shipper shall insure that:

(1) The packaging meets the specified quality of design and construction.

(2) The effectiveness of the shielding and containment, and, where necessary, the heat transfer characteristics of the package are within the limits applicable to or specified for the package design.

(m) Prior to each shipment of any package, the shipper shall insure by examination or appropriate tests that:

(1) The packaging is proper for the contents being shipped.

(2) The packaging is in unimpaired physical condition except for superficial marks.

(3) The closure devices of the packaging, including any required gaskets, are properly installed, secured, and free of defects.

(4) For fissile materials, any moderators and neutron absorbers, if required, are present in proper condition.

(5) Any special instructions for filling, closing, and preparation of the package for shipment have been followed.

(6) All closures, valves, and other openings of the containment system through which the radioactive contents might escape are properly closed and sealed.

(7) If the maximum normal operating pressure of a package is likely to exceed 0.35 kg./cm.^{2} (gage), the internal pressure of the containment system will not exceed the design pressure during transportation.

(8) External radiation and contamination levels are within the allowable limits.

Effective date: This amendment is effective on December 30, 1972.

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170. 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).

Dated: August 24, 1972.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.72-14997 Filed 9-1-72;8:45 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

CFR Corrections

The following are corrections to errors made in Title 47, Part 80 to End, revised as of January 1, 1972.

1. In § 89.123(b), appearing on page 318, the text of footnote 1 in Table G is deleted and replaced by the term "reserved". In paragraph (c) footnote 1 is added to read as follows:

1. The first and last assignable frequencies are shown. Assignable frequencies occur in increments of 25 kHz. The separation between base and mobile transmit frequencies is 3 MHz for two frequency operation.

2. In § 91.114(c), appearing on page 384, footnote 1 is added to read as follows:

1. The first and last assignable frequencies are shown. Assignable frequencies occur in increments of 25 kHz. The separation between base and mobile transmit frequencies is 3 MHz for two frequency operations.

3. In § 93.114(b), appearing on page 492, the text of footnote 1 in Table G is deleted and replaced by the term "reserved". In paragraph (c) footnote 1 is added to read as follows:

1. The first and last assignable frequencies are shown. Assignable frequencies occur in increments of 25 kHz. The separation between base and mobile transmit frequencies is 3 MHz for two frequency operations.

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-98; Amdt. No. 173-66]

PART 173—SHIPPERS

Radioactive Materials; Preparation of Packages for Shipment

The purpose of this amendment to the Department's Hazardous Materials Regulations is to improve the requirements for preshipment preparation of radioactive materials packages by prescribing certain examinations and test procedures.

On March 17, 1972, the Hazardous Materials Regulations Board published Docket HM-98; Notice 72-2 (37 F.R. 5641) proposing certain additions to §§ 173.389 and 173.393 of the Hazardous Materials Regulations. Interested persons were given an opportunity to comment on the proposed changes.

Numerous comments were received from persons representing shippers, carriers, labor unions, medical isotope users, and military. The great majority of comments were in favor of the amendment, although several changes were recommended. On the basis of these suggestions, the Board has made several changes in this amendment.

The introductory language of § 173.393(m) has been clarified to more appropriately reflect and emphasize the quality control and administrative procedural requirements which follow.

A significant number of commenters, including the Atomic Industrial Forum and the Atomic Energy Commission, recommended that for air shipment § 173.393(n) require a special preshipment leakage test on each package containing liquid radioactive material exceeding a Type A quantity. Such a test provides confirmation of the existing performance requirement in § 173.398(b)(2)(iii). In view of these comments and the circumstances peculiar to air transportation, particularly those involving a package containing a greater quantity of radioactive material, the Board has changed § 173.393(n) to require this preshipment leak test. The Board has provided that the test may be conducted either on the entire containment system as a unit, or on any receptacle or vessel within the containment system.

Several comments were received from manufacturers of irradiated fuel casks regarding an inconsistency between the definition of "maximum normal operating pressure" (MNOP) in § 173.389(n) and its use in § 173.393(n)(8). The inconsistency involved the 1-year period specified for pressure buildup in the MNOP definition when compared to the proposed requirement that the internal pressure of the containment system must not exceed the MNOP during the "anticipated period of transport." Commenters stated that § 173.389(n) does not recognize the possibility of the MNOP being below atmospheric. Also, some commenters considered the word "normal" in the MNOP definition inappropriate since it ignores the provisions which might be made for venting or for ancillary cooling systems. The Board acknowledges these difficulties presented by the proposal.

The MNOP definition was taken from the draft of proposed changes to the International Atomic Energy Agency Regulations (IAEA) which are now expected to be published late in 1972. The IAEA definition of MNOP sets forth the maximum pressure that could develop under credible conditions of transportation. It assumes such things as malfunction of a pressure relief device, misplacement of a package for as long as 1 year, and lack of provision for external mechanical cooling or administrative shipment controls. It establishes an idealized design benchmark. However, within the context of the IAEA Regulations, it will be qualified by several technical requirements not presently in the Hazardous Materials Regulations. These will relate to the criteria for international competent authority certifications of package design in contrast to the "unilateral" or "multilateral" approval concepts.

The Board acknowledges that in the development of § 173.393(n)(8), it did not consider the fact that in many package designs, the MNOP would never be reached because of pressure relief devices, external cooling systems, etc. Further, for domestic transport purposes, the period of transport of large irradiated fuel packages is not likely to exceed 2 months. For these reasons, it is neither necessary nor appropriate to require that the containment system be designed to meet the MNOP definition.

Therefore, § 173.393(n)(8) is modified to require that for any package likely to develop a significant internal pressure, such pressure may not exceed the "design pressure" at any time during transportation.

One commenter suggested modifying the requirement in § 173.393(n)(2) that packagings be in "unimpaired physical condition." He stated that this rule could be interpreted in an unnecessarily restrictive manner and preclude repeated shipments of containers which have only superficial damage such as scratches or surface oxidation. The Board does not agree with this comment. However, it recognizes that a certain amount of judgment is involved to determine if a package is impaired relative to safety in transportation.

The source of the values in § 173.393(a)(7) concerning pressure differential and any future contemplated changes are of particular interest to some persons according to comments the Board has received in this docket and other dockets relating to other classes of hazardous materials. The value of 0.5 atmosphere (absolute) (7.3 p.s.i. or 0.5 kg/cm^2) in § 173.393(a)(7) is based on the existing performance criteria in § 173.398(b)(2)(iii). That value is also consistent with existing IAEA and IATA Regulations. However, it is foreseen that, with the expected revisions to the IAEA Regulations later in 1972 and subsequent revisions to the IATA Regulations in 1973, this value may be changed to 0.25 atmospheric absolute (3.56 p.s.i. or 0.25 kg/cm^2). Therefore, the Board advises that it may propose such a change at some future date, together with other changes, to make the Hazardous Materials Regulations as compatible as possible with international standards.

In consideration of the foregoing, 49 CFR Part 173 is amended to read as follows:

A. In § 173.389, paragraphs (m) and (n) are added to read as follows:

§ 173.389 Radioactive materials; definitions.

* * * * *

(m) *Containment system.* Containment system of a radioactive materials package means those components of the packaging including special form encapsulation where used, which have been specified by the package designer as intended to retain the radioactive contents during transport, whether or not individual vessels in the packaging retain their integrity of containment.

(n) *Maximum normal operating pressure.* Maximum normal operating pressure means the maximum pressure above atmospheric pressure at mean sea level that would develop in the containment system in a period of 1 year, under the conditions of temperature and solar radiation corresponding to environmental conditions of transport in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

B. In § 173.393, paragraphs (m) and (n) are added to read as follows:

§ 173.393 General packaging requirements.

* * * * *

(m) Prior to the first shipment of any package, the shipper shall determine by examination or appropriate test that:

(1) The packaging meets the specified quality of design and construction; and

(2) The effectiveness of the shielding and containment, and, where necessary, the heat transfer characteristics of the package are within the limits applicable to or specified for the package design.

(n) Prior to each shipment of any package, the shipper shall insure by examination or appropriate test that:

(1) The package is proper for the contents to be shipped;

(2) The packaging is in unimpaired physical condition except for superficial marks;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) For a fissile material, and moderator and neutron absorber, if required, is present in proper condition;

(5) Any special instructions for filling, closing, and preparation of the package for shipment have been followed;

(6) Each closure, valve, and any other opening of the containment system through which the radioactive content might escape is properly closed and sealed;

(7) Each package containing liquid in excess of a Type A quantity and destined for air shipment is tested to demonstrate that it is leak tight under an ambient atmospheric pressure differential of at least 0.5 atmosphere (absolute) (7.3 p.s.i.a. or 0.5 kg./cm.^{2}); the test may be conducted on the entire containment system or on any receptacle or vessel within the containment system, as appropriate to determine compliance with the requirement;

(8) If the maximum normal operating pressure of a package is likely to exceed 0.35 kg./cm.^{2} (gage), the internal pressure of the containment system will not exceed the design pressure during transportation; and

(9) External radiation and contamination levels are within the allowable limits.

This amendment is effective December 30, 1972. However, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831–835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421–1230 and 1472(h))

Issued in Washington, D.C. on August 29, 1972.

W. F. REA III, RADM,
Board Member, for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member, for the Federal Railroad Administration.

ROBERT A. KAYE,
For the Federal Highway Administration.

JAMES F. RUDOLPH,
Board Member, for the Federal Aviation Administration.

[FR Doc.72-14996 Filed 9-1-72;8:45 am]

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192-7; Docket No. OPS-3E]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Odorization of Gas in Transmission Lines

The purpose of this amendment is to extend the period of time during which the interim Federal safety standards applying to gas odorization may remain in effect in those States now requiring the odorization of gas in transmission lines.

On November 6, 1970, the Department issued Amendment 192-2 (35 F.R. 17335, November 11, 1970). This amendment kept the interim Federal safety standards on odorization in effect in States whose interim standards required the odorization of gas in transmission lines. These interim standards were to remain in effect until January 1, 1972, or the date upon which the distribution companies in those States were odorizing gas in accordance with § 192.625, whichever occurred earlier. On December 28, 1971, the Department issued Amendment 192-6, which further extended this date to September 1, 1972 (36 F.R. 25423, December 31, 1971).

Based on extensive studies of the subject conducted over the past year, it appears that certain limited odorization of transmission lines may be warranted. The Department is considering this question and expects to propose regulatory changes very shortly. In order to allow sufficient time for carrying out this rule making proceeding, these interim standards for odorization of gas transmission lines are being extended again until the date upon which the distribution companies in that State have actually taken over the odorization of gas in mains and service lines in accordance with the requirements of § 192.625. Until that time, gas in transmission lines must continue to be odorized in those States. By June 1, 1973, the Department anticipates that the rule making proceeding will be complete and the interim standards can be allowed to lapse.

Since the regulatory provisions that are affected by this amendment are presently in effect, and since this amendment will impose no additional burden on any person, I find that notice and public procedure thereon are impractical and unnecessary and that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, § 192.625(g)(1) of Title 49 of the Code of Federal Regulations is amended, effective immediately, to read as follows:

§ 192.625 Odorization of gas.

* * * * *

(g) * * *

(1) June 1, 1973; or

* * * * *

(Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. sec. 1671 et seq., Part 1 of the regulations of the Office of the Secretary of Transportation, 49 CFR Part 1; redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation, 49 CFR Part 1)

Issued in Washington, D.C., on August 29, 1972.

JOSEPH C. CALDWELL,
Director, Office of Pipeline Safety.

[FR Doc.72-15037 Filed 9-1-72;8:48 am]

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

[Docket No. 70-27; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Systems

This notice amends Part 571 of Title 49, Code of Federal Regulations, to add a new Motor Vehicle Safety Standard No. 105a (49 CFR 571.105a) that establishes requirements for motor vehicle hydraulic brake systems and parking brake systems. A notice of proposed rulemaking on this subject was published on November 11, 1970 (35 F.R. 17345).

Federal Standard No. 105, in effect since January 1, 1968, represents the initial Federal effort to specify braking requirements for motor vehicles. The standard requires that passenger cars be equipped with a split service brake system, and have stopping ability based upon deceleration rates specified in an SAE recommended practice. Requirements for fade and recovery, water recovery, and stability while braking are also included in the standard. These requirements do not, however, represent

the full capabilities of modern braking technology. Braking continues to be the most important single element of accident avoidance from the standpoint of vehicle performance. The full utilization of the industry's technological capability in this area, within the limits of reasonable cost, is therefore of highest importance to the safety effort.

The requirements of this standard are specified in terms of performance on a surface of relatively high skid number. The NHTSA recognizes the importance to safety of good braking performance on surfaces such as wet or icy roads. It is monitoring closely the development work in progress on methods, such as antilock systems, designed to enhance vehicle performance over a wide variety of surfaces, in preparation for future rulemaking action adding performance requirements in this area. Until such requirements are made effective, this agency assumes that manufacturers will design their vehicles for safe braking performance on all types of road surfaces, while continuing to work on, and make provision for, more advanced braking systems.

The notice issued in November 1970 proposed extension of applicability of Standard No. 105 to other vehicle types and covered the same factors deemed important in the earlier standard. These include stopping distance, linear stability while stopping, fade resistance, and fade recovery. The notice also proposed features in hydraulic braking systems that could warn against malfunction, and stop the vehicle should a malfunction appear in the normal service system. The amended standard covers each of these aspects as discussed below.

1. *Applicability.* Standard No. 105 applies to passenger cars, and has been extended to specify requirements for the first time for multipurpose passenger vehicles, trucks, and buses equipped with hydraulic brake systems. A definition of brake power unit has been adopted and appropriate modifications made in the text to clarify that vehicles with central hydraulic power systems were included in the notice. Standard No. 105a does not apply to vehicles equipped with "air over hydraulic" systems, which remain within the purview of Standard No. 121, Air Brake Systems.

2. *Effective date.* To meet the proposed effective date of October 1, 1972, equipment and performance requirements would have been substantially weaker than those that have been adopted and the NHTSA has determined that a later effective date is, overall, in the public interest. It is therefore set at September 1, 1974.

3. *Service brake system.* All vehicles with hydraulic brake systems are required to have a split service brake system, with partial failure or "emergency" braking features. Effectiveness of the system is demonstrated by a series of road tests covering stopping distance, stability, and fade and recovery, water recovery, and spike stops.

A. *Stopping distance.* As the proposal noted, "perhaps the most important indication of brake performance is the distance in which a brake system can stop a vehicle from a given speed." Stopping distances were proposed from 30 m.p.h., 60 m.p.h., and 80 m.p.h. and maximum attainable vehicle speed, under various load and system conditions, based upon vehicle category or weight. These tests included stops with the vehicle at a lightly loaded weight, and stops under partial failure conditions. The following illustrate examples of the proposal and amendment. In addition to the stopping distances discussed below, stopping distances from 30 m.p.h., 80 m.p.h., and maximum attainable vehicle speed are also specified.

Passenger cars. It was proposed that passenger cars demonstrate the ability to stop in 185 feet from 60 m.p.h. under adverse loading conditions. The stopping distance adopted, 194 feet, is only slightly longer. According to consumer information data submitted by manufacturers of 1972 passenger cars, contemporary vehicles ranked 26th to 61st would be unable to meet this stopping distance requirement. This new requirement will result in a substantial upgrading of passenger car stopping ability. Currently under Standard No. 105, passenger cars must demonstrate the ability to stop in 646 feet from 60 m.p.h. under partial failure conditions. The new standard lowers this distance to 431 feet, an increase from the proposed 388 feet. The same stopping distance requirement must be met with an inoperative brake power assist or brake power unit.

Vehicles with GVWR of 10,000 pounds or less. Vehicles other than passenger cars with a gross vehicle weight rating of 10,000 pounds or less, must demonstrate the ability to stop from 60 m.p.h. in 216 feet under adverse loading conditions, and in 484 feet under partial failure conditions.

Vehicles with GVWR greater than 10,000 pounds. Vehicles in this category must demonstrate an ability to stop from 60 m.p.h. in 245 feet under adverse loading conditions, and in 553 feet under partial failure conditions.

1. *Stability of vehicle while stopping.* As proposed, a vehicle will be required to stop (other than in spike stops) without any part of it leaving a 12-foot-wide lane. Wheel lockup is permitted at a speed below 10 m.p.h. and lockup of only one wheel not controlled by an antilock system is permissible at speeds in excess of 10 m.p.h.

C. *Fade and recovery.* Brake fade characteristics are critical from the standpoint of retaining adequate stopping power despite the high temperatures created by prolonged or severe use. A vehicle will demonstrate fade and recovery capability in two tests, by making a number of fade stops from 60 m.p.h. if it is a vehicle with a GVWR of 10,000 pounds or less, or fade snubs from 40 m.p.h. to 20 m.p.h., if it is a heavier vehicle. The latter represents a modification of the proposed snub speed range of 50 m.p.h. to 15 m.p.h. The proposed maximum speed fade recovery test has not been adopted; the effectiveness test at maximum attainable vehicle speed should indicate whether a brake system will experience problems with fade.

D. *Water recovery.* Service brake systems must also demonstrate an acceptable recovery after exposure to water. The method of immersion has been modified on the basis of comments that the method proposed would necessitate use of a trough 880 feet long. Instead the amendment specifies that the vehicle shall be driven for not less than 2 minutes at a speed of 5 m.p.h., in any combination of forward and reverse directions, through a trough having a water depth of 6 inches. This change should clarify the test requirement as well as simplifying enforcement procedures.

E. *Spike stops.* The spike stop proposal has been adopted, with a revision to allow six check stops (instead of one), at least one of which meets the requirements of the specified distance and pedal force. This allowance recognizes variability of test drivers and vehicles.

4. *Parking brake system.* The parking brake system proposal has also been adopted. When the parking brakes are applied, with a force not exceeding 90 pounds for a hand-operated system or 125 pounds for a foot-operated system, the parking brake system shall be capable of holding the vehicle stationary for 5 minutes on a 30 percent grade (20 percent for vehicles of more than 10,000 pounds GVWR) in both forward and reverse directions. Optional requirements have been adopted for vehicles with a GVWR of 10,000 pounds or less, equipped with a transmission utilizing a parking pawl or detent mechanism within the transmission assembly. Vehicles so equipped may demonstrate compliance by (1) parking with both the parking brake and pawl engaged on a 30 percent grade, (2) parking on a 20 percent grade with only the parking brake engaged, and (3) being impacted front and rear, on a level surface, by a 4,000 pound moving barrier without disengagement or fracture of the pawl or detent mechanism.

5. *Reservoirs.* The master cylinder reservoir proposal has been adopted with modifications that allow balance ports and compartmentalized reservoirs in a single integrated master cylinder body and reservoir assembly, and that reduce fluid reservoir capacity requirements from 150 percent to 100 percent. The proposed cover, seal, and retention devices have not been adopted since pressure differential warning and low fluid level warning should provide a sufficient safety factor. The proposal was intended also to cover reservoir requirements in systems not using master cylinders and the revised wording of the section clarifies this point.

6. *Brake system indicator lamp.* The proposal would have required separate lamps to indicate when the parking brake is applied, and when a failure has occurred in the service brake system. Standard No. 105a requires only one lamp to serve these functions, to be labeled "Brake". Either the wording or the lens may be the color red. The lamp

must light in the event of pressure failure in any part of the service brake system, other than a structural failure of a housing that is common to two or more subsystems, before or upon application of 50 pounds of pedal force upon a manually operated service brake, or 25 pounds upon a service brake with a brake power assist unit, or when the supply pressure in a brake power unit drops to not less than one-half of the normal system pressure. The lamp must also light, without the application of pedal force, when the level of brake fluid in the master cylinder reservoir drops to less than the recommended safe level specified by the manufacturer, or to not less than one-fourth the fluid reservoir capacity in any reservoir compartment, whichever is greater. This does not preclude the use of translucent covers or sight gauges in addition to the required lamp. Additionally, the lamp must illuminate when there is a total electrical failure in an antilock or brake proportioning system. All indicator lamps shall be activated when the ignition switch is turned from the "on" to the "start" position, which includes the air start condition on diesel-engine vehicles. The lamps will be deactivated upon return of the switch to the "on" position. No time interval is specified for deactivation, as the NHTSA recognizes that instant deactivation is impracticable for continuous sensing units.

7. *Miscellaneous.* The NHTSA proposed that service brakes be installed so that the lining thickness of drum brake shoes and disc brake pads might be visually inspected without removing the drums or pads. The possibility that contaminants may enter the system if plugs are removed, the differences between riveted and bonded lining thickness, and the location of inspection ports, were some of the technical and safety factors weighing in the conclusion to abandon this proposal.

The agency decided against the proposal that would have established suspension system durability requirements to be met following completion of tests. Since the vehicle must remain within a 12-foot-wide lane as a condition of the stopping distance tests, this will be a satisfactory demonstration of suspension system integrity.

Effective date. September 1, 1974. Because of the necessity to allow manufacturers sufficient production leadtime, it is found for good cause shown that an effective date later than 1 year after issuance of this rule is in the public interest.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended by adding § 571.105a, Motor Vehicle Safety Standard No. 105a, Hydraulic brake systems, as set forth below.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407), and delegation of authority from Secretary of Transportation to National Highway Safety Administrator, 49 CFR 1.51)

Issued on: August 23, 1972.

DOUGLAS W. TOMS,
Administrator.

§ 571.105a Motor Vehicle Safety Standard No. 105a; hydraulic brake systems.

S1. *Scope.* This standard specifies requirements for hydraulic service brake and associated parking brake systems.

S2. *Purpose.* The purpose of this standard is to insure safe braking performance under normal and emergency conditions.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses, equipped with hydraulic service brake systems.

S4. *Definitions.* "Antilock system" means a portion of a service brake system that automatically controls the degree of rotational wheel slip at one or more road wheels of the vehicle during braking.

"Brake power assist unit" means a device installed in a hydraulic brake system that reduces the operator effort required to actuate the system, and that if inoperative does not prevent the operator from braking the vehicle by a continued application of muscular force on the service brake control.

"Brake power unit" means a device installed in a brake system that provides the energy required to actuate the brakes, either directly or indirectly through an auxiliary device, with the operator action consisting only of modulating the energy application level.

"Brake proportioning system" means a system that automatically adjusts the braking force at the axles to compensate for vehicle static axle loading and/or dynamic weight transfer between axles during deceleration.

"Hydraulic brake system" means a system that uses hydraulic fluid as a medium for transmitting force from a service brake control to the service brake, and that may incorporate a brake power assist unit, or a brake power unit.

"Initial brake temperature" means the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application.

"Lightly loaded vehicle weight" means:

(a) For vehicles with a GVWR of 10,000 pounds or less, unloaded vehicle weight plus 300 pounds (including driver and instrumentation);

(b) For vehicles with a GVWR greater than 10,000 pounds, unloaded vehicle weight plus 500 pounds (including driver and instrumentation).

"Pressure component" means a brake system component that contains the brake system fluid and controls or senses the fluid pressure.

"Skid number" means the frictional resistance of a pavement measured in accordance with American Society for Testing and Materials Method E-274-65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

"Snub" means the braking deceleration of a vehicle from a higher reference speed to a lower reference speed that is greater than zero.

"Speed attainable in 2 miles" means the speed attainable by accelerating at maximum rate from a standing start for 2 miles on a level surface.

"Spike stop" means a stop resulting from the application of 200 pounds of force on the service brake pedal in 0.08 second.

"Split service brake system" means a brake system consisting of two or more subsystems actuated by a single control designed so that a leakage-type failure of a pressure component in a single subsystem (except structural failure of a housing that is common to all subsystems) shall not impair the operation of any other subsystem.

"Stopping distance" means the distance traveled by a vehicle from the point of application of force to the brake control to the point at which the vehicle reaches a full stop.

S5. *Requirements.*

S5.1 *Service brake system.* Each vehicle shall be manufactured with a split service brake system, and shall be capable of meeting the requirements of S5.1.1 through S5.1.6, under the conditions specified in S6, when tested according to the procedures and in the sequence in S7. If a vehicle is incapable of attaining a speed specified in S5.1.1, S5.1.2, S5.1.3, or S5.1.6 its service brakes shall be capable of stopping the vehicle from the multiple of 5 m.p.h. that is 4 m.p.h. to 8 m.p.h. less than the speed attainable in 2 miles, within distances and with pedal forces that do not exceed the distances and forces specified in Table II. If a vehicle is incapable of attaining a speed specified in S5.1.4 in the time or distance interval set forth, it shall be tested at the highest speed attainable in the time or distance interval specified.

S5.1.1 *Stopping distance.* The service brakes shall be capable of stopping each vehicle in four effectiveness tests within the distances, and from the speeds and with the pedal forces specified below.

S5.1.1.1 In the first (preburnished) effectiveness test, the vehicle shall be capable of stopping from 30 m.p.h. and 60 m.p.h. within the distances and with pedal forces that do not exceed the distances and forces specified in Column I of Table II.

S5.1.1.2 In the second and fourth effectiveness tests, the vehicle shall be capable of stopping from 30 m.p.h., 60 m.p.h., 80 m.p.h., and the multiple of 5 m.p.h. that is 4 m.p.h. to 8 m.p.h. less than the speed attainable in 2 miles if this speed is 95 m.p.h. or greater, within the distances and with pedal forces that do not exceed the distances and forces specified in Column II of Table II.

S5.1.1.3 In the third effectiveness test (lightly loaded vehicle), the vehicle shall be capable of stopping at lightly loaded vehicle weight from 60 m.p.h. within the distances and with pedal forces that do not exceed the distances and forces specified in Column II of Table II.

S5.1.2 *Partial failure.* In the event of a rupture or leakage-type failure in a single subsystem, other than a structural failure of a housing that is common to two or more subsystems, the remaining portion(s) of the service brake system shall continue to operate, and shall be

capable of stopping a vehicle from 60 m.p.h. within distances and with pedal forces that do not exceed the distances and forces specified in Column III of Table II.

S5.1.3 *Inoperative brake power assist unit or brake power unit.* The service brakes shall be capable of stopping a vehicle equipped with a brake power assist unit or brake power unit with such unit rendered inoperative, from 60 m.p.h. within distances and with pedal forces that do not exceed the distances and forces specified in Column III of Table II.

S5.1.4 *Fade and recovery.* The service brakes shall be capable of stopping each vehicle in two fade and recovery tests.

S5.1.4.1 The pedal force used for the baseline check stops or snubs shall be not less than 15 pounds, nor more than 60 pounds.

S5.1.4.2 (a) Each vehicle with a GVWR of 10,000 pounds or less shall be capable of making 10 fade stops (15 fade stops on the second test) from 60 m.p.h. at 15 f.p.s.p.s. for each stop with a pedal force that does not exceed 150 pounds for any stop.

(b) Each vehicle with a GVWR greater than 10,000 pounds shall be capable of making 10 fade snubs (20 fade snubs on the second test) from 40 m.ph. to 20 m.p.h. at 10 f.p.s.p.s. for each snub, with a pedal force that does not exceed 150 pounds for any snub.

S5.1.4.3 (a) Each vehicle with a GVWR of 10,000 pounds or less shall be capable of making five recovery stops from 30 m.p.h. at 10 f.p.s.p.s. for each stop, with a pedal force that does not exceed 150 pounds for any of the first four stops, and that for the fifth recovery stop is within plus 20 pounds and minus 5 pounds or minus 40 percent (whichever is greater) of average pedal force for the baseline check.

(b) Each vehicle with a GVWR greater than 10,000 pounds shall be capable of making 5 recovery snubs from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. for each snub, with a pedal force that does not exceed 150 pounds for any of the first four snubs, and that for the fifth snub is within plus 20 pounds and minus 5 pounds or minus 40 percent (whichever is greater) of the average pedal force for the baseline check.

S5.1.5 *Water recovery.* The service brakes shall be capable of stopping each vehicle in a water recovery test, within the distances, and from the speeds and with the pedal forces specified below.

S5.1.5.1 The pedal force used for the baseline check stops shall be not less than 15 pounds nor more than 60 pounds.

S5.1.5.2 After being driven for at least 2 minutes at a speed of 5 m.p.h., in any combination of forward and reverse directions, through a trough having a water depth of 6 inches, each vehicle shall be capable of making 5 recovery stops from 30 m.p.h. at 10 f.p.s.p.s. for each stop with a pedal force that does not exceed 150 pounds for any of the first four stops, and that for the fifth recovery stop is within plus 20 pounds and minus 5 pounds or minus 40 percent (whichever is greater) of the average pedal force for the baseline check.

S5.1.6 *Spike stops.* Each vehicle shall be capable of making 10 spike stops from 30 m.p.h., followed by six effectiveness (check) stops from 60 m.p.h., at least one of which shall be within a stopping distance and with a pedal force that does not exceed the distances and forces specified in column II of table II.

S5.2 *Parking brake system.* Each vehicle shall be manufactured with a parking brake system of a friction type with a solely mechanical means to retain engagement, which shall under the conditions of S6, when tested according to the procedures specified in S7, meet the requirements specified in S5.2.1, S5.2.2, or S5.2.3, as applicable, when the system is engaged with a force applied to the control not to exceed 125 pounds for a foot-operated system and 90 pounds for a hand-operated system.

S5.2.1. Except as provided in S5.2.2, the parking brake system on each passenger car, and on each multipurpose passenger vehicle, truck or bus, with a GVWR of 10,000 pounds or less, shall be capable of holding the vehicle stationary for 5 minutes, in both a forward and reverse direction, on a 30 percent grade.

S5.2.2 A vehicle of a type described in S5.2.2.1 at the option of the manufacturer may meet the requirements of S5.2.2.1, S5.2.2.2, and S5.2.2.3 instead of the requirements of S5.2.1 if:

(a) The vehicle has a transmission or transmission control which incorporates a parking mechanism (hereafter referred to as the "mechanism"); and

(b) The mechanism must be engaged before the ignition key can be removed.

S5.2.2.1 The vehicle's parking brake and the mechanism, when both are engaged, shall be capable of holding the vehicle stationary for 5 minutes, in both the forward and reverse directions, on a 30 percent grade.

S5.2.2.2 The vehicle's parking brake, with the mechanism not engaged, shall be capable of holding the vehicle stationary for 5 minutes, in both the forward and reverse directions, on a 20 percent grade.

S5.2.2.3 With the mechanism engaged and the parking brake not engaged the mechanism shall not disengage or fracture in a manner permitting vehicle movement, when the vehicle is impacted at each end, on a level surface, by a barrier moving at 2½ m.p.h.

S5.2.3 The parking brake system on each multipurpose passenger vehicle, truck, or bus, with a GVWR greater than 10,000 pounds, shall be capable of holding the vehicle stationary for 5 minutes, in both the forward and reverse directions, on a 20 percent grade.

S5.3 *Brake system indicator lamp.* Each vehicle shall have one or more brake system indicator lamps mounted in front of and in clear view of the driver, which meet the requirements of S5.3.1 through S5.3.4.

S5.3.1 An indicator lamp shall be activated when the ignition switch is in the "on" position and whenever any of the following conditions occur:

(a) A pressure failure in any part of the service brake system, other than a structural failure of a housing that is common to two or more subsystems, before or upon application of 50 pounds of pedal force upon a fully manual service brake or of 25 pounds of pedal force upon a service brake with a brakepower assist unit, or when the supply pressure in a brakepower unit drops to not less than one-half of the normal system pressure.

(b) A drop in the level of brake fluid in a master cylinder reservoir to less than the recommended safe level specified by the manufacturer, or to not less than one-fourth the fluid reservoir capacity in any reservoir compartment, whichever is greater.

(c) A total electrical failure in an antilock or brake proportioning system.

(d) Application of the parking brake.

S5.3.2 All indicator lamps shall be activated when the ignition switch is turned from the "on" or "run" position to the "start" position.

S5.3.3 Except for the momentary activation required by S5.3.2, each indicator lamp, once activated, shall remain activated as long as the condition exists, whenever the ignition switch is in the "on" position. An indicator lamp activated when the ignition switch is turned to the "start" position shall be deactivated upon return of the switch to the "on" or "run" position or when the parking brake is released, unless a failure of the kind described in S5.3.1(a) to S5.3.1 (c) exists in the service brake system.

S5.3.4 Each indicator lamp shall have a lens labeled "Brake" in letters not less than one-eighth inch high, which shall be legible to the driver in daylight when lighted. The lens and the letters shall have contrasting colors, one of which is red. An antilock system may have a separate lens labeled "Antilock," in letters not less than one-eighth inch high, which shall be legible to the driver in daylight when lighted, if the indicator is used only for the antilock system. The lens and the letters shall have contrasting colors, one of which is yellow.

S5.4 *Reservoirs.*

S5.4.1 *Master cylinder reservoirs.* A master cylinder shall have a reservoir compartment for each service brake subsystem serviced by the master cylinder. Loss of fluid from one compartment shall not result in a complete loss of brake fluid from another compartment.

S5.4.2 *Capacity.* Each reservoir compartment shall have a minimum capacity equivalent to the fluid displacement resulting when all the wheel cylinders or caliper pistons serviced by the reservoir move from a new lining, fully retracted position (as adjusted initially to the manufacturer's recommended setting) to a fully worn, fully applied position. Each brake power unit reservoir servicing only the brake system shall have a minimum capacity equivalent to the fluid displacement required to charge the system piston(s) or accumulator(s) to normal operating pressure plus the displacement resulting when all the wheel cylinders or caliper pistons serviced by the reservoir or accumulator(s) move from a new

lining fully retracted position (as adjusted initially to the manufacturer's recommended setting) to a fully worn, fully applied position.

S5.4.3 *Reservoir label.* Each vehicle shall have the following label appropriately completed with the manufacturer's recommendation as to the type of fluid, as specified in Standard No. 116 (49 CFR 571.116), to be used in the vehicle brake system. The label shall be located so as to be visible by direct view, permanently affixed, stamped, or embossed either on or within 4 inches of the brake fluid reservoir filler plug or cap, in lettering at least one-eighth of an inch high on a contrasting background:

WARNING

Use only ---------- fluid from a sealed container.

Clean filler cap before removing.

S5.5 *Antilock and brake proportioning systems.* In the event of failure (structural or functional) in an antilock or brake proportioning system the vehicle shall be capable of meeting the stopping distance requirements specified in S5.1.2 for service brake system partial failure.

S5.6 *Brake system integrity.* Each vehicle shall be capable of completing all performance requirements of S5 without:

(a) Detachment or fracture of any component of the braking system, such as brakesprings and brakeshoe or disc pad facing, other than minor cracks that do not impair attachment of the friction facing. All mechanical components of the braking system shall be intact and functional. Friction facing tearout (detachment) shall not exceed 10 percent of the lining surface area on any single frictional element.

(b) Any visible brake fluid or lubricant on the friction surface of the brake, or at the master cylinder or brake power unit reservoir cover, seal and filler openings.

S6. *Test conditions.* The performance requirements of S5 shall be met under the following conditions. Where a range of conditions is specified, the vehicle shall be capable of meeting the requirements at all points within the range.

S6.1 *Vehicle weight.*

S6.1.1 Except for tests specified in S7.6.3, S7.7, and S7.8.1, the vehicle is loaded to its gross vehicle weight rating, distributed proportionally to its gross axle weight rating, except that the fuel tank is filled to any level from 100 percent of capacity (corresponding to full GVWR loading) to 75 percent of capacity.

S6.1.2 For the tests specified in S7.6.3, S7.7, and S7.8.1, vehicle weight is lightly loaded vehicle weight, with the added weight distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles and trucks, and in the area adjacent to the driver's seat in buses.

S6.2 *Tire inflation pressure.* Tire inflation pressure is the pressure recommended by the vehicle manufacturer for the GVWR of the vehicle.

S6.3 *Transmission selector control.* For S7.3, S7.5, S7.7, S7.14, S7.16, S7.10.1.2, S7.10.2.2, S7.10.3.2, and as required for S7.12, the transmission selector control is in neutral for all decelerations. For all other tests during all decelerations, the transmission selector control is in the control position, other than overdrive, recommended by the manufacturer for driving on a level surface at the applicable test speed. To avoid engine stall in vehicles equipped with a manual transmission, the transmission may be shifted to neutral (or the clutch disengaged) when the vehicle speed decreases to 20 m.p.h.

S6.4 *Engine.* Engine idle speed and ignition timing settings are according to the manufacturer's recommendations. If the vehicle is equipped with an adjustable engine speed governor, it is adjusted according to the manufacturer's recommendation.

S6.5 *Vehicle openings.* All vehicle openings (doors, windows, hood, trunk, convertible top, cargo doors, etc.) are closed except as required for instrumentation purposes.

S6.6 *Ambient temperature.* The ambient temperature is any temperature between 32° F. and 100° F.

S6.7 *Wind velocity.* The wind velocity is zero.

S6.8 *Road surface.* Road tests are conducted on a 12-foot-wide, level roadway having a skid number of 75. Burnish stops are conducted on any surface. The parking brake test surface is clean, dry, smooth portland cement concrete.

S6.9 *Vehicle position.* The vehicle is aligned in the center of the roadway at the start of each brake application. Stops, other than spike stops, are made without any part of the vehicle leaving the roadway. Stops are made without lockup of any wheel at speeds greater than 10 m.p.h., except that there may be (a) controlled lockup on an antilock-equipped axle, and (b) lockup of not more than one wheel uncontrolled by an antilock system.

S6.10 *Thermocouples.* The brake temperature is measured by plug-type thermocouples installed in the approximate center of the facing length and width of the most heavily loaded shoe or disc pad, one per brake, as shown in Figure 1. For center-grooved shoes or pads, thermocouples are installed within one-eighth to one-quarter inch of the groove and as close to the center as possible.

S6.11 *Initial brake temperature.* Unless otherwise specified the initial brake temperature is 150° F. to 200° F.

S6.12 *Test loads.* The load is distributed on the load carrying platform, and the load material density is any value from 50 to 725 pounds per cubic foot.

S7. *Test procedures and sequence.* Each vehicle shall be capable of meeting all the requirements of S5 when tested according to the procedures and in the sequence set forth below, without replacing any brake system part or making any adjustments to the brake system other than as permitted in S7.4, S7.8, and S7.9. A vehicle shall be deemed to comply with S5.1 if at least one of the stops at each speed and load specified in each of S7.3, S7.5, S7.7, S7.8, S7.9, S7.14, or S7.16 is made within a stopping distance and with a pedal force that does not exceed the limits specified in Table II.

S7.1 *Brake warming.* If the initial brake temperature for the first stop in a test procedure (other than S7.6 and S7.15) has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 m.p.h. to 10 m.p.h., at a deceleration not greater than 10 f.p.s.p.s.

S7.2 *Pretest instrumentation check.* Conduct a general check of instrumentation by making not more than 10 stops from a speed of not more than 30 m.p.h., or 10 snubs from a speed not more than 40 m.p.h. to 10 m.p.h., at a deceleration of not more than 10 f.p.s.p.s. If instrument repair, replacement, or adjustment is necessary, make not more than 10 additional stops or snubs after such repair, replacement of adjustment.

S7.3 *Service brake system—first (preburnish) effectiveness test.* Make six stops from 30 m.p.h. with a pedal force of 15 to 100 pounds. Then make six stops from 60 m.p.h. with a pedal force of 15 to 120 pounds.

S7.4 *Service brake system—burnish procedure.*

S7.4.1 *Vehicles with GVWR of 10,000 pounds or less.*

S7.4.1.1 *Burnish.* Burnish the brakes by making 200 stops from 40 m.p.h. at 12 f.p.s.p.s. The interval from the start of one service brake application to the start of the next shall be either the time necessary to reduce the initial brake temperature to between 230° F. and 270° F., or the distance of 1 mile, whichever occurs first. Accelerate to 40 m.p.h. after each stop and maintain that speed until making the next stop.

S7.4.1.2 *Brake adjustment—post burnish.* After burnishing, adjust the brakes in accordance with the manufacturer's recommendation.

S7.4.2 *Vehicles with GVWR greater than 10,000 pounds.*

S7.4.2.1 *Burnish.* Burnish the brakes by making 400 snubs from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. After each brake application accelerate to 40 m.p.h. and maintain that speed until making the next brake application at a point 1.5 miles from the point of the start of the previous brake application.

S7.4.2.2 *Brake adjustment—post burnish.* After burnishing, adjust the brakes in accordance with the manufacturer's recommendation.

S7.5 *Service brake system—second effectiveness test.* Repeat S7.3. Then, with a pedal force of 20 to 150 pounds, make four stops from 80 m.p.h. and four stops from the multiple of 5 m.p.h. that is 4 m.p.h. to 8 m.p.h. less than the speed attainable in 2 miles if that speed is 95 m.p.h. or greater.

S7.6 *Parking brake test.*

S7.6.1 *Vehicle with transmission not utilizing parking mechanisms.* Starting with an initial brake temperature of not more than 150° F., drive the vehicle, loaded to GVWR, onto the grade with the longitudinal axis of the vehicle in the direction of the grade. Apply the service brakes with a force not exceeding 150 pounds to stop the vehicle. Place the transmission in neutral. Apply the parking brakes by exerting a force not exceeding 125 pounds for a foot-operated system, or 90 pounds for a hand-operated system. Release the service brake and allow the vehicle to remain at rest for 5 minutes. Repeat the test with the vehicle parked in the reverse position on the grade. Check parking brake indicator operation.

S7.6.2 *Vehicles with transmission utilizing parking mechanisms.*

(a) Check that transmission must be placed in park position to release key.

(b) Repeat S7.6.1, except in addition place the transmission control to engage the parking pawl or detent mechanism.

(c) Repeat S7.6.1, except on a 20 percent grade, with the mechanism not engaged.

S7.6.3 *Lightly loaded vehicle.* Repeat S7.6.1 or S7.6.2 as applicable except with the vehicle at lightly loaded vehicle weight.

S7.6.4 *Nonservice brake type parking brake systems.* For vehicles with parking brake systems not utilizing the service brake friction elements, the friction elements of such systems shall be burnished prior to parking brake tests according to the manufacturer's published recommendations as furnished to the purchaser. If no recommendations are furnished, run the vehicle in an unburnished condition.

S7.7 *Service brake system—lightly loaded vehicle effectiveness test.* Make six stops from 60 m.p.h. with a pedal force of 15 to 120 pounds, with vehicle at lightly loaded vehicle weight.

S7.8 *Service brake system test—partial failure.*

S7.8.1 With vehicle at lightly loaded vehicle weight, alter the service brake system to induce a complete loss of braking, including normal pedal travel loss, in any one subsystem. Determine the pedal force (or pressure level in a brake power unit system) necessary to cause the brake system indicator to operate. Make four stops from 60 m.p.h. by a continuous application of the service brake control with a pedal force not exceeding 150 pounds. Restore the service brake system to normal at completion of this test.

S7.8.2 Repeat S7.8.1 for each of the other subsystems.

S7.8.3 Repeat S7.8.1 and S7.8.2 with vehicle at GVWR. Determine that the brake system indicator is operating when the reservoir fluid level is less than the level specified in S5.3.1(b). Check for proper operation with each reservoir in turn at a low level. Restore the service brake system to normal at completion of this test. The fully applied worn condition is determined with the automatic adjusting mechanism inoperative (for vehicles equipped with self-adjusting mechanism), or without adjustment after setting to the manufacturer's initial new lining condition (for vehicles equipped with manual adjustment mechanism).

S7.8.4 (For vehicles with antilock and brake proportioning systems.) With vehicle at GVWR, disconnect power source, or otherwise render antilock or brake proportioning system inoperative. Make four stops from 60 m.p.h. with a pedal force not exceeding 150 pounds. If more than one independent antilock or brake proportioning system is provided, disconnect or render one subsystem inoperative and run as above. Restore system to normal at completion of this test. Repeat for each subsystem provided. Disconnect electrical power source to unit. Check for operation of warning indicator.

S7.9 *Service brake system—inoperative brake power unit or brake power assist unit test.* (For vehicles equipped with brake power unit or brake power assist unit.) On vehicles with brake power assist units, render the brake power assist unit inoperative, or one of the brake power assist unit systems if entirely independent duplicate systems are provided, by disconnecting the relevant power supply. Exhaust any residual brake power reserve capability of the disconnected system. On vehicles with brake power units, disconnect the primary source of power. Make four stops from 60 m.p.h. by a continuous application of the service brake control with a pedal force not to exceed 150 pounds. Restore the system to normal at completion of this test. For vehicles equipped with more than one brake power unit or brake power assist unit, conduct tests of each in turn.

S7.10 *Service brake system—first fade and recovery test.*

S7.10.1 *Baseline check stops or snubs.*

S7.10.1.1 *Vehicles with GVWR of 10,000 pounds or less.* Make three stops from 30 m.p.h. at 10 f.p.s.p.s. for each stop, terminating pedal force readings when vehicle speed falls to 5 m.p.h. Average the maximum brake pedal force required for the three stops.

S7.10.1.2 *Vehicles with GVWR greater than 10,000 pounds.* With transmission in neutral (or declutched), make three snubs from 40 to 20 m.p.h. at 10 f.p.s.p.s. for each snub. Average the maximum brake pedal force required for the three snubs.

S7.10.2 *Fade stops or snubs.*

S7.10.2.1 *Vehicles with GVWR of 10,000 pounds or less.* Make 10 stops from 60 m.p.h. at 15 f.p.s.p.s. for each stop. Establish an initial brake temperature before the first brake application of 130° to 150° F. Initial brake temperatures before brake applications for subsequent stops are those occurring at the distance intervals. Attain the required deceleration within 1 second and, as a minimum, maintain it for the remainder of the stopping time. Leave an interval of 0.4 mile between the start of brake applications. Accelerate immediately to the initial test speed after each stop. Drive 1 mile at 30 m.p.h. after the last fade stop, and immediately follow the recovery procedure specified in S710.3.1.

S7.10.2.2 *Vehicles with GVWR greater than 10,000 pounds.* With transmission in neutral (or declutched) make 10 snubs from 40 to 20 m.p.h. at 10 f.p.s.p.s. for each snub. Establish an initial brake temperature before the first brake application of 130° F. to 150° F. Initial brake temperatures before brake application for subsequent snubs are those occurring in the time intervals specified below. Attain the required deceleration within 1 second and maintain it for the remainder of the snubbing time. Leave an interval of 30 seconds between snubs (start of brake application to start of brake application). Accelerate immediately to the initial test speed after each snub. Drive for 1.5 miles at 40 m.p.h. after the last snub and immediately follow the recovery procedure specified in S7.10.3.2.

S7.10.3 *Recovery stops or snubs.*

S7.10.3.1 *Vehicles with GVWR of 10,000 pounds or less.* Make five stops from 30 m.p.h. at 10 f.p.s.p.s. for each stop. Allow a braking distance interval of not more than 1 mile. Immediately after each stop accelerate at maximum rate to 30 m.p.h. and maintain that speed until making the next stop. Record the maximum pedal force for each stop.

S7.10.3.2 *Vehicles with GVWR greater than 10,000 pounds.* With transmission in neutral (or declutched) make five snubs from 40 to 20 m.p.h. to 10 f.p.s.p.s., for each snub. After each snub, accelerate at maximum rate to 40 m.p.h. and maintain that speed until making the next brake application at a point not more than 1.5 miles from the point of the previous brake application. Record the maximum pedal force for each snub.

S7.11 *Service brake system—first reburnish.* Repeat S7.4, except make 35 burnish stops or snubs instead of 200 stops or 400 snubs. Do not adjust brakes after reburnish.

S.7.12 *Service brake system—second fade and recovery test.* Repeat S7.10, except in S7.10.2 run 15 fade stops or 20 snubs instead of 10.

S7.13 *Second reburnish.* Repeat S7.11.

S7.14 *Service brake system—fourth effectiveness test.* Repeat S7.5.

S7.15 *Service brake system—water recovery test.*

S7.15.1 *Baseline check stop.* Make three stops from 30 m.p.h. at 10 f.p.s.p.s. for each stop, terminating pedal force readings when vehicle speed falls to 5 m.p.h. Average the maximum brake pedal force required for the three stops.

S7.15.2 *Wet brake recovery stops.* With the brakes fully released at all times, drive the vehicle for not less than 2 minutes at a speed of 5 m.p.h., in any combination of forward and reverse directions, through a trough having a water depth of 6 inches. After leaving the trough, immediately accelerate at maximum rate to 30 m.p.h. without a brake application. Immediately upon reaching that speed make five stops, each from 30

m.p.h. at 10 f.p.s.p.s. for each stop. After each stop (except the last), accelerate the vehicle immediately at a maximum rate to a speed of 30 m.p.h. and begin the next stop.

S7.16 *Spike stops.* Make 10 successive spike stops from 30 m.p.h. with the transmission in neutral, with no reverse stops. Make spike stops by applying a pedal force of 200 pounds while recording pedal force versus time. Maintain pedal force until vehicle has stopped. At completion of 10 spike stops, make six effectiveness stops from 60 m.p.h. with a pedal force of 15 to 120 pounds.

S7.17 *Final inspection.* Inspect—

(a) The service brake system for detachment or fracture of any components, such as brake springs and brakeshoes or disc pad facing.

(b) The friction surface of the brake, the master cylinder or brakepower unit reservoir cover and seal and filler openings, for leakage of brake fluid or lubricant.

(c) The master cylinder or brakepower unit reservoir for compliance with the labeling and volume requirements of S5.4.2 and S5.4.3.

(d) The brake system indicator light, for compliance with operation in various key positions, lens color, labeling and location, in accordance with S5.3.

S7.18 *Moving barrier test.* (Only for vehicles that have been tested according to S7.6.2.) Load the vehicle to GVWR, release parking brake and place the transmission selector control to engage pawl or detent mechanism. With a moving barrier as described in paragraph 3.3 of SAE Recommended Practice J972 "Moving Barrier Collision Tests," November 1966, impact the vehicle from the front at 2½ m.p.h. The longitudinal axis of the barrier is parallel with the longitudinal axis of the vehicle. Repeat the test, impacting the vehicle from the rear.

TABLE I—BRAKE TEST PROCEDURE

SEQUENCE AND REQUIREMENTS

Number	Sequence	Test load		Test procedure	Requirements
		Light	GVWR		
1	Instrumentation check			S7.2	
2	First (preburnish) effectiveness test		X	S7.3	S5.1.1.1
3	Burnish procedure		X	S7.4	
4	Second effectiveness		X	S7.5	S5.1.1.2
5	Parking brake	X	X	S7.6	S5.2.1 S5.2.2
6	Third effectiveness (lightly loaded vehicle)	X		S7.7	S5.1.1.3
7	Partial failure	X	X	S7.8	S5.1.2
8	Inoperative brake power and power assist units		X	S7.9	S5.1.3
9	First fade and recovery		X	S7.10	S5.1.4
10	First reburnish		X	S7.11	
11	Second fade and recovery		X	S7.12	S5.1.4
12	Second reburnish		X	S7.13	
13	Fourth effectiveness		X	S7.14	S5.1.1.2
14	Water recovery		X	S7.15	S5.1.5
15	Spike stops		X	S7.16	S5.1.6
16	Final inspection			S7.17	S5.6
17	Parking brake pawl or detent systems		X	S7.18	S5.2.2.3

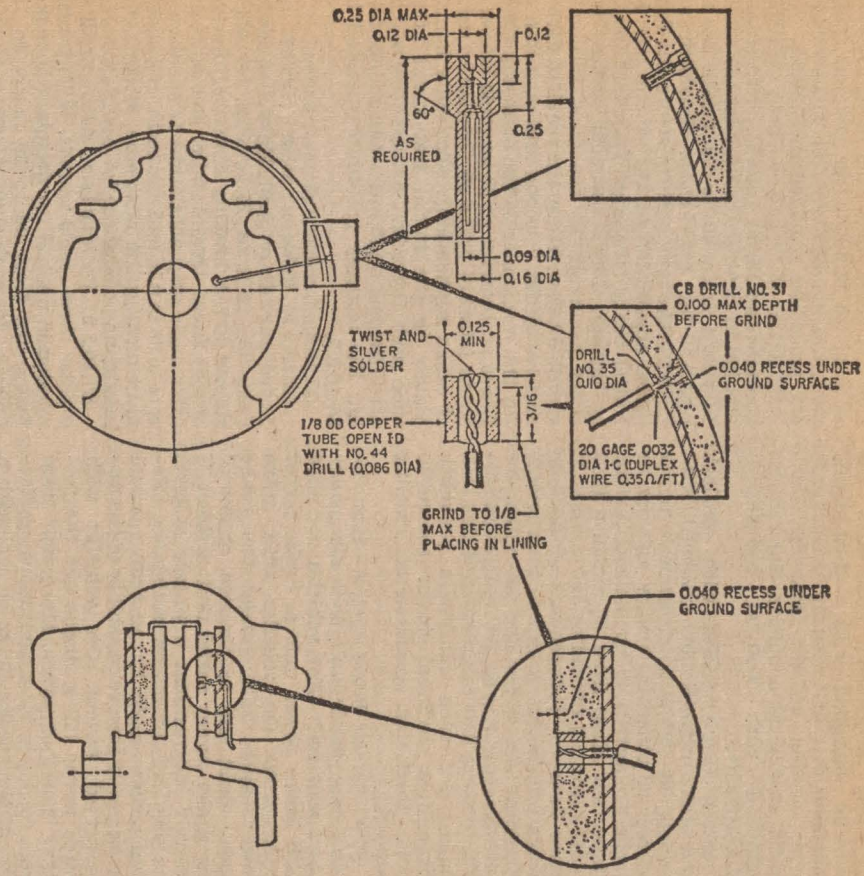

FIGURE 1 - TYPICAL PLUG TYPE THERMOCOUPLE INSTALLATIONS

TABLE II—STOPPING DISTANCES AND PEDAL FORCES

Vehicle test speed, m.p.h.	Stopping distance in feet for tests indicated									Pedal forces, pounds (inclusive)
	I			II			III			
	1st (preburnish) effectiveness			2nd and 4th effectiveness; lightly loaded vehicle (third) effectiveness; spike effectiveness check			Inoperative brake power and power assist unit; partial failure			
	(a)	(b)	(c)	(a)	(b)	(c)	(a)	(b)	(c)	
30	[1] 54	[1] 61	[1] 70	[1] 49	[1] 54	[1] 60	108	121	139	15-100
35	74	83	95	67	74	81	147	165	189	Col. I
40	96	108	123	87	96	105	192	216	246	15-120;
45	121	137	156	110	121	134	242	273	312	Col. II
50	150	169	193	135	150	167	299	337	385	15-120;
55	181	204	233	163	181	204	362	407	465	Col. III
60	[1] 216	[1] 242	[1] 277	[1] 194	[1] 216	[1] 245	[1] 431	[1] 484	[1] 553	15-150;
65				240	253	292				20-150
70				278	293	346				
75				319	337	402				
80				[1] 363	[1] 383	[1] 467				
85										
90				484	484					
95				540	540					
100				598	598					
105				659	659					
110				723	723					
115				791	791					
120 [2]				861	861					

[1] Distances for specified tests.
[2] For speeds in excess of 120 m.p.h. use $S=0.060\ V^2$ where S is stopping distance in feet and V is test speed in miles per hour.

(a) Passenger cars.
(b) Vehicles other than passenger cars with GVWR of 10,000 pounds or less.
(c) Vehicles other than passenger cars with GVWR greater than 10,000 pounds.

[FR Doc.72-14762 Filed 9-1-72;8:45 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

PART 390—GENERAL ORDERS

Exports of Cattlehides

On July 18, 1972, an amendment to 15 CFR Part 390, General Orders was published in the FEDERAL REGISTER (37 F.R. 14224) which added § 390.6 regarding the application of controls to the exports of cattlehides. Section 390.6 was subsequently amended effective July 18, 1972 (37 F.R. 14313), July 28, 1972 (37 F.R. 15312), and August 9, 1972 (37 F.R. 15991).

The controls were established pursuant to sections 3(2) and 4 of the Export Administration Act of 1969, 50 U.S.C. App. sections 2402(2), 2403, and E.O. 11533, and were continued pursuant to E.O. 11677.

On August 18, 1972, the Congress enacted and sent to the President for approval an enrolled enactment "To extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes." Section 104(b)(2) of this enactment provided that:

> Any rule, regulation, proclamation, or order, issued after July 1, 1972, under section 4 of the Export Administration Act of 1969, exercising any authority conferred by such section with respect to any agricultural commodity, including fats and oils or animal hides or skins, shall cease to be effective upon the date of enactment of this Act.

This enrolled enactment became law on August 29, 1972, upon approval by the President (Public Law 92-412). Concurrently, the President also issued Executive Order 11683 revoking Executive Order 11677 of August 1, 1972, which had continued export controls under authority of the Act of October 6, 1917, as amended, 12 U.S.C. section 95a.

The purpose of this notice is to advise that § 390.6, as amended, of 15 CFR is revoked. Accordingly, validated licenses are no longer required to export cattlehides to any destination except Country Groups S and Z (North Korea, North Vietnam, Cuba and Southern Rhodesia).

Effective date: August 29, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-15150 Filed 9-1-72;12:13 pm]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 401, 422]

[Regs. 1, 22]

CERTAIN MEDICARE REPORTS AND RECORDS

Proposed Disclosure

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to the regulations would authorize the Social Security Administration to disclose to the public: (1) At specified locations, prospective survey reports on Medicare providers of services and related material pertaining to compliance with conditions of participation; (2) prospective survey reports relating to performance of Medicare providers, with safeguards to protect the privacy of patients and others; (3) the latest review report pertaining to a particular intermediary or carrier, and in addition prospective contractor review reports; and (4) under specified conditions, the identification of providers of services, physicians, and other persons furnishing services to Medicare beneficiaries where disclosure is in the public interest.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments, pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 1106, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 79 Stat. 331; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302, 1306, and 1395hh.

Dated: July 18, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 12, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulation No. 1 and Regulation No. 22 of the Social Security Administration (20 CFR 401.1 et seq. and 422.1 et seq.) are further amended as set forth below.

1. Section 401.3 is amended by adding at the end thereof the following new paragraph (v) to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

* * * * *

(v) To the public:

(1) Survey reports, prepared after (the date this amendment is adopted by publication in the FEDERAL REGISTER) by a State agency pursuant to its agreement entered into under section 1864 of the Social Security Act and furnished to the Social Security Administration, relating to such State agency's findings on the compliance of a health care institution or facility with the applicable provisions in section 1861 of such Act and with the regulations, promulgated pursuant to such provisions, dealing with health and safety of patients in such institutions and facilities, including any findings of such agency or the Social Security Administration pertaining to such compliance. Such reports shall not be disclosed for a period not to exceed 60 days following the receipt thereof by the Administration, and there shall be disclosed with such reports any written statements furnished the Social Security Administration by such institution or facility on such reports and findings. (Such reports, findings, and statements, shall be available only for inspection and copying at the district office of the Social Security Administration servicing the area in which such institution or facility is located.)

(2) Upon request in writing, survey reports, prepared by the Social Security Administration after (the date this amendment is adopted by publication in the FEDERAL REGISTER), which relate to the performance of providers of services under title XVIII of the Social Security Act: *Provided*, That no information identifying individual patients, physicians or other practitioners, or other individuals shall be disclosed under this subparagraph. Such reports shall not be disclosed for a period not to exceed 60 days following the final preparation thereof by the Administration, and there shall be disclosed with such reports any written statements furnished the Social Security Administration by such providers on such reports and findings.

(3) Upon request in writing, contractor review reports prepared by the Social Security Administration after (the date this amendment is adopted by publication in the FEDERAL REGISTER) which relate to the evaluation of the performance of intermediaries and carriers under their agreements entered into pursuant to sections 1816 and 1842 of the Social Security Act. The latest Contract Performance Review Report pertaining to a particular intermediary or carrier, prepared prior to (date of adoption), may also be disclosed to any person upon request in writing; however, such latest report shall not be disclosed for a period not to exceed 60 days following the request therefor from the Administration, and there shall be disclosed with such report any written statements furnished the Social Security Administration by such contractor on such report.

(4) The name of any provider of services, physician, or other person furnishing services to beneficiaries under title XVIII of the Act who—

(i) Has been found by a Federal court to have been guilty of submitting false claims in connection with title XVIII; or

(ii) Has been found by a carrier or intermediary, after appropriate professional consultation, to have been engaged in a pattern of furnishing services to such beneficiaries which are substantially in excess of their medical needs.

2. Paragraph (b) of § 422.430 is amended by redesignating subparagraphs (19) and (20) as subparagraphs (20) and (21) and inserting a new subparagraph (19) to read as follows:

§ 422.430 Materials available at district offices and branch offices.

* * * * *

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the district offices and branch offices, except as provided in subparagraph (19) of this paragraph:

* * * * *

(19) Survey reports of health care institutions or facilities prepared after (the date this amendment is adopted by publication in the FEDERAL REGISTER) by a State agency, pursuant to its agreement entered into under section 1864 of the Social Security Act (including findings and written statements) as described in

§ 401.3(v)(1) of this chapter. Such a report shall be available only at the district office servicing the area in which the institution or facility is located.

* * * * *

[FR Doc.72-14964 Filed 9-1-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-59]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Texas transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. 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 public 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 the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Texas transition area is amended by deleting "thence along the south boundary of V-198 to and along longitude 101°00'00" W., to and counterclockwise along the arc of a 60-mile-radius circle centered at latitude 29°21'35" N., longitude 100°46'35" W.," and substituting therefor "thence along the south boundary of V-198 to and counterclockwise along the arc of a 105-mile-radius circle centered at latitude 29°21'35" N., longitude 100°46'35" W.,".

The proposed alteration of the Texas 1,200-foot transition area will provide controlled airspace for Category IV service to Laughlin Air Force Base aircraft at 10,000 feet and above.

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

Issued in Fort Worth, Tex., on August 24, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-15000 Filed 9-1-72;8:46 am]

[14 CFR Part 129]

[Docket No. 12198; Notice No. 72-23]

AVIATION SECURITY: FOREIGN AIR CARRIERS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 129 of the Federal Aviation Regulations to provide aviation security standards for foreign air carriers while operating within the United States.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before November 1, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket, for examination by interested persons.

In the last decade there has been a growing need for aviation safety security measures to protect life and property in air commerce, and particularly in air transportation. The publicized record of hijackings (aircraft piracy), other crimes aboard aircraft, and bomb threats indicates the need for aircraft and passenger security prior to takeoff in the interest of aviation safety. To be most effective, security measures must be employed and concentrated on the ground. Also, it appears that safety of aircraft operated in air commerce can be adequately protected while on airport surfaces only if all persons concerned are required to exercise joint efforts with equal care. The voluntary program initiated after the President's anti-air-piracy message of September 11, 1970, has not satisfactorily provided this needed protection in many instances.

The FAA adopted § 121.538 as an effective measure of dealing with aviation security in the case of those air carriers certificated under Part 121. Since the need for greater security also extends to foreign air carriers operating within the United States, it is proposed to add a new § 129.25 to Part 129 of the Federal Aviation Regulations, that would require each foreign air carrier to prepare in writing and submit for approval by the Administrator a security program showing the procedures, facilities, or screening system, or a combination thereof, that it uses or intends to use, designed to prevent or deter the carriage aboard its aircraft in the United States of any sabotage device or weapons, or unauthorized access to its aircraft; to assure that baggage is checked in by a responsible representative of the foreign air carrier; and to prevent cargo and checked baggage from being loaded aboard its aircraft in the United States until cleared in accordance with the foreign air carrier's security procedures. Provision would be made for approval and amendment of the program. The foreign air carrier would further be required in the United States to carry out its security program; to conduct a preflight or postflight security inspection upon receipt of a bomb threat; and to notify the FAA upon receipt of information that an act or suspected act of aircraft piracy has been committed.

In addition, it is proposed to add a new § 129.27 to Part 129 of the Federal Aviation Regulations that would prohibit the carriage aboard a foreign air carrier's aircraft of concealed or unconcealed dangerous weapons except by authorized persons. This would reduce the possibility that a weapon could become available to a potentially dangerous person.

It should be noted that consistent with the applicability provisions of § 129.1, the proposed security requirements would apply to foreign air carrier operations within the United States.

In consideration of the foregoing, it is proposed to amend Part 129 of the Federal Aviation Regulations as follows:

1. By adding a new § 129.25 after § 129.23 to read as follows:

§ 129.25 Aircraft security.

(a) Each foreign air carrier shall prepare in writing and submit for approval by the Administrator its security program showing the procedures, facilities, or screening system, or a combination thereof, that it uses or intends to use to—

(1) Prevent or deter the carriage aboard its aircraft of any sabotage device or weapon in carry-on baggage or on or about the persons of passengers, except as provided in § 129.27;

(2) Prevent or deter unauthorized access to its aircraft;

(3) Assure that baggage is checked in by a responsible agent or representative or the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its aircraft unless handled in accordance with the foreign air carrier's security procedures.

(b) Each foreign air carrier shall submit its security program to the Administrator. Each foreign air carrier that is operating before (effective date of this amendment) shall submit its program no later than (60 days after the effective date of this amendment). Each foreign

air carrier that obtains the issue of its operating specifications under this Part after (day before effective date of this amendment) shall submit its program at least 60 days before the date of intended operations.

(c) Within 60 days after receipt of the program, the Administrator approves the program or notifies the foreign air carrier to modify the program to comply with the applicable requirements of this section. The foreign air carrier may petition the Administrator to reconsider the notice to modify. The petition must be filed with the Administrator within 30 days after the foreign air carrier receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(d) Each foreign air carrier shall maintain at least one complete copy of its approved security program at its principal business office in the United States, and shall make it available for inspection upon request of the Administrator.

(e) The Administrator may amend any security program or any part thereof approved under this section upon his own initiative if he determines that safety in air commerce and the public interest require the amendment, or upon application by the foreign air carrier if the Administrator determines that the same considerations allow the amendment.

(1) In the case of an amendment upon his own initiative, the Administrator notifies the foreign air carrier, in writing, of the proposed amendment, fixing a reasonable period (but not less than 7 days) within which it may submit written information, views, and arguments on the amendment. After considering all relevant material, the Administrator notifies the foreign air carrier of any amendment adopted, or rescinds the notice. The amendment becomes effective not less than 30 days after the foreign air carrier receives the notice, unless it petitions the Administrator to reconsider the amendment in which case its effective date is stayed by the Administrator. If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation that makes the procedure in this paragraph impracticable or contrary to the public interest, he may issue an amendment, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the Administrator incorporates the findings, and a brief statement of the reasons for it, in the notice of the amended screening system or security program to be adopted.

(2) A foreign air carrier must file its application for an amendment of a screening system or security program with the Administrator at least 15 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. Within 30 days after receiving from the Administrator a notice of refusal to approve the application for amendment, the foreign air carrier may petition the Administrator to reconsider the refusal to amend.

(f) Each foreign air carrier shall at all times maintain and carry out the security program approved under paragraph (a) of this section.

(g) When a foreign air carrier receives a bomb or air piracy threat considered to be against a particular aircraft or flight, it shall take the following actions to determine whether any explosive or incendiary devices, or weapons are aboard the aircraft involved:

(1) Conduct a security inspection on the ground before the next flight of the aircraft or, if the aircraft is then in flight, immediately after the next landing.

(2) If the aircraft is being operated on the ground, advise the pilot in command to immediately submit the aircraft for a security inspection.

(3) If the aircraft is in flight, advise the pilot in command to take the emergency action he considers necessary under the circumstances.

(h) Upon receipt of information that an act or suspected act of aircraft piracy has been committed, a foreign air carrier shall immediately notify the Administrator.

2. By adding a new § 129.27 after § 129.25 to read as follows:

§ 129.27 Prohibition against carriage of weapons.

No person may, while aboard an aircraft being operated by a foreign air carrier, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(a) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(b) Crewmembers and other persons authorized by the foreign air carrier to carry arms.

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1502), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 29, 1972.

JAMES M. YOHE,
Acting Director,
Air Transportation Security.

[FR Doc.72-14999 Filed 9-1-72;8:49 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 115]

SURETY BOND GUARANTEE

Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in section 411(c), Part B, Title IV of the Small Business Investment Act of 1958, 84 Stat. 1812, 15 U.S.C. 694b, it is proposed to amend, as set forth below, Part 115 of Chapter I of Title 13 of the Code of Federal Regulations, by amending § 115.7. Prior to adoption of the amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Office of the Associate Administrator for Financial Assistance, Small Business Administration, Washington, D.C. 20416, within a period of thirty (30) days of the date of publication of this notice in the FEDERAL REGISTER.

INFORMATION

The proposed amendment of § 115.7 would eliminate the processing fee charged the small business applicant; eliminate $500 as the maximum fee charged the small business and provide for a fee of 0.2 percent of the contract price or a fee equal to 20 percent of the surety's fee, whichever is smaller, when the bond required of the small business is less than the contract price.

It is proposed that § 115.7 be amended to read as follows:

§ 115.7 Guarantee fees.

(a) An applicant small business concern, being required to provide a bond for performance or payment equivalent to 100 percent of the contract price shall pay for SBA a guarantee fee of 0.2 percent of the contract price upon obtaining the contract.

(b) An applicant small business concern, being required to provide a bond for performance or payment of less than 100 percent of the contract price shall pay the SBA a guarantee fee of 0.2 percent of the contract price or an amount equal to 20 percent of the premium charged by the surety, whichever is less, upon obtaining the contract.

(c) The Surety Company shall pay to SBA a guarantee fee of 10 percent of its bond premium.

Dated: August 25, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-14995 Filed 9-1-72;8:45 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

COLVILLE AGENCY, WASHINGTON

Notice of Change in Location

AUGUST 29, 1972.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938). The location of the Colville Agency is changed from Post Office Box 97, Coulee Dam, WA, to Post Office Box 111, Nespelem, WA 99155.

JOHN O. CROW,
Deputy Commissioner.

[FR Doc.72-15017 Filed 9-1-72;8:46 am]

Office of the Secretary

METAL AND NONMETAL MINE SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

Notice is hereby given that the Metal and Nonmetal Mine Safety Advisory Committee appointed by the Secretary of the Interior pursuant to section 7 of the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89-577, 30 U.S.C. sec. 721) will meet on September 12, 1972, in the Coral Room at the Fort Hayes Hotel, 31 West Spring Street, Columbus, OH. The session will commence at 9 a.m. and will be open to the public. The purpose of the meeting is to consider and discuss 10 safety standards applicable to mines subject to the Act concerning fire prevention and control, travel and escapeways, personal protection and safety programs.

STEPHEN A. WAKEFIELD,
Deputy Assistant Secretary of the Interior.

AUGUST 31, 1972.

[FR Doc.72-15090 Filed 9-1-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PROPOSAL TO TRANSFER NATIONAL FOREST LANDS TO THE COCHITI INDIAN TRIBE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a Proposal to Transfer National Forest Lands to the Cochiti Indian Tribe, USDA-FS-FES (Adm) 72-37.

The environmental statement considers probable environmental effects or impacts of a proposal to transfer 13,440 acres of Forest Service administered land adjacent to the Cochiti Dam and Reservoir to the Cochiti Indians.

The final environmental statement was filed with CEQ on August 29, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue, SW., Washington, DC 20250.

USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW., Albuquerque, NM 87101.

Santa Fe National Forest, Federal Building, Santa Fe, N. Mex. 87501.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, Post Office Box 1389, Flagstaff, AZ 86001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, NM 87101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

ADRIAN M. GILBERT,
Acting Deputy Chief, Forest Service.

AUGUST 30, 1972.

[FR Doc.72-15043 Filed 9-1-72;8:48 am]

Packers and Stockyards Administration

[P. & S. Docket No. 4675]

CORONA LIVESTOCK AUCTION, INC.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondent's Schedule of Rates and Charges

Notice is hereby given that on August 2, 1972, the respondent filed an amendment to its current schedule of rates and charges, under title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective September 1, 1972. The proposed supplement reads as follows:

ITEM NO. II—CHARGE CLASSIFICATION

SECTION 1. Selling commission.

a. Cattle:

(1) Cattle sold for dairy purposes only, 5 percent of selling price.
(2) Calves sold for dairy purposes only, 5 percent of selling price.
(3) Cattle sold as beef for slaughter only, weighing 400 pounds and over, $5 per head.
(4) Calves sold as veal for slaughter only, weighing less than 400 pounds, $3 per head.
(5) Bulls sold for dairy purposes only, 5 percent of selling price.
(6) Bulls sold as beef for slaughter only, $6 per head.

B. Horses: 5 percent of selling price.

SEC. 2. Yardage:

a. All livestock, 15 cents per head.

Notice is given hereby also that on August 22, 1972, the Packers and Stockyards Administration, U.S. Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondent's rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the Act.

I. The respondent is now and at all times mentioned herein was registered with the Secretary of Agriculture as a market agency to buy and sell livestock on commission at the Corona Livestock Auction, stockyard, Corona, Calif., which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the Act.

II. In accordance with the requirements of the Act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for its services at the aforementioned stockyard.

III. On August 2, 1972, the respondent filed a Supplement No. 3 to its current schedule of rates and charges to become effective September 1, 1972. The amendment contains changes in the current rates and charges.

IV. Upon an analysis of the information available to the Packers and Stockyards Administration, U.S. Department of Agriculture, there is reason to believe the changes are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the amendment filed on August 2, 1972, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges

of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on August 2, 1972, to become effective on September 1, 1972, are hereby suspended and deferred until the expiration of 30 days beyond the time when such modified rates would otherwise go into effect.

It is further ordered, That notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. At such hearing, the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 20 days from the date of the publication of the contents hereof in the FEDERAL REGISTER.

It is further ordered, That a copy hereof be served upon the respondent.

Done at Washington, D.C., this 30th day of August 1972.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.72-15045 Filed 9-1-72;8:49 am]

GORDON COUNTY LIVESTOCK COMMISSION ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard and date of posting

GA-173 Gordon County Livestock Commission, Calhoun, July 1, 1972.

MISSISSIPPI

MS-149 Columbus Stockyard, Inc., Columbus, Aug. 1, 1972.

MISSOURI

MO-223 Blansit Dairy Cattle, Inc., Ozark, July 15, 1972.

OKLAHOMA

OK-188 Poor Boy Cattle Company, Wister, Aug. 14, 1972.

TEXAS

TX-295 Duncan Auction, De Kalb, Aug. 3, 1972.

TX-294 Jones Dairy Auction, Sulphur Springs, June 26, 1972.

Done at Washington, D.C., this 28th day of August 1972.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-15046 Filed 9-1-72;8:49 am]

[P. & S. Docket No. 4673]

HOOPER AUCTION CO., INC.

Notice of Order Extending Period of Suspension of Modifications of Rates and Charges

On July 24, 1972, an order was issued instituting the following proceeding under title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.):

In re: Hooper Auction Company, Inc., a corporation, Respondent, P. & S. Docket No. 4673 (37 F.R. 16684).

Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges to become effective on July 25, 1972, for a period of 30 days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of 30 days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C., this 30th day of August 1972.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.72-15044 Filed 9-1-72;8:48 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF 125,000 CUBIC METER LIQUEFIED NATURAL GAS (LNG) VESSELS

Notice of Intent Regarding Recomputation of Foreign Cost

In F.R. Doc. 72-11303, appearing in the FEDERAL REGISTER issue of July 20, 1972 (37 F.R. 14421), notice was published of the intent of the Maritime Subsidy Board, pursuant to section 502 (b) of the Merchant Marine Act, 1936, as amended (Act), to recompute the estimated foreign cost of construction of 125,000 cubic meter Liquefied Natural Gas (LNG) vessels "to determine whether there has been a significant change in shipbuilding market conditions since the previous determination of estimated foreign cost was made." Interested persons were invited to file written statements on such recomputations and several statements were received.

Having determined there has been a significant change in the shipbuilding market conditions for construction of 125,000 cubic meter LNG vessels, the Board hereby gives notice of its intent, pursuant to section 502(b) of the Act, to recompute the estimated foreign cost of the construction of 125,000 cubic meter LNG vessels. On this date the Board, tentatively determined, subject to any new significant information received in response to this notice, the following:

1. That Western Europe is the fair and representative shipbuilding center on which to base the foreign construction costs of both the spherical LNG and membrane LNG types of vessels.

2. That LNG vessels of the General Dynamics/Moss-Rosenberg spherical design and of the Newport News/Gazocean membrane design for El Paso Natural Gas Co. are reasonably representative for purposes of determining the estimated foreign costs and construction-differential subsidy rates for spherical LNG and membrane LNG types of vessels respectively.

3. That the estimated foreign cost for construction in Western Europe of three LNG vessels of the General Dynamics/Moss-Rosenberg design (spherical tank type), offered at a domestic price of $89 million each, is established at $67,900,000 and is determined to result in a construction-differential subsidy rate of 23.70 percent.

4. That the estimated foreign cost for construction in Western Europe of three LNG vessels of the Newport News/Gazocean design (membrane tank type) offered at a domestic price of $98,530,000 each, is established at $73,164,000 and is determined to result in a construction-differential subsidy rate of 25.74 percent.

5. That the above construction-differential subsidy rates apply to adjustments in the above domestic prices on account of escalation or to any changes in the LNG ship designs offered, and to domestic prices at which other LNG ship designs may be offered (within such spherical and membrane types of vessels) provided in each case that such domestic prices are determined to be fair and reasonable.

In respect to the above findings the Board has, on this date, approved a tentative opinion and order in explanation of its tentative determinations, identified as Docket No. A-66, which is available upon request to the Secretary, Maritime Subsidy Board.

Any person, firm, or corporation, having any interest (within the meaning of section 502(b)) in such recomputations may file written statements by the close

of business on September 15, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099–B, Department of Commerce Building, 14th and "E" Streets NW., Washington, D.C. 20235.

Dated: August 30, 1972.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.72–15089 Filed 9–1–72;8:49 am]

Office of Textiles

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Closed Meeting

A. Management-Labor Textile Advisory Committee.

B. The purpose of the Committee is to provide advice and information to Department officials on conditions in the textile industry and on trade in textiles and apparel.

C. The meeting is scheduled for September 7, 1972, at 2:30 p.m., Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

D. The Secretary of Commerce, pursuant to section 13(d) of Executive Order 11671 of June 5, 1972, has determined that the Committee meeting scheduled for September 7, 1972, shall be exempt from the provisions of sections 13 (a), (b), and (c), relating to public participation and record keeping, because the Committee's activities are matters which fall within policies analogous to those recognized in section 552(b) of title 5 of the U.S. Code, and the public interest requires such activities to be withheld from disclosure. The specific exemption is the foreign policy exemption set forth in paragraph 1 of section 552(b).

E. Further information may be obtained from Mr. Arthur Garel, Director, Office of Textiles, Room 2815, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

STANLEY NEHMER,
Deputy Assistant Secretary for Resources.

[FR Doc.72–15144 Filed 9–1–72;11:10 am]

United States Travel Service

TRAVEL ADVISORY BOARD

Notice of Meeting

The Travel Advisory Board of the U.S. Department of Commerce will meet September 7 at 9:30 a.m., in the Sunset Room of the Town and Country Hotel, San Diego, Calif.

Members advise the Secretary of Commerce and the Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961 as amended.

Agenda items are as follows:

1. Staff reports: The scope and status of Visit USA markets in the United Kingdom, Australia, Germany, Mexico, France, Japan, Argentina, and Canada.
2. Staff report: The scope and status of the Visit USA convention market.
3. 1972–73 Visit USA advertising campaign for the United Kingdom.
4. Fiscal year 1973 United States Travel Service budget.
5. The Selling of America 1972, a nationwide drive to involve more State and local tourism officials in the Visit USA program.
6. Summary of 1972 Visit USA market trends and future directions.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments, who are appointed by the Secretary of Commerce to serve 2-year terms.

Represented industry segments include international airlines, domestic airlines, supplemental airlines, domestic surface transportation, communciations, travel agencies, rental car agencies, travel societies, accommodations, steamship lines, tour operators, sightseeing firms, States, cities, and aircraft manufacturers.

A limited number of seats—approximately 14—will be available to observers from the public and the press.

Robert Jackson, Director of Information Services of the United States Travel Service, Room 1525, U.S. Department of Commerce, Washington, D.C. 20230, (phone 202 967–4987) will respond to public requests for information about the meeting.

Minutes will be available 30 days from the date of the meeting. Pursuant to regulations of the Department of Commerce (15 CFR 4.6), requests to review the minutes should be made by completing Form CD–244. Copies of this form are available from the Central Reference and Records Inspection Facility, Department of Commerce, Washington, D.C. 20230.

JAMES L. HAMILTON III,
Acting Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc.72–15092 Filed 9–1–72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA–Pet–No. 54]

MOUNT HOOD RAILWAY CO.

Notice of Petition for Exemption From Hours of Service Act

AUGUST 30, 1972.

The Mount Hood Railway Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an order exempting it, with respect to certain employees, from the "Hours of Service Act", 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 54, 400 Seventh Street SW., Washington, DC 20590. Communications received before September 25, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

JOHN E. ROURKE,
Chairman, Railroad Safety Board.

[FR Doc.72–15034 Filed 9–1–72;8:48 am]

[FRA–Pet–No. 55]

WARREN AND OUACHITA VALLEY RAILWAY CO.

Notice of Petition for Exemption From Hours of Service Act

AUGUST 30, 1972.

The Warren and Ouachita Valley Railway Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an order exempting it, with respect to certain employees, from the "Hours of Service Act," 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket and notice numbers, and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 55, 400 Seventh Street SW., Washington, DC 20590. Communications received before September 28, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

JOHN E. ROURKE,
Chairman, Railroad Safety Board.

[FR Doc.72–15035 Filed 9–1–72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24387]

CLUB INTERNATIONAL, ET AL.

Notice of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 24, 1972, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Louis W. Sornson.

Dated at Washington, D.C., August 30, 1972.

[SEAL] ROBERT L. PARK,
Associate Chief Administrative Law Judge.

[FR Doc.72–15032 Filed 9–1–72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

DIVISION OF RESEARCH GRANTS

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meetings of the following study sections and advisory committees and the executive secretaries from whom summaries of meetings may be obtained.

Study section/Committee	Date	Time	Location of meeting
Pharmacology A, Dr. Lawrence Petrucelli	Sept. 6 to 9	9 a.m.	Bethesda, Md.
Pathology A, Dr. William Savchuck	Sept. 7 to 8	8:30 a.m.	Silver Spring, Md.
Communicative Sciences, Mr. Frederick Gutter	Sept. 9 to 11	8 p.m.	Bethesda, Md.
Pharmacology B, Dr. Anne Bourke	Sept. 10 to 12	9 a.m.	Do.
Developmental Behavioral Sciences, Dr. Bertie Woolf	Sept. 11 to 13	8:30 a.m.	San Francisco, Calif.
Experimental Psychology, Dr. A. Keith Murray	do	9 a.m.	Bethesda, Md.
Toxicology, Dr. Rob S. McCutcheon	do	8:30 a.m.	Do.
Dental, Dr. Luis Angelone (acting)	Sept. 12 to 14	9 p.m.	Do.
Hematology, Dr. Joseph Hayes, Jr.	Sept. 13 to 15	7 p.m.	Chevy Chase, Md.
Allergy and Immunology, Dr. Mischa Friedman	Sept. 14 to 16	8:45 a.m.	Bethesda, Md.
Cardiovascular and Pulmonary Research A, Dr. Wendell Kyle.	do	8:30 a.m.	Do.
General Medicine B, Dr. S. Stephen Schiaffino (acting)	do	2 p.m.	Washington, D.C.
Genetics, Dr. Katherine Wilson	do	9 a.m.	Bethesda, Md.
Neurology A, Dr. William E. Morris	do	9 a.m.	Do.
Physiological Chemistry, Dr. Robert L. Ingram	do	9 a.m.	Do.
Tropical Medicine and Parasitology, Dr. George Luttermoser.	do	9 a.m.	New Orleans, La.
Virology, Dr. Claire Winestock	do	9 a.m.	Bethesda, Md.
Visual Sciences A, Dr. Marie Jakus	do	9 a.m.	Do.
History of the Life Sciences, Mrs. Ileen Stewart	Sept. 15	9 a.m.	Do.
Biophysics and Biophysical Chemistry A, Dr. Irvin Fuhr.	Sept. 15 to 16	9 a.m.	Do.
Biophysics and Biophysical Chemistry B, Dr. John Wolff	do	9 a.m.	Do.
Surgery A, Dr. Raymond Helvig	do	8:30 a.m.	Silver Spring, Md.
Surgery B, Dr. Joe Atkinson	do	8:30 a.m.	Do.
Population Research, Miss Carol Campbell	Sept. 15 to 17	9 a.m.	Chevy Chase, Md.
Epidemiology and Disease Control, Mr. Glenn Lamson	Sept. 20 to 22	8:30 a.m.	Bethesda, Md.
Computer and Biomathematical Sciences, Dr. Irving Simos (acting).	do	9 a.m.	Do.
Reproductive Biology, Dr. Robert Hill	do	9 a.m.	Do.
Biomedical Communications, Mrs. Ileen Stewart	Sept. 21 to 22	9 a.m.	Do.
Bacteriology and Mycology, Dr. Milton Gordon	Sept. 21 to 23	8:30 a.m.	Chevy Chase, Md.
Cardiovascular and Pulmonary Research B, Dr. Floyd Atchley.	do	9 a.m.	Bethesda, Md.
Cell Biology, Dr. Evelyn Horenstein	do	9 a.m.	Do.
Human Embryology and Development, Dr. Samuel Moss	do	8:30 a.m.	Carmel, Calif.
Immunobiology, Dr. James Turner	do	9 a.m.	San Francisco, Calif.
Medicinal Chemistry B, Dr. Thurman Grossnickle	do	9 a.m.	Silver Spring, Md.
Metabolism, Dr. Robert Leonard	do	8:30 a.m.	Do.
Microbial Chemistry, Dr. Gustave Silber	do	9 a.m.	Chevy Chase, Md.
Molecular Biology, Dr. George Eaves	do	9 a.m.	Bethesda, Md.
Neurology B, Dr. Louise Thomson	do	8:30 a.m.	Do.
Visual Sciences B, Dr. Marie Jakus	do	9 a.m.	Do.
Pathology B, Dr. James MacNamee	Sept. 21 to 24	8:30 a.m.	Berkeley, Calif.
Biochemistry, Dr. Sanford Birnbaum	do	9 a.m.	Bethesda, Md.
Medicinal Chemistry A, Dr. Asher Hyatt	do	7 p.m.	Silver Springs, Md.
General Medicine A, Dr. Wilton Fisher	Sept. 24 to 26	8 p.m.	Bethesda, Md.
Nutrition, Dr. John Schubert	Sept. 25 to 27	8:30 a.m.	Do.
Physiology, Dr. Clara Hamilton	Sept. 28 to 30	7:30 p.m.	Do.
Radiation, Dr. Robert Straube	do	9 a.m.	Los Alamos, N. Mex.
Applied Physiology and Bioengineering, Mrs. Ileen Stewart.	Sept. 29 to 30	8:30 a.m.	Bethesda, Md.
Arthritis and Metabolic Diseases Program Project Committee, Dr. Harold Davidson.	Oct. 2 to 3	9 a.m.	Do.

These meetings shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss, evaluate, and/or rank grant applications.

Dated: August 24, 1972.

ROBERT Q. MARSTON,
Director, NIH.

[FR Doc.72-14814 Filed 9-1-72;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality, August 21–August 25, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388–7803.

FOREST SERVICE

Draft, August 22

Clearwater National Forest, Idaho, Counties Clearwater and Shoshone. The statement refers to a 3-year road construction program for the forest, involving 282 miles of new construction and 146 miles of reconstruction. Approximately 2,316 acres will be stripped of vegetative cover, 716 acres of it permanently. The soil mantle will be disturbed and the subsurface flow of water will be interrupted. Improved access will increase the use of the forest. (27 pages) (ELR Order No. 05144) (NTIS Order No. EIS 72 5144D)

Freezeout Road, Oregon, County: Wallowa. The statement considers the construction of a 12.6-mile, two-lane road from Wallowa County's Imnaha River Road to the Freezeout Creek area of the Wallowa-Whitman National Forest. The road will provide public access where none currently exists. The proposed road would be closed to automobile traffic during the winter months but would be open to snowmobiles. Grazing patterns and wildlife habitats may be disturbed, while increased use of the area may have a detrimental effect on the soil, water quality, and vegetation of the area. (33 pages) (ELR Order No. 05145) (NTIS Order No. EIS 72 5145D)

Draft, August 23

Pocket Gopher Control, Texas, Counties: Angelina, Jasper, and San Augustine. The statement refers to the proposed use of strychnine treated grain in the control of the pocket gopher on 500 acres of longleaf pine plantations. Indiscriminate and/or improper use of the grain could result in other than the target species being adversely affected. (14 pages) (ELR Order No. 05152) (NTIS Order No. EIS 72 5152D)

Final, August 24

Kootenai National Forest, Montana and Idaho. The statement refers to a 3-year (from July 1, 1972 to June 30, 1975) road construction program for the forest. Approximately 817 miles of new roadway and 169 miles of reconstructed roadway are involved. Construction will disturb the soil mantle and the subsurface flow of water. Five thousand acres will be stripped of vegetation, 40 percent of it permanently. Increased hunting pressures may develop; 130 acres of big game winter range will be permanently lost. (79 pages) Comments made by: DOI, EPA, and USDA (ELR Order No. 05165) (NTIS Order No. EIS 72 5165F)

Final, August 23

Umpqua National Forest, Oregon, County: Douglas. The statement refers to the proposed development under special use permit, of the Mount Bailey complex, a major winter sports site. There will be a reduction in timber production; soil, water, and aesthetics may be adversely affected. (31 pages) Comments made by: COE, EPA, HEW, HUD, and DOI (ELR Order No. 05153) (NTIS Order No. EIS 72 5153F)

CONSERVATION SERVICE

Draft, August 23

Nutwood Watershed, Illinois, Counties: Greene and Jersey. The statement refers to a watershed project which is intended to reduce erosion, promote more efficient land use, and reduce water runoff. Land treatment measures, three floodwater retarding structures, two water level control structures, and one pumping station would comprise the project features. Approximately 40 acres of land would be permanently inundated and 37 acres would be periodically inundated, one livestock operation would be terminated. (27 pages) (ELR Order No. 05155) (NTIS Order No. EIS 72 5155D)

Draft, August 22

Starkweather Watershed, North Dakota, Counties: Cavalier and Ramsey. The statement refers to a watershed treatment project which would involve land treatment measures and 60.6 miles of channel works, for the purposes of improved flood prevention and drainage. Flooding will be reduced on 66,700 acres of cropland; mosquito control will be provided on 73,000 acres. Approximately 345 acres of wetlands will be drained; 105 acres of upland habitat will be destroyed by channel works; an additional 4,000 acres of wetlands may be drained by local interests. (29 pages) (ELR Order No. 05142) (NTIS Order No. EIS 72 5142D)

Final, August 21

Bacon Creek Watershed, Iowa, Counties: Plymouth and Woodbury. The statement refers to a watershed protection project which would involve land treatment measures, 31 grade stabilization structures, five floodwater retarding and sediment control structures, and one multipurpose recreation and floodwater retarding structure. Purposes of the project are floodwater retardation and erosion reduction. Agricultural and wildlife use of 215 acres will be lost permanently; an additional 335 acres will be periodically inundated; 85 acres will be lost until revegetated. (41 pages) Comments made by: COE, EPA, HEW, and DOI (ELR Order No. 05137) (NTIS Order No. EIS 72 5137F)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973–5391

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202—973–7373, Washington, D.C. 20545.

Draft, August 25

S8G Prototype, New York, County: Saratoga. The statement considers the construction of a prototype of the pressurized water reactor plant to be used in the *Trident* submarine. Construction and operation of the prototype will demonstrate construction techniques, plant performance, and operational procedures. Construction is expected to begin in fiscal year 1973 at the Kesselring site. No significant and adverse impacts are anticipated. (202 pages) (ELR Order No. 05168) (NTIS Order No. EIS 72 5168D)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314.

Final, August 23

Red River Emergency Bank Protection, Arkansas and Louisiana. The statement refers to the construction of emergency flood control structures at 11 sites along the Red River between the Mississippi River and Index, Ark. Approximately 920 acres of land will be lost to the project. (148 pages) Comments made by: DOC, EPA, USDA, DOI, HEW, and FPC (ELR Order No. 05162) (NTIS Order No. EIS 72 5162F)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202—755–0940.

Final, August 24

Waste Water Treatment Facilities, New York, Counties: Nassau and Suffolk. The statement refers to the construction of wastewater treatment facilities, including sewers, additions, and improvements to existing plants, the construction of new plants, and the construction of outfalls. Adverse effects would include the lowering of ground water levels, increased salt water encroachment, and possible contamination of marine areas at the sites of effluent and sludge disposal. (330 pages) Comments made by: USDA, DOC, COE, HEW, DOI, and EPA (ELR Order No. 05163) (NTIS Order No. EIS 72 5163F)

FEDERAL POWER COMMISSION

Contact: Mr. Frederick H. Warren, Adviser on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, August 14

Martin Dam Project No. 349, Alabama, Counties: Elmore, Tallapoosa, and Coosa. The statement considers an application by the Alabama Power Co. for a new major license for its Martin Project No. 349, located on the Tallapoosa River. The project consists of a dam across the river, a powerhouse, and a 40,000-acre reservoir. Present capacity of the powerhouse is 154,200 kw. with a proposed increase ranging from 60,000 to 171,000 kw. depending on development of upstream storage. The statement mentions no additional adverse environmental impact. (175 pages) (ELR Order No. 05092) (NTIS Order No. EIS 72 5092D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, 202—755–6186.

Draft, August 23

Bergstrom Arms Apartments, Austin, Tex., County: Travis. The statement refers to the proposed construction of a 98-unit apartment complex on a 6-acre site near Austin. The project would be built under HUD's section 236, Housing program, which provides HUD payments in order to reduce the interest level on low-income housing. It is anticipated that most occupants would be lower-ranking Air Force personnel from Bergstrom Air Force Base. The impact of the project is expected to be negligible, (17 pages) ELR Order No. 05156) (NTIS Order No. EIS 72 5156D)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

BUREAU OF MINES

Final, August 25

Synthane Process, Pennsylvania, County: Alleghany. The statement refers to the proposed construction of a coal gasification pilot plant near the city of Pittsburgh. The plant would convert coal to sulfur free substitute natural gas (SNG). Some air, water, and ground contaminants would be released, but in levels lower than State and Federal air and water quality standards. (83 pages) Comments made by: DOC, FPC, EPA, HEW, and DOI (ELR Order No. 05175) (NTIS Order No. EIS 72 5175F)

BUREAU OF RECLAMATION

Draft, August 21

Savery Pot Hook Project, Colorado and Wyoming. The statement refers to the proposed construction of two earthfill dams and water delivery systems in the Little Snake River Valley. Water supply would be regulated for irrigation, recreation, and flood control. Approximately 1,940 acres of land and 13 miles of stream fishery would be inundated. Canals would be a hindrance to wildlife movement and a safety risk to humans and animals. (105 pages) (ELR Order No. 05135) (NTIS Order No. EIS 72 5135D)

Draft, August 14

Oahe Unit, South Dakota, County: several. The statement considers the development of the Oahe unit of the Pick-Sloan Missouri Basin project. Water will be diverted from Lake Oahe (on the Missouri River) and used for the irrigation of 190,000 acres, for municipal supply by 17 towns and cities, and for wildlife and recreation purposes. Approximately 444,400 acre-feet of water will be diverted from the Lake annually, reducing hydroelectric production by 172 million kw. hours. Ninety thousand acres (of which 9,420 are wetland) will be required for project facilities. (94 pages) (ELR Order No. 05088) (NTIS Order No. EIS 72 5088D)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final, August 21

Wolf Island Wilderness, Georgia, County: McIntosh. The statement considers the proposed designation of the entire 4,218 acres of the Wolf Island National Wildlife Refuge as a wilderness area within the National Wilderness Preservation System. Such a designation is planned to preserve a segment of coastal marsh and estuary for use by migratory birds, loggerhead sea turtles, and marine fishes. Use of the adjacent Intracoastal Waterway would not be affected by the plan. Because manmade structures would not be permitted under wilderness designation, the area may be vulnerable to the natural elements, particularly severe storms. (24 pages) Comments made by: USDA, DOD, EPA, and DOI (ELR Order No. 05136) (NTIS Order No. EIS 72 5136F)

NATIONAL PARK SERVICE

Draft, August 14

Acadia National Park, Maine, Counties: Hancock and Knox. The statement refers to the development of a master plan for the management and use of the park. Intentions of the plan are to minimize visitor use impact and to improve the quality of visitor experiences. A firm and clearly defined park management boundary will be established. Stated adverse effects would include the possible use of eminent domain; restriction of access to some park areas and the utilization of park lands for roads and visitor use facilities. (155 pages) (ELR Order No. 05087) (NTIS Order No. EIS 72 5087D)

Final, August 21

Lake Mead National Recreation Area, Nevada, County: Clark. The statement refers to the construction and operation of a State fish hatchery for salmonid species, in order to help restore high quality game fish production to Lake Mead. Water for the facility will be drawn from and returned to Lake Mead; some minor nutrient and chemical discharge will occur. (73 pages) Comments made by: EPA, DOI, and DOT (ELR Order No. 05133) (NTIS Order No. EIS 72 5133F)

OFFICE OF COAL RESEARCH

Draft, August 21

Synthetic Fuels Pilot Plant, West Virginia. The statement refers to the modification and operation of a synthetic fuels pilot plant at Cresap. The purpose of the plant is that of defining the most economic conditions for the conversion of high sulfur Eastern coal to low sulfur fuel oil for utility station use. It is expected that the revised pilot plant will create no environmental problems. (48 pages) (ELR Order No. 05134) (NTIS Order No. EIS 72 5134D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL HIGHWAY ADMINISTRATION

Draft, August 25

Skagway, Alaska to Canadian Border, Alaska. The proposed project, in conjunction with a planned Canadian section of highway, will provide a link between Skagway and Alaska's interior highway system via Whitehorse, Yukon Territory. The action consists of 9.4 miles of new construction and reconstruction of the Skagway River Bridge on the same alignment. (74 pages) (ELR Order No. 05171) (NTIS Order No. EIS 72 5171D)

Draft, August 22

South Chapel Street, Delaware, County: New Castle. The project consists of the relocation of South Chapel Street and the construction of a grade separation bridge over the Penn Central Railroad. The number of displacements and the amount of right-of-way required will depend upon the alternative route selected. (110 pages) (ELR Order No. 05146) (NTIS Order No. EIS 72 5146D)

Draft, August 15

I–95, Center Leg of the Inner Loop Freeway, District of Columbia. The proposed action involves the construction of the final portion of the center leg of the Inner Loop Freeway. The project will initially consist of four lanes of depressed roadway which will connect the Southwest Freeway and New York Avenue. Project length is 2,100 feet of which 1,200 feet will be tunneled. One hundred ninety-two families and 32 businesses have been displaced since right-of-way acquisition began in 1966. (172 pages) (ELR Order No. 05097) (NTIS Order No. EIS 72 5097D)

De Kalb Gwinnett Counties Connector (PR 7582), Georgia, Counties: Dekalb and Gwinnett. The proposed action is the construction of a 9.2-mile-long free access, four-lane facility from the vicinity of State Route 236 to the vicinity of the Jones Ferry Road-Holcomb Bridge Road intersection. The project will provide a north-south arterial connecting an industrial district in De Kalb County with several industrial district Gwinnett County. A maximum of seven duplexes, four residences, four businesses, one nonprofit building and one lake may be displaced. (88 pages) (ELR Order No. 05098) (NTIS Order No. EIS 72 5098D)

Draft, August 25

Route 9A, New York, County: Westchester. The proposed project is the addition of a ramp between Route 9A and I–287, and the improvement of Route 9A from approximately 500 feet south of the intersection with Route 119 to the Fairview Park Drive. An unspecified amount of land is required for right-of-way; some businesses and families will be displaced. (90 pages) (ELR Order No. 05167) (NTIS Order No. EIS 72 5167D)

Draft, August 22

State Routes 43, 9, and 39, Ohio, County: Carroll. The proposed project is the relocation and establishment of a limited access highway for State Routes Nos. 43 and 9, bypassing the village of Carrolltown. The action consists of constructing a two-lane highway on four-lane right-of-way. A portion of State Route 39 will require relocation in conjunction with this project. Twelve residences, two churches, and one business will be displaced. (17 pages) (ELR Order No. 05143) (NTIS Order No. EIS 72 5143D)

Draft, August 23

State Routes 157 and 13, Ohio, County: several. The statement refers to a corridor study for a proposed new north-south freeway. Approximately 38 miles of roadway would be constructed from the intersection of 170 and State Route 79 to the southern end of the State Route 13 bypass of Fredericktown. The number of displacements and the amount of land required for right-of-way are not specified. (33 pages) (ELR Order No. 05154) (NTIS Order No. EIS 72 5154D)

Draft, August 25

Relocation of U.S. 30, Ohio, Counties: Crawford and Richland. The proposed project involves the construction on new location, of a four-lane facility to realine the traffic flow on existing U.S. 30N and U.S. 30S. Project length is 16.17 miles; approximately 550 acres of agricultural land will be committed to the action. Between 10 to 15 residences and their outbuildings will be displaced. Increased turbidity and sedimentation and temporary erosion may occur. (17 pages) (ELR Order No. 05172) (NTIS Order No. EIS 72 5172D)

Draft, August 14

Chester Bridge and Approaches, West Virginia, County: Hancock. The statement considers alternative alignments for the construction of a new bridge spanning the Ohio River. Possible adverse impacts include the taking of a small number of residences and businesses and increases in noise, air, and water pollution. (123 pages) (ELR Order No. 05095) (NTIS Order No. EIS 72 5095D)

Draft, August 24

Interstate 90, Wyoming, County: Crook. This project concerns the construction of a portion of I–90 from Sundance east to the Wyoming-South Dakota State line. The construction includes 11 major structures including a major channel change of Sand Creek. Three families and one motel will be displaced. An unspecified amount of agricultural land will be required for right-of-way. (19 pages) (ELR Order No. 05166) (NTIS Order No. EIS 72 5166D)

Final, August 11

Northern Lights Couplet, Alabama. The proposed project is a couplet of one-way, four-lane roadways with lengths of 2 miles and a four-lane divided urban section for 0.75 mile. Existing Northern Lights Boulevard would be used for the westbound traffic and a new roadway constructed for eastbound traffic. A significant number of families and businesses would be displaced. (326 pages) Comments made by: EPA, HUD, DOI, and USGS (ELR Order No. 05072) (NTIS Order No. EIS 72 5072F)

Final, August 18

State Route 20 (U.S. 27), Florida, County: Taylor. The project consists of upgrading State Route 20 (U.S. 27) beginning at Maple Street and extending southward for an approximate distance of 6.1 miles. Three residences and five businesses may be displaced. (32 pages) Comments made by: USDA, EPA, HUD, and DOI (ELR Order No. 05121) (NTIS Order No. EIS 72 5121F)

State Route 50, Florida, County: Brevard. The statement considers four corridor alinements for upgrading existing State Route 50 to four lanes. Project length is 5.5 miles. An unspecified amount of land would be required for right-of-way. (70 pages) (ELR Order No. 05124) (NTIS Order No. EIS 72 5124F)

State Route 312 (Bridge and Approaches), Florida, County: St. Johns. The statement encompasses a corridor study for construction of a bridge and approaches spanning the Matanzas River. Project length is 3.5 miles. An unspecified amount of land will be committed to the action. (118 pages) Comments made by: USDA, DOC, COE, EPA, DOI and DOT (ELR Order No. 05125) (NTIS Order No. EIS 72 5125F)

Final, August 11

U.S. Highway 95, Idaho, County: Boundary. The statement is concerned with the improvement of approximately 15 miles of U.S. 95 along the existing alinement. An unspecified amount of agricultural and timber land will be acquired for right-of-way. The community of Eastpark would be encroached upon. (69 pages) Comments made by: USDA, COE, EPA, and DOT (ELR Order No. 05075) (NTIS Order No. EIS 72 5075F)

Final, August 23

I–72 and F.A. 412, Illinois, County: Macon. Two projects are encompassed in the statement. The action is the improvement of 16.2 miles of I–72 and 9.7 miles of F.A. 412. Combining the alignment for 5.1 miles of the freeway is recommended. The amount of right-of-way required and the number of displacements has not been specified. (96 pages) (ELR Order No. 05159) (NTIS Order No. EIS 72 5159F)

Final, August 18

State Route 26, Indiana, County: Tippecanoe. The statement considers the widening of 1.8 miles of highway. Two businesses and one residence will be displaced by the action. (29 pages) Comments made by: EPA, HUD, and DOI (ELR Order No. 05120) (NTIS Order No. EIS 72 5120F)

Final, August 23

I–129, Missouri River Crossing, Iowa, County: Woodbury. The proposed project consists of approximately 1 mile of four-lane divided highway, a bridge across the Missouri River, and an interchange with I–29. Eighty-five acres are required for right-of-way. One industrial plant and one vacant house will be displaced. (29 pages) Comments made by: USDA, EPA, DOI, DOT, and HUD (ELR Order No. 05157) (NTIS Order No. EIS 72 5157F)

Final, August 11

Hershey Connecting Link Road (L–56C), Nebraska, County: Lincoln. The statement considers the proposed reconstruction of a highway segment, designated Nebraska Highway No. L–56C, between U.S. 30 and I–80; and the construction of a new bridge over the South Platte River. Project length is approximately 1.6 miles. An unspecified amount of agricultural land is required for right-of-way. (42 pages) (ELR Order No. 05082) (NTIS Order No. EIS 72 5082F)

Final, August 23

U.S. 62–180, New Mexico, County: Lea. The statement encompasses two projects which propose the construction of 10.13 miles of four-lane roadway on U.S. 62–180 from the State Route 483 junction with U.S. 62–180 to existing four-lane construction at the west city limits of Hobbs. No significant adverse effects are anticipated from this action. (36 pages) Comments made by: USDA, COE, and DOT (ELR Order No. 05161) (NTIS Order No. EIS 72 5161F)

Final, August 18

Humacao South Bypass (State Route PR–30), Puerto Rico. The statement refers to the proposed construction of 1.89 miles of roadway south of Humacao. The amount of land needed for right-of-way is unspecified. (144 pages) Comments made by: USDA, DOC, EPA, HUD, DOI, and OEO (ELR Order No. 05122) (NTIS Order No. EIS 72 5122F)

State Route 40, South Dakota, County: Pennington. The statement considers the proposed grading and surfacing of a 30-mile length of State Route 40, beginning from 1 mile east of Scenic, S. Dak., and continuing to the Pennington County line. The road, presently graveled, will be paved. Besides flattening curves and extending sight distances, the proposed reconstruction will follow the existing road alignment, crossing grasslands administered by the U.S. Forest Service and traversing approximately 2 miles of the Badlands National Monument. A 4(f) statement is included. The statement discusses adverse impacts of a temporary nature, citing air and noise pollution due to construction. (46 pages) Comments made by: USDA, DOC, EPA, HEW, and DOI (ELR Order No. 05116) (NTIS Order No. EIS 72 5116F)

Final, August 23

State Highway 35, Texas, Counties: Aransas and San Patricio. The project is the proposed improvement of State Route 35 to a four-lane divided highway with grade separations at major intersections from Gregory to the Copano Bay Causeway. Project length is approximately 22¾ miles. Three businesses and 15 families will be displaced; 733 acres will be required for right-of-way. (61 pages) Comments made by: USDA, COE, EPA, HEW, HUD, and DOT (ELR Order No. 05160) (NTIS Order No. EIS 72 5160F)

Moretown Bypass (Vermont 100), Vermont, County: Washington. The proposed action is construction of a bypass to relieve traffic through the village of Moretown. The project is 3 miles in length. Approximately 300 feet of right-of-way will be acquired from largely undeveloped land. Wildlife habitat will be encroached upon. (61 pages) Comments made by: DOT (ELR Order No. 05158) (NTIS Order No. EIS 72 5158F)

Final, August 11

I–57 (Milwaukee to Green Bay, Wisconsin, County: Brown. The statement is concerned with the proposed construction of I–57 from Milwaukee to Green Bay through an area commonly called the Lower Drive Corridor. Project length is approximately 11.7 miles. Some properties may be severed and residences displaced. (105 pages) Comments made by: USDA, EPA, HUD, DOI, and DOT (ELR Order No. 05074) (NTIS Order No. EIS 72 5074F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72-15036 Filed 9-1-72;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. G–19417, etc.]

CLINTON OIL CO.

Findings and Order Amending Orders Issuing Certificates, Redesignating Rate Schedules and Rate Proceeding, Accepting Supplements to FPC Gas Rate Schedules for Filing and Making Successor Co-respondent

AUGUST 25, 1972.

Clinton Oil Co. (Petitioner) filed in the various dockets listed in the tabulation herein petitions to amend the orders of the Commission issuing certificates of public convenience and necessity in said dockets pursant to section 7(c) of the Natural Gas Act by authorizing the continuation of sales of natural gas from acreage which it has acquired from Amoco Production Co., all as more fully set forth in the petition to amend in this proceeding.

Applicant requests authorization to continue sales of natural gas from acreage which it has acquired from Amoco Production Co. by assignment dated December 31, 1969. At the time of transfer of producing acreage, two of the sales authorized in Dockets Nos. G–19417 and CI64–917 were made at rates in effect subject to refund in Docket No. RI69–349. Therefore, Clinton Oil Co. will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed the petitions to amend and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petitions has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in the dockets listed in the tabulation should be amended by substituting Clinton Oil Co. as certificate holder.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Clinton Oil Co. should be made a co-respondent in the proceeding pending in Docket No. RI69–349 and said proceeding should be redesignated accordingly.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act the FPC gas rate schedules and supplements related to the authorization hereinafter granted should be redesignated and accepted for filing, all as described in the tabulation herein.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity in the dockets listed in the tabulation herein are amended by substituting Clinton Oil Co. as certificate holder as more fully described in the application and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(B) Clinton Oil Co., as certificate holder in Docket No. G–19417, shall file within 45 days from the date of this order a rate schedule-quality statement in the form prescribed by Opinion No. 586.

(C) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

(D) Sales authorized in the dockets indicated are subject to the Commission's findings and orders accompanying the following opinions:

Docket No.	*Commission Opinion No.*
G–19417	586
G–20049	598, 598–A
CI60–128	607
CI60–777	598, 598–A
CI61–164	607
CI62–46	607
CI63–1445	595, 595–A
CI64–917	607
CI65–321	595, 595–A
CI65–384	598, 598–A
CI65–424	598, 598–A
CI66–107	586
CI67–308	586
CI67–474	586
CI68–609	586

If the quality of the gas deviates at any time from the quality standards set forth in the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(E) Clinton Oil Co. is made a co-respondent in the proceeding pending in Docket No. RI69–349 and said proceeding is redesignated accordingly. Clinton shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

[SEAL] KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule: Description and date of document	No.	Supp.
G-19417 E 3-20-72 [1]	Clinton Oil Co.	Cimarron Transmission Co., West Enville Field, Love County, Okla.	Amoco Production Co. FPC Gas Rate Schedule No. 277 and supplement Nos. 1-9 thereto.	71 / 71	1-9
			Notice of succession 3-16-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	71	10
G-20049 E 3-16-72 [3]	do	Southern Natural Gas Co., Montegut Field, Terrebonne and Lafourche Parishes, La.	Amoco Production Co. FPC Gas Rate Schedule No. 267 and Supplement Nos. 1-7 thereto.	69 / 69	1-7
			Notices of succession 3-14-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	69	8
CI60-128 E 3-20-72 [4]	do	Southern Natural Gas Co., Hub Field, Marion County, Miss.	Amoco Production Co. FPC Gas Rate Schedule No. 274 and Supplement Nos. 1-9 thereto.	70 / 70	1-9
			Notice of succession 3-16-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	70	10
CI60-777 E 3-20-72 [5]	do	Trunkline Gas Co., Southwest Esther Field, Vermilion Parish, La.	Amoco Production Co. FPC Gas Rate Schedule No. 278 and Supplement Nos. 1-6 thereto.	72 / 72	1-6
			Notice of succession 3-16-72		
			Assignment 12-31-69 [2]	72	7
CI61-127 E 3-20-72 [6]	do	Texas Gas Transmission Corp., Chacahoula Field, Lafourche Parish, La.	Amoco Production Co. FPC Gas Rate Schedule No. 304 and Supplement Nos. 1-6 thereto.	73 / 73	1-6
			Notice of succession 3-16-72		
			Assignment 12-31-69 [2] (Effective date 12-31-69)	73	7
CI61-164 E 3-22-72 [7]	Clinton Oil Co. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Holly Ridge Field, Tensas Parish, La.	Amoco Production Co. FPC Gas Rate Schedule No. 335 and Supplement Nos. 1-9 thereto.	75 / 75	1-9
			Notice of Succession 3-17-72.		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	75	10
CI62-46 E 3-20-72 [8]	Clinton Oil Co.	Southern Natural Gas Co., Grange Field, Lawrence and Jefferson Counties, Miss.	Amoco Production Co. FPC Gas Rate Schedule No. 311 and Supplement Nos. 1-3 thereto.	74 / 74	1-3
			Notice of succession 3-17-72.		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	74	4
CI63-1445 E 3-22-72 [9]	Clinton Oil Co. (Operator) et al.	Florida Gas Transmission Co., Palacios Field, Matagorda County, Tex.	Amoco Production Co. FPC Gas Rate Schedule No. 358 and Supplement Nos. 1-4 thereto.	76 / 76	1-4
			Notice of succession 3-18-72.		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	76	5
CI64-917 E 3-22-72 [10]	Clinton Oil Co.	Natural Gas Pipeline Co. of America, Boonesville Field, Jack County, Tex.	Amoco Production Co. FPC Gas Rate Schedule No. 390 and Supplement Nos. 1-9 thereto.	77 / 77	1-9
			Notice of succession 3-18-72.		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	77	10
CI65-321 E 3-22-72 [11]	do	Texas Eastern Transmission Corp., Cottonwood Creek Field, De Witt County, Tex.	Amoco Production Co. FPC Gas Rate Schedule No. 406 and Supplements Nos. 1-4 thereto.	78 / 78	1-4
			Notice of succession 3-18-72.		
			Assignment 12-31-69 (Effective date: 12-31-69)	78	5
CI65-384 E 3-27-72 [12]	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., East Timbalier Bay Field, Lafourche Parish, La.	Amoco Production Co., FPC Gas Rate Schedule No. 408 and Supplement Nos. 1-4 thereto.	79 / 79	1-4
			Notice of succession 3-22-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69).	79	5
CI65-424 E 4-13-72 [13]	do	Transcontinental Gas Pipe Line Corp., Johnson's Bayou Field, Cameron Parish, La.	Amoco Production Co., FPC Gas Rate Schedule No. 440 and Supplement Nos. 1-6 thereto.	81 / 81	1-6
			Notice of succession 4-11-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	81	7
CI66-107 E 3-27-72 [14]	do	Natural Gas Pipeline Co. of America, Camrick Field, Beaver County, Okla.	Amoco Production Co., FPC Gas Rate Schedule No. 420 and Supplement Nos. 1-5 thereto.	80 / 80	1-5
			Notice of succession 3-23-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	80	6
CI67-308 E 4-14-72 [15]	do	Natural Gas Pipeline Co. of America, North Fort Supply Field, Harper	Amoco Production Co., FPC Gas Rate Schedule No. 446 and Supplement Nos. 1-3 thereto.	82 / 82	1-3
			Notice of succession 4-11-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	82	4
CI67-474 E 5-8-72 [16]	do	Panhandle Eastern Pipe Line Co., Interstate Field, Morton County, Kans.	Amoco Production Co., FPC Gas Rate Schedule No. 452 and Supplement No. 1 thereto.	83 / 83	1
			Notice of succession 5-6-72		
			Assignment 12-31-69 (Effective date: 12-31-69)	83	2
CI68-609 E 5-8-72 [17]	do	Oklahoma Natural Gas Gathering Corp., Ringwood Field, Major County, Okla.	Amoco Production Co., FPC Gas Rate Schedule No. 505 and Supplement Nos. 1-6 thereto.	84 / 84	1-6
			Notice of succession 5-5-72		
			Assignment 12-31-69 [2] (Effective date: 12-31-69)	84	7

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. G-19417 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 277.
[2] Assigns acreage from Amoco Production Co. to Applicant.
[3] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. G-20049 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 267.
[4] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI60-128 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 274.
[5] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI60-777 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 278.
[6] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI61-127 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 304.
[7] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI61-164 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 335.
[8] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI62-46 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 311.
[9] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI63-1445 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 358.
[10] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI64-917 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 390.
[11] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI65-321 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 406.

[12] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI65-384 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 408.
[13] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI65-424 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 440.
[14] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI66-107 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 420.
[15] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI67-308 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 446.
[16] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI67-474 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 452.
[17] Applicant proposes to continue a sale of natural gas heretofore authorized in Docket No. CI68-609 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 505

[FR Doc.72-14934 Filed 9-1-72;8:45 am]

[Docket No. E-7561]

HOLYOKE WATER POWER CO.

Notice of Availability of Environmental Statement for Inspection

AUGUST 30, 1972.

Notice is hereby given that on September 6, 1972, as required by § 2.81(b) of Commission regulations under Order 415-B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application filed pursuant to the Federal Power Act for approval of the proposed construction of modified fish passage facilities at the Holyoke Dam of FPC Project No. 2004 located in Hampshire and Hampden Counties, Mass., on the Connecticut River.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The existing fish facilities at the Holyoke Dam would be redeveloped and expanded so that 1 million American shad and 40,000 Atlantic salmon can be passed annually to the Connecticut River above Holyoke.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415-B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from September 6, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15020 Filed 9-1-72;8:46 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Filing of Purchased Gas Adjustment Provision

AUGUST 30, 1972.

Take notice that Natural Gas Pipeline Company of America (Natural) on August 7, 1972, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following:

First Revised Sheet No. 116.
First Revised Sheet No. 117.
First Revised Sheet No. 118.
First Revised Sheet No. 119.
First Revised Sheet No. 120.
Original Sheet No. 120-A.
Original Sheet No. 120-B.
First Revised Sheet No. 121.

Natural states that the filing is made in compliance with paragraph (B) of Commission order of July 3, 1972, in Docket No. RP71-125 and is in conformance with section 154.38(d) of the Commission's regulations.

Natural requests waiver, to the extent necessary of Order No. 452, to permit utilization of its current procedure in its PGA clause for accounting for unrecovered purchased gas costs. The requested procedure Natural states differs from that in Order 452 only in omitting separate subaccounts for each 6-month period.

Natural requests that, pursuant to § 154.38(d)(4)(i) of the Commission's regulations, the cost of service on file with the Commission in Docket No. RP72-132 be used in consideration of the proposed PGA. The base average purchase gas cost of 20.77 cents per Mcf established in Natural's current PGA clause is the base cost intended for use by Natural in its proposed PGA clause.

The company asks that the effective date of the proposed tariff sheets be August 1, 1972.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 5, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15050 Filed 9-1-72;8:49 am]

[Docket No. CS71-637, etc.]

PRUDENTIAL DRILLING CO., ET AL.

Notice of Applications for "Small Producer" Certificates; Correction

AUGUST 30, 1972.

In the notice of application, issued July 25, 1972, and published in the FEDERAL REGISTER August 8, 1972, 37 F.R. 15894: Under "Date Filed" opposite CS71-637 change "7-6-72" to "7-6-71".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15021 Filed 9-1-72;8:47 am]

[Docket No. CP73-48]

TENNESSEE GAS PIPELINE CO. ET AL.

Notice of Application

AUGUST 30, 1972.

Take notice that on August 14, 1972, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Tennessee), Tenneco Building, Houston, Tex. 77002, and Columbia Gulf Transmission Co. (Columbia Gulf), Post Office Box 683, Houston, TX 77001, hereinafter referred to jointly as Applicants, filed in Docket No. CP73-48 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities necessary to take into their main transmission systems additional supplies of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate the following facilities, which are required to connect natural gas reserves of Tenneco Oil Co., Texaco, Inc., and Philips Petroleum Co. et al., in the Block 271 area of the East Cameron Area, offshore Louisiana, to their respective pipelines:

(1) Approximately 16.82 miles of 30-inch gathering line, which is to be jointly owned and operated by Applicants;

(2) Two 16-inch laterals to be owned and operated by Tennessee, one extending 2.06 miles from the proposed 30-inch line to a production platform in East Cameron Block 254, the other extending 1.27 miles from the 30-inch line to a production platform in East Cameron Block 272; and

(3) A 16-inch lateral to be owned and operated by Columbia Gulf, extending 0.56 mile from the 30-inch line to a production platform in East Cameron Block 273.

Applicants estimate that approximately 175,000,000 Mcf of recoverable gas reserves dedicated to Tennessee and approximately 52,000,000 Mcf of recoverable reserves dedicated to Columbia Gulf will become available under an advance payment agreement between Columbia Gulf and Phillips Petroleum Co. et al., and under a proposed gas purchase and sales agreement between Tennessee and Tenneco Oil Co. and Texaco, Inc. Applicants state that the proposed facilities are required to connect such new reserves to the existing Blue Water Project in Block 245, Vermilion Area, offshore Louisiana for ultimate delivery to Applicants' existing onshore facilities.

The total cost of the proposed facilities is estimated to be $12,096,500 of which $7,046,000 will be borne by Tennessee and $5,050,500 will be borne by Columbia Gulf. Applicants state that Columbia Gulf will finance the facilities from current working funds, and Tennessee will finance the facilities initially from general funds and/or revolving credit borrowings, which may be supplemented by permanent financing, generally debt financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1972, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15023 Filed 9-1-72;8:47 am]

OFFICE OF EMERGENCY PREPAREDNESS

MINNESOTA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on August 25, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Minnesota from severe storms and flooding, beginning about August 16, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Minnesota. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert E. Connor, Regional Director, OEP Region 5, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

The counties of:

Carlton. St. Louis.
Itasca.

Dated: August 30, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-15016 Filed 9-1-72;8:46 am]

PRICE COMMISSION

[Notice 32]

CEMENT INDUSTRY

Notice of Public Hearing

Notice is hereby given that the Price Commission will hold a public hearing beginning at 9:30 a.m., October 6, 1972, in the East Ballroom of the Sheraton Lincoln Hotel, at 777 Polk Street, Houston, TX, to receive information and the views of interested persons in regard to price controls and related problems of industry capacity, shortages, costs, profitability, and capital investment, in the cement industry. Representatives of business, labor, Government, consumers, and other sectors, of the public are invited to participate.

The public hearing hereby scheduled reflects the Commission's intention to comport with the stated desire of Congress (section 207 of the Economic Stabilization Act of 1970, as amended) for public hearings on matters which have a significantly large impact on the national economy.

Any person who has a substantial interest in the subject of the hearing, or, who is a representative of a group or class of persons which has a substantial interest in the subject of the hearing, may submit, before September 25, 1972, a written request to make an oral presentation. Such a written request should include a description of the substantial interest concerned; if appropriate, a statement of why the requesting person is a proper representative of a group or class of persons which has such an interest; and a concise summary of the proposed oral presentation. Oral presentations may be supplemented by written submissions filed with the Commission before October 2, 1972. The Commission reserves the right to select the persons to be heard at the hearing, to schedule and determine the length of their respective presentations, and to establish the procedures governing the conduct of the hearings. In addition, the Commission requests all other interested persons to submit written suggestions and comments on the subject for Commission consideration before October 6, 1972.

A designated representative of the Price Commission will preside at the hearing. It will not be a judicial or evidentiary type hearing. There will be no cross-examination of persons presenting statements. Any later decision made by the Commission with respect to the subject matter of the hearing will be based on all information available to the Commission, from whatever source received, and will not be based solely on the record of the hearing. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

All written submissions and requests to make an oral presentation should be sent to Mr. Otto S. Reid, Price Commission, 2000 M Street NW., Washington, DC 20508.

A transcript of the hearing will be made; anyone may buy a copy of the transcript from the reporter.

Issued in Washington, D.C., on August 31, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc.72-15114 Filed 9-1-72;10:20 am]

[Notice 33]

LUMBER AND WOOD PRODUCTS

Notice of Public Hearing

Notice is hereby given that the Price Commission will hold a public hearing beginning at 9:30 a.m., Thursday, October 19, 1972, at the U.S. Court House, Room 318, 75 Forsyth Street, Atlanta,

GA, to receive information and the views of interested persons on—

(1) The efforts made by manufacturers, wholesalers, and retailers of lumber and wood products to conform to Price Commission regulations.

(2) The influence of term limit pricing (TLP) agreements, profit margin restrictions, markup limitations, and allowable costs on increasing prices of lumber and wood products during the economic stabilization program.

(3) Problems incurred in applying Price Commission Order No. 7, issued on June 21, 1972 (37 F.R. 12525) and Price Commission Order No. 8, issued on July 17, 1972 (37 F.R. 14338).

(4) Problems faced by lumber and wood products firms in complying with Price Commission regulations, particularly with respect to changed business practices within the industry and cost pressures faced by the industry.

(5) The impact of exports of logs and wood products on the available supply of lumber and wood products.

(6) The utilization of available sawmill capacity to process logs.

(7) The impact of increasing prices for lumber and wood products on the consumer and wood using industries.

(8) The differences in structure, pricing policy, and pricing history between the hard- and the soft-wood industries.

(9) The customary practices that lumber and wood products firms use in establishing their intracompany prices and the changes in these practices that have been made necessary by the economic stabilization program.

(10) The effect which shortfalls in the allowable cut have on the supply of lumber.

This hearing is consistent with the Commission's intent to comport with the stated desire of Congress (section 207 of the Economic Stabilization Act of 1970, as amended) for public hearings on matters which have a significantly large impact on the national economy.

Any person who has a substantial interest in the subject of the hearing, or who is a representative of a group or class of persons which has a substantial interest in the subject of the hearing, may submit, before October 10, 1972, a written request to make an oral presentation. The written request should include a description of the substantial interest concerned; if appropriate, a statement of why the requesting person is a proper representative of a group or class of persons which has such an interest; and a concise summary of the proposed oral presentation. Oral presentations may be supplemented by written submissions filed with the Commission before October 16, 1972. The Commission reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. In addition, the Commission requests all other interested persons to submit written suggestions and comments on the subject for Commission consideration before October 19, 1972.

A designated representative of the Price Commission will preside at the hearing. It will not be a judicial or evidentiary type hearing. There will be no cross-examination of persons presenting statements. Any later decision made by the Commission with respect to the subject matter of the hearing will be based on all information available to the Commission, from whatever source received and will not be based solely on the record of the hearing. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

All written submissions and requests to make an oral presentation should be sent to Mr. Otto S. Reid, Price Commission, 2000 M Street NW., Washington, DC 20508.

A transcript of the hearing will be made; anyone may buy a copy of the transcript from the reporter.

Issued in Washington, D.C., on August 31, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc.72-15115 Filed 9-1-72;10:20 am]

[Notice 34]

CERTIFICATES OF COMPLIANCE FOR STATE AND FEDERAL REGULATORY AGENCIES

List of Recipients

Section 300.16a(d) of the regulations of the Price Commission provides for the issuance by the Price Commission of certificates of compliance to State and Federal regulatory agencies whose rules for implementing the economic stabilization program, with respect to public utilities, have been approved by the Price Commission. In accordance with the Commission's policy, this notice is issued on a biweekly basis, to inform all interested persons of those regulatory agencies that have been certified by the Commission.

As of August 30, 1972, certificates of compliance have been issued to the following agencies:

Federal:

Civil Aeronautics Board.
Interstate Commerce Commission.

State:

Alabama Public Service Commission.
California Public Utilities Commission.
Colorado Public Utilities Commission.
District of Columbia Public Service Commission.
Georgia Public Service Commission.
Indiana Public Service Commission.
Michigan Public Service Commission.
Mississippi Public Service Commission.
Montana Public Service Commission.
New York Public Service Commission.
North Carolina Utilities Commission.
Virginia State Corporation Commission.
Washington Utilities and Transportation Commission.

Issued in Washington, D.C., on September 1, 1972.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72-15116 Filed 9-1-72;10:20 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. Temporary Instructions constitute Appendix 2 of the Manual. The material contained in Temporary Instructions 628–4, 632–10, and 660–6 are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore, Temporary Instructions 628–4, 632–10, and 660–6 are set forth in full as follows:

[Temporary Instruction 628–4]

ARMED FORCES EXAMINATIONS DURING OCTOBER, NOVEMBER, AND DECEMBER 1972

1. Delivery of registrants for Armed Forces examination during October, November, and December 1972 will be as follows:

a. *October 1972.* 1972 First Priority Selection Group—RSN 001 through 095. Registrants born in 1953—RSN 001 through 045. Deferred registrants who would enter the 1973 FPSG—RSN 001 through 045.

b. *November 1972.* 1972 First Priority Selection Group—RSN 001 through 095. Registrants born in 1953—RSN 001 through 070. Deferred registrants who would enter the 1973 FPSG—RSN 001 through 070.

c. *December 1972.* 1972 First Priority Selection Group—RSN 001 through 095. Registrants born in 1953—RSN 001 through 075. Deferred registrants who would enter the 1973 FPSG—RSN 001 through 075. (Reference Section 1628.6(b), SSR and Section 628.3, RPM.)

2. The delivery of registrants born in 1953 will be limited to those who are expected to become members of the 1973 First Priority Selection Group.

3. Close coordination is required between State Directors and the AFEES Commanders to insure full accommodation of the number of registrants to be examined. It is desired that any question concerning the ability of an AFEES to accommodate examination deliveries be resolved through contact with the AFEES District Commander. If any AFEES District Commander is unable to resolve the matter, contact National Headquarters, Attention: OOPR.

4. It is imperative that all available registrants in the three groups specified above be delivered for examination during the months indicated.

This Temporary Instruction will terminate on December 29, 1972.

Issued: August 30, 1972.

[Temporary Instruction 632–10]

OCTOBER, NOVEMBER, AND DECEMBER 1972 INDUCTION CALLS

1. The high reached induction cutoff for the year 1972 is established as RSN 095. (Reference Section 1631.6, SSR; Chapter 631.6, RPM.)

2. *October 1972.* Fully available registrants in Classes 1–A and 1–A–O in the 1972 First Priority Selection Group with RSN 095 or below shall be ordered to report for induction in October. Orders are to be issued to such registrants beginning September 1, 1972, and not later than September 29, 1972.

State Directors will schedule deliveries so that approximately 30 percent of the deliveries are made during the first week of October, 22 percent during the second week of October, 27 percent during the third week of October, and 21 percent during the period October 24 through 30. No deliveries for induction are to be made on October 31, 1972. (Reference Parts 1631 and 1632, SSR; Chapters 631 and 632, RPM.)

3. *November 1972.* Fully available registrants in Classes 1–A and 1–A–0 in the 1972 First Priority Selection Group with RSN 095 or below shall be ordered to report for induction in November. Orders are to be issued to such registrants beginning October 2 and not later than October 30, 1972.

State Directors will schedule deliveries so that approximately 16 percent of the deliveries are made during the period November 1 through November 3, 31 percent during the period November 6 through 10, 20 percent during the period November 13 through 17, 17 percent during the period November 20 through 24, and 16 percent during the period November 27 through November 29. No deliveries for induction are to be made on November 30, 1972. (Reference Parts 1631 and 1632, SSR; Chapters 631 and 632, RPM.)

4. *December 1972.* Fully available registrants in Classes 1–A and 1–A–O in the 1972 First Priority Selection Group with RSN 095 or below shall be ordered to report for induction in December. Orders are to be issued to such registrants beginning November 1 and not later than November 10, 1972.

5. Any registrant ordered for induction or who is in a postponed status and attains the 26th anniversary of his date of birth prior to the date scheduled for induction shall have his order to report for induction canceled. (Reference Section 1631.6(d)(7), SSR.)

This Temporary Instruction will terminate on December 29, 1972.

Issued: August 30, 1972.

[Temporary Instruction 660–6]

PROCESSING OF REGISTRANTS IN CLASS 1–O IN CONJUNCTION WITH THE OCTOBER, NOVEMBER AND DECEMBER 1972 INDUCTION CALLS

1. The highest reached number for the year 1972 is established at RSN 095. (Reference section 1631.6 SSR, Chapter 631.6 RPM.)

2. *October 1972.* In conjunction with the October 1972 induction call, all fully available registrants in Class 1–O in the first priority selection group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning September 1, 1972, and not later than September 29, 1972. (Reference Part 1660, SSR.)

3. *November 1972.* In conjunction with the November 1972 induction call, all fully available registrants in Class 1–O in the first priority selection group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning October 2, 1972, and not later than October 30, 1972. (Reference Part 1660, SSR.)

4. *December 1972.* In conjunction with the December 1972 induction call, all fully available registrants in Class 1–O in the first priority selection group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning November 1 and not later than November 10, 1972. (Reference Part 1660, SSR.)

5. Any registrant ordered for alternate service who attains the 26th anniversary of his date of birth prior to the date scheduled to report for alternate service shall have his order canceled. Accordingly, a notice of selection will not be issued to a registrant where his age exceeds 25 years and 9 months. (Reference Section 1631.6(d)(7), SSR.)

This Temporary Instruction will terminate on December 29, 1972.

Issued: August 30, 1972.

BYRON V. PEPITONE,
Acting Director.

AUGUST 30, 1972.

[FR Doc.72–15025 Filed 9–1–72;8:47 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 931, Class B]

TENNESSEE

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of August 1972, because of the effects of certain floods, damage resulted to residences and business property located in the State of Tennessee;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration. I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the Town of Kingsport, Sullivan County, Tennessee, suffered damage or destruction resulting from extensive flooding, beginning on August 2, 1972.

OFFICE

Small Business Administration Branch Office, 502 South Gay Street, Knoxville, TN 37902.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1972.

Dated: August 22, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72–15006 Filed 9–1–72;8:46 am]

[Declaration of Disaster Loan Area 932, Class B]

TEXAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of August 1972, because of the effects of floods, damage resulted to property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the town of Snyder, County of Scurry, Tex., suffered damage or destruction resulting from extensive flooding on August 13, 1972.

OFFICE

Small Business Administration District Office, 1205 Texas Avenue, Lubbock, TX 79408.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1972.

Dated: August 22, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72–15007 Filed 9–1–72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 67]

ASSIGNMENT OF HEARINGS

AUGUST 30, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 110689 Sub 5, Airway Trucking Co., now being assigned hearing November 13, 1972, at San Francisco, Calif. (1 week), in a hearing room to be later designated.

MC–133095 Sub 29, Texas Continental Express, Inc., application dismissed.

MC–1548 Sub 3, Mercer Motor Freight, Inc., application dismissed.

MC–135509 Sub 2, William R. Wade Common Carrier Application, now assigned October 16, 1972, at Jefferson City, Mo., is transferred to Kansas City, Mo., same date.

MC 60157 Sub 17, C. A. White Trucking Co., MC 85811 Sub 6, Amscon Transportation, Inc., MC 108676 Sub 45, A. J. Metler Hauling and Rigging, Inc., MC 119908 Sub 19, Western Lines, Inc., now assigned October 31, 1972, at Dallas, Tex., canceled and transferred to modified procedure.

MC 115841 Sub 413, Colonial Refrigerated Transportation, Inc., now assigned September 28, 1972, at Washington, D.C., is postponed indefinitely.

MC 78400 Sub 27, Beaufort Transfer Co., now assigned September 25, 1972, at Jefferson City, Mo., is postponed to October 30, 1972, at Jefferson City, Mo., on the 14th Floor, Jefferson State Office Building, 100 Jefferson Street.

MC–2890 Sub 44, American Buslines, Inc., now assigned September 18, 1972, at Columbus, Ohio, is postponed to September 19, 1972, in room 4 State Office Building, 65 South Front Street, Columbus, OH.

MC-115162 Sub 246, Pool Truck Line, Inc., now assigned August 31, 1972, at Washington, D.C., is canceled and application dismissed.

No. 35435, freight all kinds, Official Territory, No. 35435 Sub 1, freight all kinds, Official Territory, No. 35435 Sub 2, freight all kinds, Southern Territory, No. 35435 Sub 3, freight all kinds, Louisville & Nashville R.R., No. 35435 Sub 4, freight all kinds, between Chicago & Jersey City, No. 35435 Sub 5, freight all kinds, between Maryland, New Jersey and Pennsylvania, and Central States, No. 35435 Sub 6, TOFC Rates, between the South and IFA Territory, No. 35435 Sub 7, freight all kinds, between Boston and Central States, No. 35435 Sub 8, freight all kinds, between Southern and Official Territories, No. 35435 Sub 9, freight all kinds, between Eastern and Central States and No. 35435 Sub 10, freight all kinds, between Ohio and Southern States, now assigned September 11, 1972, at Washington, D.C., is postponed to September 12, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 108884 Sub 21, Rogers Transfer, Inc., now assigned October 4, 1972, at New York, N.Y., postponed indefinitely.

MC-F-11305, Terminal Transport Co., Inc.—Purchase (portion)—Deaton, Inc., MC 11207 Sub 314, Deaton, Inc., is continued to September 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-15027 Filed 9-1-72;8:47 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 30, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42518—*Joint water-rail container rates—Atlantica Line (Atlantica, S.P.A. Genoa, Italy)*. Filed by Atlantica Line (Atlantica, S.P.A. Genoa, Italy), for itself and interested rail carriers. Rates on general commodities, from ports in Italy, Spain, Portugal, and France, to rail stations on the U.S. Pacific Coast.

Grounds for relief—Water competition.

Tariff—Rates as to which relief is requested are to be published, filed and become effective as soon as the following tariff is compiled and completed: Atlantica Line Intermodal Tariff No. 1, ICC No. 1, F.M.C. No. 8.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-15028 Filed 9-1-72;8:47 am]

[Rule 19; Ex Parte No. 241; Rev. Exemption 7]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka and Santa Fe Railway Co.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
Union Pacific Railroad Co.;

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto or consecutive issues thereof.

Effective August 22, 1972.

Expires August 31, 1972.

Issued at Washington, D.C., August 22, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15013 Filed 9-1-72;8:46 am]

[Rule 19; Ex Parte 241; 4th Rev. Exemption 12]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

It appearing, that the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic & Western Railway Co. Reporting marks: ATW.
Louisville, New Albany & Corydon Railroad Co. Reporting marks: LNAC.
Manufacturers Railway Co. Reporting marks: MRS.
Richmond, Fredericksburg & Potomac Railroad Co. Reporting marks: RFP.
Vermont Railway, Inc. Reporting marks: Rut or VTR.
Wellsville, Addison & Galeton Railroad Corp. Reporting marks: WAG.

Effective August 29, 1972, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., August 29, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15014 Filed 9-1-72;8:46 am]

[No. 35638]

BUTTER AND CHEESE

Department of Agriculture Petition for Declaratory Order

JULY 31, 1972.

Notice is hereby given that on May 26, 1972, the U.S. Department of Agriculture, tendered a petition for a declaratory order under section 5(3) of the Administrative Procedure Act [5 U.S.C. 554(e)] seeking a determination of whether butter and cheese are processed foods and therefore subject to the 22 cent maximum increase on processed foods authorized by the Commission in ex parte Nos. 265 and 267, Increased Freight Rates, 1971, 339 I.C.C. 125.

The petitioner states that in ex parte Nos. 265 and 267, the Commission authorized a maximum increase on processed foods of not more than 22 cents per hundredweight, but that the railroads named as respondents in that proceeding have failed to include butter and cheese in the list of commodities which are subject to this increase. On September 28, 1971, petitioner requested from the Commission an informal opinion as to whether butter and cheese were processed foods. In an answer dated October 6, 1971, the Commission's Section of Rates and Informal Cases stated that in its opinion butter and cheese were processed foods and as such were subject to the 22 cent maximum increase. On November 11, 1971, petitioner docketed with the Traffic Executive Association-Eastern Railroads, Executive Committee-Western Railroad Traffic Association, and Southern Freight Association-Executive Committee a proposal to amend the Tariff of Increased Rates and Charges X-267B to include butter and cheese in Item 575, which item lists those commodities subject to the 22 cent maximum increase. On December 8, 1971, the Traffic Executive Committee-Eastern Railroads declined to consider the proposal. This decision precluded any further consideration by the two remaining executive committees.

Any person interested in the matter which is the subject of the instant petition and who wishes to participate actively in any further proceedings herein shall notify this Commission, by filing with the Office of Proceedings of the Commission within 30 days of the date of publication of this notice in the FEDERAL REGISTER, an original and one copy of a statement of his intention to participate. Thereafter the nature of further proceedings herein, if any, will be designated. The petition and statements of intent to participate, if any, filed with the Commission will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., during regular business hours.

A copy of this notice will be served upon the petitioner; and notice of the filing of this petition will be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register, for publication therein.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-15026 Filed 9-1-72;8:47 am]

[Notice 117]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following 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-73533. By order of August 18, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Arizona Western Transport, Inc., Phoenix, Ariz., of Permits Nos. MC-116950 and MC 116950 (Sub-No. 8) issued to Joseph L. Drake, Chandler, Ariz., authorizing the transportation of: Agricultural chemicals, dry fire retardant, anhydrous ammonia, and dry fertilizer, in bulk, in tank vehicles, and in bags, between points in Arizona, California, Oregon, Washington, Idaho, Nevada, New Mexico, Colorado, Utah, Wyoming, Montana, South Dakota, North Dakota, and Texas. A. Michael Bernstein, attorney, 1327 United Bank Building, Phoenix, Ariz. 85012.

No. MC-FC-73805. By order entered August 16, 1972, the Motor Carrier Board approved the transfer to Hugh Anderson, Inc., Arp, Tex., of the operating rights set forth in Certificate No. MC-57808 (Sub-No. 1), issued January 30, 1950, and those in Certificate of Registration No. MC-57808 (Sub-No. 3), issued April 17, 1964, to Hugh Anderson, Arp, Tex., the former authorizing the transportation of machinery, materials, supplies and equipment, incidental to, or used in, the construction, development, operation, and maintenance, of facilities for the discovery, development, and production, of natural gas and petroleum, over irregular routes, between points and places in Texas, and the latter evidencing a right to engage in operations in interstate commerce solely within the State of Texas. S. Norris Rowland, Sr., Post Office Box 35, Wallisville, TX 77597, attorney for applicants.

No. MC-FC-73851. By order August 17, 1972, the Motor Carrier Board approved the transfer to J. A. Tucker Co., a corporation, Collingswood, N.J., of License No. MC-22111 issued to Jacob A. Tucker, doing business as J. A. Tucker & Company, Collingswood, N.J., authorizing the holder to engage in operations as a broker in arranging for the transportation of general commodities between points in Pennsylvania, Maryland, Massachusetts, Ohio, Rhode Island, Virginia, and West Virginia. Robert B. Einhorn, attorney, 12 South 12th Street, Philadelphia, PA 19107.

No. MC-FC-73863. By order of August 18, 1972, the Motor Carrier Board approved the transfer to Swanson Boat Transport Corp., New Rochelle, N.Y., of Certificates Nos. MC-124535, MC-124535 (Sub-No. 1), and MC-124535 (Sub-No. 2) issued December 9, 1964, January 29, 1970, and December 3, 1971, respectively, to Richard S. Swanson, doing business as Swanson Boat Transport, New Rochelle, N.Y., authorizing the transportation of: Boats and boat accessories between points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Maine, New Hampshire, Vermont, and the District of Columbia; and machinery, requiring the use of special equipment, between specified points in New Jersey, on the one hand, and, on the other, specified points in New York. William D. Traub, 10 East 40th Street, New York, NY 10016, applicants' practitioner.

No. MC-FC-73885. By order of August 16, 1972, the Motor Carrier Board approved the transfer to Kenneth Lee Snyder, doing business as American Van & Storage Co., Cheboygan, Mich., of the operating rights in certificate No. MC-11008 issued October 23, 1952, to Pearle Skowten and Harold Skowten, a partnership, doing business as J. L. Skowten Moving & Storage, Cheboygan, Mich., authorizing the transportation of household goods, as defined by the Commission, (1) between points in the Lower Peninsula of Michigan on and north of Michigan Highway 32 and on and west of U.S. Highway 27, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in Michigan, and (2) between Cheboygan, Petoskey, Harbor Springs, Conway, Alanson, Pellston, Levering, Carp Lake, Cross Village, Mackinaw City, Topinabee, Mullet Lake, Indian River, Wolverine, Afton, Vanderbilt, and Gaylord, Mich., on the one hand, and, on the other, points in Michigan, Wisconsin, Indiana, Illinois, and Ohio. John W. Ester, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226, attorney for applicants.

No. MC-FC-73886. By order entered August 18, 1972, the Motor Carrier Board approved the transfer to Merchants Parcel Delivery, Inc., Waterbury, Conn., of the operating rights set forth in certificate of registration No. MC-97833 (Sub-No. 1), issued March 23, 1964, to Anthony D. Greco, doing business as Merchants Parcel Delivery, Waterbury, Conn., evidencing a right to engage in operations in interstate commerce corresponding in scope to Motor Common Carrier certificate C-1084, dated September 4, 1947, as amended January 14, 1959, issued by the Public Utilities Commission of the State of Connecticut. George Wells, 137 East Main Street, Waterbury, CT 06702, representative for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-15029 Filed 9-1-72;8:47 am]

[Notice No. 118]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 17051 (Sub-No. 6 TA), filed August 11, 1972. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Elizabeth NJ 07202, Mail: Post Office Box 111, Elizabethport Station, 07207. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, equipment, materials, and supplies* used or useful in the manufacture and sale of wearing apparel for account of Cooper Sportswear, Inc., between Carteret, Perth Amboy, Newark, N.J., Johnstown, New York, N.Y., and Athens, Tenn., for 180 days. Supporting shipper: Cooper Sportswear Manufacturing Co., Inc., 720 Frelinghuysen Avenue, Newark, NJ 07114. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 30844 (Sub-No. 420 TA), filed August 11, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Springfield, Mo., to points in Florida, for 180 days. Supporting shipper: The R. T. French Co., 1 Mustard Street, Rochester, NY 14609. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 30887 (Sub-No. 178 TA), filed August 15, 1972. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Post Office Box 55, Reisterstown, MD 21136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten liquid polypropolene*, in bulk, in tank vehicles, from Crowley, La., to Chicago and Joliet, Ill.; Linden, N.J.; Dalton, Ga.; and Lowell, Ind., for 180 days. Supporting shipper: Crowley Hydrocarbon Chemicals, Inc., 271 Madison Avenue, New York, NY 10016; Attention: W. J. Jennings, Vice President. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 31389 (Sub-No. 153 TA), August 16, 1972. Applicant: McLEAN TRUCKING COMPANY, Post Office Box 213, Winston-Salem, NC 27102. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, with the usual exceptions serving Ferrum, Va., as an off-route point in connection with applicant's regular route, between Greensboro, N.C., and Roanoke, Va., over U.S. Highway 220, for 180 days. NOTE: Applicant does intend to tack with MC-31389, at 90 terminal points throughout Eastern United States. Supporting shipper: Virginia Apparel Corp., Post Office Box 507, Rocky Mount, Va. 24151. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead Street, Suite 417 (BSR Building), Charlotte, NC 28202.

No. MC 31600 (Sub-No. 658 TA), filed August 10, 1972. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation jet fuel*, in bulk, in tank vehicles, from Melville, R.I., to Lakehurst, N.J., for 150 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Department of the Army, Office of Judge Advocate General, Washington, D.C. 20310. Send protests to: James F. Martin, Jr., Asst. R/D, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Boston, Mass. 02203.

No. MC 69116 (Sub-No. 145 TA), filed August 14, 1972. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, IL 60606. Applicant's representative: J. S. Ruscetta, Vice President, Traffic (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing slabs, tile, panels, and materials and supplies* used in the installation thereof, over irregular routes from the plantsite of Fireproof Products, Inc., at Cornell, Wis., to points in Connecticut, Delaware, Michigan, New Jersey, New York, and Pennsylvania, for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Fireproof Products, Inc., Cornell, Wis. 54932. Send protests to: Richard O. Chandler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 102012 (Sub-No. 159 TA), filed August 9, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway, East and Meyer Road, Fort Wayne, IN 46801. Applicant's representative: Karlton Holle, Traffic Manager, North American Van Lines, Inc. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, crated*, from the plantsite of United Factories, Inc., at Mexia, Tex., to points in the United States (except Alaska and Hawaii), for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: United Factories, Inc., 2100 Stemmons, Trade Mart Building, Suite 4046, Dallas, TX 75207. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 103498 (Sub-No. 26 TA), filed August 14, 1972. Applicant: W. D. SMITH TRUCK LINE, INC., Post Office Drawer C, DeQueen, AR 71832. Applicant's representative: Don Jack, 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preservatively treated lumber, posts, poles, and piling*, from Joplin, Mo., to points in Kansas, Iowa, Nebraska, and Minnesota, for 180 days. Supporting shipper: International Paper Company, Post Office Box 2328, Mobile, AL 36601. Send protests to: District Supervisor William H. Land, Jr., 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 106398 (Sub-No. 622 TA), filed August 14, 1972. Applicant: NATIONAL TRAILER CONVOY INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, OK 74151. Applicant's representative: Irving Tull, Tulsa, Okla. 74151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shelving, plywood, hardboard, and accessories*, used in the installation thereof from warehouses and facilities of Evans Products Co., within the commercial zone of Philadelphia, Pa., to points in Connecticut, Delaware, District of Columbia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Pennsylvania, Vermont, Virginia, and West Virginia, for 180 days. Supporting shippers: Evans Products Co., Box 10480, Santa Ana, CA 92711; Robert S. Jones, Box 104480, Santa Ana, CA 92711. C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

No. MC 108207 (Sub-No. 356 TA), filed August 14, 1972. Applicant: FROZEN FOOD EXPRESS, INC., Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from Colton and Pamona, Calif., to Joplin, Mo., and Kansas City, Kans., for 180 days. Supporting shipper: Laymon Candy Co., 444 Colton Avenue, Colton, CA 92323. Send protests to: District Supervisor, E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 112822 (Sub-No. 240 TA), filed August 10, 1972. Applicant: BRAY LINES INCORPORATED, 1401 North Little, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Joe. W. Ballard (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, and other

articles distributed by the R. T. French Co., from Springfield, Mo., to points in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper: The R. T. French Co., 1 Mustard Street, Rochester, NY 14609. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113658 (Sub-No. 4 TA), filed August 10, 1972. Applicant: SCOTT TRUCK LINE, INC., 2950 Blake Street, Post Office Box 16346 (80216), Denver, CO 80205. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods as defined by the Commission, emigrant movables, those of unusual value, class A and B explosives, commodities requiring special equipment, and those injurious or contaminating to other lading, between the junction of Colorado Highway 113 and Interstate 80S near Sterling, Colo., and the junction of U.S. Highway 26 and I–80 near Ogallala, Nebr., for joinder purpose only, traversing I–80S and I–80 between such points, for 180 days. Send protests to: District Supervisor Roger L. Buchanan, 2022 Federal Building, Interstate Commerce Commission, Bureau of Operations, 1961 Stout Street, Denver, CO 80202.

No. MC 114533 (Sub-No. 259 TA), filed August 14, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa, Vice President (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and business records*, between Indianapolis, Ind., on the one hand, and, on the other, Paris, Ill., for 180 days. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH. Send protests to: District Supervisor R. G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 116492 (Sub-No. 5 TA), filed August 11, 1972. Applicant: JOHN T. HARRIGER and RUTH B. HARRIGER, doing business as T. C. HARRIGER TRUCKING, 66 Main Street, Falls Creek, PA 15840. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the facilities of C. Schmidt & Sons, Inc., Cleveland, Ohio, to DuBois and St. Mary's, Pa., and the *return of empty containers*, for 180 days. Supporting shippers: Prontock Beer Distributing, DuBois and Sandy Streets, DuBois, Pa., and E. L. K. Candy Co., Inc., trading as Elk Beverage Center, 39 South St. Mary's Street, St. Mary's, PA. Send protests to: District Supervisor James C. Donaldson, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 118292 (Sub-No. 33 TA), filed August 14, 1972. Applicant: BALLENTINE PRODUCE, INC., New Highways 64 and 71, Post Office Box 312, Alma, AR 72921. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and dog food*, (1) from the plantsites and warehouse facilities of Allen Canning Co. at Gentry and Siloam Springs, Ark., a point approximately 10 miles east of Siloam Springs, Ark., and from Proctor, Okla., and Kansas, Okla., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming; and (2) from the plantsites and warehouse facilities of Allen Canning Co. at Alma and Van Buren, Ark., to points in Arizona, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oregon, South Dakota, Utah, Virginia, Washington, and Wyoming, for 180 days. Supporting shipper: Allen Canning Co., Inc., 305 East Main, Post Office Box 250, Siloam Springs, AR 72761. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 120646 (Sub-No. 10 TA), filed August 11, 1972. Applicant: BRADLEY FREIGHT LINES, INC., Post Office Box 523, Saco Lowell Road, Easley, SC 29640. Applicant's representative: Walter Harwood, Suite 1822, Parkway Towers, 404 James Robertson Parkway, Nashville, TN. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New wooden furniture and wooden furniture parts*, from points in Madison County, Miss., to points in the United States (except Alaska and Hawaii), for 150 days. Supporting shipper: Consolidated Furniture Industries, Division of Magnavox Furniture, Inc., Lenoir, N.C. 28645. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 124069 (Sub-No. 14 TA), filed August 11, 1972. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from port of entry on the international boundary line between the United States and Canada located on the Niagara River at Niagara Falls and Lewiston, N.Y., to points in New York, for 90 days. Supporting shipper: Wyandotte Cement Inc., 1751 Fuhrman Boulevard, Buffalo, NY 14203. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 124327 (Sub-No. 5 TA), filed August 11, 1972. Applicant: COASTAL CONTRACT CARRIER CORPORATION, Post Office Box 261, Selmer, TN 38375. Applicant's representative: Charles R. Parker (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal siding and roofing, and component parts, accessories, and materials thereof* for mobile homes, modular or assembled buildings and recreational vehicles, *metal sheets and slabs and pallets and rain carrying equipment*, from Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., to points in North Carolina, Virginia, Maryland, South Carolina, Florida, Georgia, Alabama, Mississippi, and Tennessee; and (2) *baled scrap*, from Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., to Decatur, Ala., and (3) *materials, accessories and related items* used in the fabrication, distribution, and sale of commodities in (1) above, from Decatur, Ala., to Peachtree City, Ga., Ocala, Fla., and Reidsville, N.C., for 180 days. Supporting shipper: Amax Aluminum Mill Products, Inc., Post Office Box 2028, 705 Dividend Drive, Peachtree City, GA 30214. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 126102 (Sub-No. 13 TA), filed August 11, 1972. Applicant: ANDERSON MOTOR LINES, INC., 86 Washington Street, Post Office Box 1808, Plainville, MA 02762. Applicant's representative: Robert G. Parks, 306 Dartmouth Street, Boston, MA 02116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Antennas and related accessories*, from West Burlington, Iowa, to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, Kentucky, Ohio, Indiana, Michigan, Illinois, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, Washington, and the District of Columbia, for 180 days. Supporting shipper: Antennacraft Co., a division of Tandy Corp., West Burlington, Iowa 52655. Send protests to:

Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, RI 02903.

No. MC 129032 (Sub-No. 9 TA), filed August 10, 1972. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Post Office Box 7608, Tulsa, OK 74107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquors, wines and spirits*, excluding beer and malt beverages, from Louisville, Frankfort, Bardstown, and Owensboro, Ky., to Tulsa and Oklahoma City, Okla., and Owensboro, Ky., for 180 days. Supporting shippers: Jarboe Sales Co., 6924 East Reading Place, Tulsa 15, OK; Capitol Beverage Co., 425 East Hill, Oklahoma City, OK; Central Liquor Co., 911 Southwest 41st, Oklahoma City, OK; Saffa Beverage Co., Post Office Box 3165, Tulsa, OK 74101. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 129387 (Sub-No. 13 TA), filed August 10, 1972. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Post Office Box 1271, Huron, SD 57350. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by* meat packinghouses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, S. Dak., to Cheyenne, Wyo., Denver and Pueblo, Colo., for 180 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, MN 55912. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 129600 (Sub-No. 7 TA), filed August 14, 1972. Applicant: POLAR TRANSPORT, INC., 27 York Avenue, Randolph, MA 02368, Office: 11 Holly Street, Hingham, MA 02043. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, restaurant supplies and equipment*, except in bulk, from Chicago, Ill., to points in South Dakota, Nebraska, and Iowa; and (2) *ice cream*, from Chicago, Ill., to City of Industry, Calif., Arlington, Tex., and Cleveland, Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Howard D. Johnson Co., for 180 days. Supporting shipper: Howard Johnson's, 222 Forbes Road, Braintree, MA 02184. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, JFK Federal Building, Room 2211B, Government Center, Boston, Mass. 02203.

No. MC 133221 (Sub-No. 12 TA), filed August 9, 1972. Applicant: OVERLAND CO., INC., Route 1, Box 406 A, Lawrenceville, GA 30245. Applicant's representative: Bruce E. Mitchell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics and plastic products*, from the plantsite and warehouse facilities of Dow Chemical U.S.A. at Royersford, Pa., and Gales Ferry, Conn., to points in the United States on and east of U.S. Highway 85 (except Alabama, Georgia, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia), for 180 days. Supporting shipper: Dow Chemical U.S.A., Midland, Mich. 48640. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 134946 (Sub-No. 3 TA), filed August 11, 1972. Applicant: ANTHONY SILVIDIO, doing business as ZIP'S EXPRESS, Box 127, Newfield, NJ 08344. Applicant's representative: Wallace L. Schubert, Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Advertising circulars*, from Vineland, N.J., to Albany, N.Y., Syracuse, N.Y., and Hicksville, N.Y., for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Times Graphic, Inc., 7 South Seventh Street, Vineland, NJ 08360. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 135789 (Sub-No. 3 TA), filed August 14, 1972. Applicant: GASOLINE TANK SERVICE, INC., East 6501 Broadway, Post Office Box 224, Parkwater Station, Spokane, WA 99211. Applicant's representative: George R. LaBissoniere, 1421 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk asphalt and residual fuel oils*, from Spokane, Wash., to points in Idaho, north of the southern boundaries of Idaho and Lemhi County, Idaho, for 180 days. Supporting shippers: Chevron Asphalt Co., 5501 Northwest Front Avenue, Post Office Box 4424, Portland, OR 97208; Inland Asphalt Co., Post Office Box 4366—Station B, 10th and Havana, Spokane, WA 99201; Tristate Oil & Asphalt Sales, Inc., North 705 Washington Street, Post Office Box 157, Spokane, WA 99210; Western Fuel Co., South First Avenue and Walnut Street, Yakima, Wash. 98901; Balckline Asphalt Sales, Inc., Post Office Drawer 6226—Hillyard Station, Spokane, WA 99207. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 135871 (Sub-No. 9 TA), filed August 9, 1972. Applicant: H.G.M. TRANSPORT COMPANY, 1079 West Side Avenue, Jersey City, NJ 07306. Applicant's representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business, for the account of Giantway, Inc., between Jersey City, N.J., on the one hand, and, on the other, Mt. Pleasant, Alma, Cadillac, Ludington, Traverse City, Alpena, Big Rapids, Petosky, and Midland, Mich., under contract with Giantway, Inc., Mt. Pleasant, Mich., for 180 days. Supporting shipper: Giantway, Inc., Post Office Box 469, Mt. Pleasant, MI 48858. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broadway Street, Newark, NJ 07102.

No. MC 136513 (Sub-No. 3 TA), filed August 14, 1972. Applicant: TALMADGE C. GRAY, Post Office Box 233, Milford, UT 84751. Applicant's representative: Talmadge C. Gray, Post Office Box 233, Milford, UT 84751. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in bulk, from the plantsite of Vulcan Materials Co., at Vernon, Calif., to points within 5 miles of Milford, Utah, for the account of Vulcan Materials Co., for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Vulcan Materials Co., Post Office Box 7497, Birmingham, AL 35223; (D. L. DePaul, Manager Transportation Services, Metals and Miscellaneous). Send protests to : Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 136851 TA (Republication), filed June 27, 1972, and published in the FEDERAL REGISTER issue of July 15, 1972, and republished as part corrected this issue. Applicant: LYLE HOENER, doing business as HOENER TRUCKING, Rural Route No. 1, Box 81, Astoria, IL 61501. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. NOTE: The purpose of this partial republication is to include the State of (*Ohio*), which was inadvertently omitted. The rest of this application remains the same.

No. MC 136929 (Sub-No. 1 TA), filed August 11, 1972. Applicant: R. V. TRUCKING, INC., c/o CORPORATION COMPANY, INC., Suite 1000, First National Bank Building, Topeka, Kans.

66603. Applicants representative: D. S. Hults, Post Office Box 225, Lawrence National Bank Building, Lawrence, KS 66044. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters and wall furnaces* for installation in recreational vehicles, from the plantsite and storage facilities of Atwood Vacuum Machine Co., Mobile Products Division, located at Rockford, Ill., to Coffeyville and Minneapolis, Kans., and Denver, Colo., under contract with Atwood Vacuum Machine Co.; (2) refrigerators, for installation in recreational vehicles, from the plantsite and storage facilities of Hadco Engineering, a Division of A–T–O, Inc., located at Elkhart, Ind., to Coffeyville and Minneapolis, Kans., Denver, Colo., and Mason City, Forrest City, Indianola, and Carlyle, Iowa; under contract with Hadco Engineering, a Division of A–T–O, Inc.; and (3) *ranges* for use in mobile homes and recreational vehicles, from the plantsite and storage facilities of Premier Stove Co., at Belleville, Ill., to Coffeyville and Minneapolis, Kans.; Denver and Longmont, Colo.; Concordia, Sedalia, and Westphalia, Mo.; and Mason City, Forrest City, Indianola, and Carlyle, Iowa, under contract with Premier Stove Co., for 180 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shippers: Atwood Vacuum Machine Co., 1400 Eddy Avenue, Rockford, IL 61101; Hadco Engineering, a Division of A–T–O, Inc., Los Angeles, Calif. 90040; Premier Stove Co., 100 South 16th Street, Belleville, IL 62221. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans 66603.

No. MC 136942 (Sub-No. 1 TA), filed August 11, 1972. Applicant: HOWARD SMITH, doing business as H. S. TRUCKING, 498 State Route 7, Steubenville, OH 43952. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial rolls or rollers*, uncrated, loose, or in open cradles, between Three Rivers, Mich., on the one hand, and, on the other, Canton, Louisville, Steubenville, Toronto, Warren, Yorkville, and Youngstown, Ohio; Aliquippa, Allenport, Ambridge, Beaver Falls, Brackenridge, Butler, Clairton, Connellsville, Dravosburg, Duquesne, Greensburg, Homestead, Jeannette, Leechburg, Midland, Monessen, New Castle, New Kensington, Pittsburgh, Sharon, Vandergrift, Washington, and Zelienpole, Pa., and Beechbottom, Clarksburg, Fairmont, Follansbee, Weirton, Wellsburg, and Wheeling, W. Va. Restriction: The above-described operations are limited to a transportation service to be performed under a continuing contract or contracts with Dayco Corp., for 180 days. Supporting shipper: Dayco Corp., Dayton, Ohio 45401. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72–15030 Filed 9–1–72;8:47 am]

TARIFF USERS ADVISORY COMMITTEE

Notice of Meeting

AUGUST 30, 1972.

The Tariff Users Advisory Committee will meet on Tuesday, September 12, 1972, 9:30 a.m. in Hearing Room A at the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., for the purpose of conducting its regular quarterly meeting. The meeting is open to the public and may be of interest to persons concerned with the technical aspects of rate tariff publication, tariff interpretation and usage as published by and applied to carriers under the jurisdiction of the Interstate Commerce Act.

The Agenda of the meeting will include:

1. Review: (a) Tariff Update Program; (b) Computerized Tariffs; (c) Intermodal Tariffs.
2. Status Report. Tariff Mailing Rules.
3. Committee Report. Tariff Descriptions.
4. Tariff Simplification.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72–15031 Filed 9–1–72;8:47 am]

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WASHINGTON, D.C.

Volume 37 ■ Number 172

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

Black Lung Benefits

Notice of Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 410]

[Reg. 10]

BLACK LUNG BENEFITS

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the provisions of the Black Lung Benefits Act of 1972 (Public Law 92–303, 86 Stat. 150), which amends title IV of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173; 83 Stat. 792 et seq.; 30 U.S.C. 901 et seq.), there are set forth below in tentative form amendments to Regulation No. 10 of the Social Security Administration, 20 CFR Part 410, which relates to black lung benefits: Amendments of Subpart A (Introduction, General Provisions, and Definitions); Amendments of Subpart B (Requirements for Entitlement, Duration of Entitlement, Filing of Claims and Evidence); Amendments of Subpart C (Relationship and Dependency); Amendments of Subpart D (Total Disability or Death Due to Pneumoconiosis); Amendments of Subpart E (Payment of Benefits); and Amendments of Subpart F (Determinations of Disability, Other Determinations, Administrative Review, Finality of Decisions, and Representation of Parties) which are proposed by the Commissioner of Social Security with the approval of the Secretary of Health Education, and Welfare.

The proposed amendments set forth below implement the provisions of the Black Lung Benefits Act of 1972 which (1) extend SSA's responsibility for new claims from miners by 18 months, and for new claims from survivors by 24 months; (2) provide benefits to children of deceased miners and deceased entitled widows of miners; (3) provide benefits to the miner's surviving dependent parents, or, if none, to his surviving dependent brothers and sisters; (4) permit benefits to be paid to surface as well as to underground miners and to their survivors; (5) allow a survivor to claim benefits if the miner was totally disabled by pneumoconiosis when he died, regardless of the cause of death; (6) provide an occupational definition of "total disability" based on skills and abilities used in coal mining; (7) prohibit denial of claims for benefits solely on the basis of a negative X-ray; (8) establish a new rebuttable presumption whereby a miner who is (or was) totally disabled from a respiratory or pulmonary impairment and who worked for at least 15 years in underground coal mines or in substantially similar environmental conditions in surface mines is considered to be totally disabled due to pneumoconiosis, to have been totally disabled due to pneumoconiosis at the time of his death, or to have died due to pneumoconiosis. This presumption may be rebutted only if it is established that the miner does not, or did not, have pneumoconiosis, or that his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine. It may not be rebutted solely on the basis of a negative X-ray; (9) permit the Secretary to certify separate payment of any increase in the benefits of a miner or widow attributed to a qualified dependent; and (10) provide that certain provisions in title II of the Social Security Act shall be applicable in dealing with such matters as overpayments, underpayments, attorney fees, issuance of subpenas and representative payment.

The proposed amendments set forth below also implement interim evidentiary rules and disability evaluation criteria in compliance with the legislative history as reflected in the report of the Senate Committee on Labor and Public Welfare (S. Rep. No. 92–743, 92d Cong., 2d sess., pp. 18 and 19) which stated that it expected the Secretary "to adopt such interim evidentiary rules and disability evaluation criteria as will permit prompt and vigorous processing of the large backlog of claims consistent with the language and intent of these amendments. Such interim rules and criteria shall give full consideration to the combined handicap of disease and age and provide for adjudication of claims on the basis of medical evidence other than breathing tests when it is not feasible or practicable to provide physical performance tests * * *."

These proposed amendments have been developed after extensive consultation with and comments by, knowledgeable physicians, organizations, and individuals representing coal mine employees, employers, and benefit claimants. Many specific suggestions resulting from these consultations have been incorporated in these proposals.

On August 19, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16787) an amendment to the regulations of the Civil Service Commission (5 CFR Part 930) changing the title of "hearing examiner" to "Administrative Law Judge." Therefore, in the proposed amendments set forth below, in each place where the term "hearing examiner" appears, it should be read as "Administrative Law Judge." At such time as these proposed amendments are published in the FEDERAL REGISTER in final form, the term "Administrative Law Judge" will be substituted for the term "hearing examiner" in each place where the term "hearing examiner" appears.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments, pertaining thereto which are submitted in writing in triplicate by September 20, 1972. Because of the provision in section 411(b) of the Act requiring that such standards be promulgated and published in final form no later than September 30, 1972, the Secretary of Health, Education, and Welfare finds that a longer period for comment is impracticable.

Consideration will be given, however, to any data, views, or arguments, pertaining to said regulations which are submitted after such period for the purpose of any future modification or additions thereof. All such comments should be addressed to the Commissioner of Social Security, Department of Health, Education, and Welfare, Fourth Street and Independence Avenue SW., Washington, D.C. 20201.

Copies of all written comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, Room 3193, North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: August 28, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 30, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Part 410 of Chapter III of title 20 is amended as follows:

1. In § 410.101, the material preceding paragraph (a) and paragraphs (c) and (e) are revised to read as follows:

§ 410.101 Introduction.

The regulations in this Part 410 (Regulation No. 10 of the Social Security Administration) relate to the provisions of Part B (Black Lung Benefits) of title IV of the Federal Coal Mine Health and Safety Act of 1969, as enacted December 30, 1969, as amended by the Black Lung Benefits Act of 1972, and as may hereafter be amended. The regulations in this part are divided into the following subparts according to subject content:

* * * * *

(c) Subpart C of this part describes the relationship and dependency requirements for widows, children, parents, brothers, and sisters, and relationship and dependency requirements which affect the benefit amounts of entitled miners and widows.

* * * * *

(e) Subpart E of this part relates to payment of benefits, payment periods, benefit rates, and their modification, representative payees, and overpayments and underpayments.

* * * * *

2. In § 410.110, paragraphs (a), (b), (j), (k), (o), (p), and (r) are revised to read as follows:

§ 410.110 General definitions and use of terms.

For purposes of this part, except where the context clearly indicates otherwise, the following definitions apply:

(a) "The Act," means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173), as amended by the Black Lung Benefits Act of 1972 (Public Law 92–303), enacted May 19, 1972, and as may hereafter be amended.

(b) "Benefit" means the black lung benefit provided under Part B of title IV

of the Act to coal miners, to surviving widows of miners, to the surviving child, or children of a miner, or of a widow of a miner, to the suriving dependent parent, or parents of a miner, and to the surviving dependent brother(s) or sister(s) of a miner.

* * * * *

(j) "Miner" or "coal miner" means any individual who is working, or has worked, as an employee in a coal mine, performing functions in extracting the coal or preparing the coal so extracted.

(k) "The Nation's coal mines" comprise all coal mines as defined in paragraph (h) of this section located in a State as defined in paragraph (l) of this section.

* * * * *

(o) "Pneumoconiosis" means a chronic dust disease of the lung arising out of employment in the Nation's coal mines, and includes but is not necessarily limited to anthracosilicosis, anthracosis, anthrosilicosis, massive pulmonary fibrosis, progressive massive fibrosis, silicosis, or silicotuberculosis, arising out of such employment.

(p) A "workmen's compensation law" means a law providing for payment of compensation to an employee (and his dependents) for injury (including occupational disease) or death suffered in connection with his employment. A payment funded wholly out of general revenues and paid (without regard to insurance principles) solely on account of the financial need of the miner and his family, shall not be considered a payment under a "workmen's compensation law."

* * * * *

(r) "Beneficiary" means a miner or a surviving widow, child, parent, brother, or sister, who is entitled to a benefit as defined in paragraph (b) of this section.

3. Following § 410.120, a new § 410.130 is added to read as follows:

§ 410.130 Periods of limitation ending on nonworkdays.

Where any provision of Part B of title IV of the Act, or any provision of another law of the United States, relating to, or changing the effect of Part B, or any regulation of the Secretary issued under Part B, provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this part, or is necessary to establish or protect any right under this part, and such period ends on a Saturday, Sunday, or Federal legal holiday, or on any other day, all or part of which is declared to be a nonworkday for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday, or any other day, all or part of which is declared to be a nonworkday for Federal employees either by statute or Executive order. For purposes of this section, the day on which a period ends shall include the final day of any extended period where such extension is authorized by law or by the Secretary pursuant to law. Such extension of any period of limitation does not apply to periods during which benefits may be paid for months prior to the month a claim for such benefits is filed (see § 410.226).

4. Section 410.200 is revised to read as follows:

§ 410.200 Types of benefits; general.

(a) Part B of title IV of the Act provides for the payment of periodic benefits;

(1) To a miner who is determined to be totally disabled due to pneumoconiosis; or

(2) To the widow or child of a miner who was entitled to benefits at the time of his death; who is determined to have been totally disabled due to pneumoconiosis at the time of his death; or whose death was due to pneumoconiosis; or

(3) To the child of a widow of a miner who was entitled to benefits at the time of her death; or

(4) To the surviving dependent parents, or the surviving dependent brothers or sisters, of a miner who is determined to have been entitled to benefits at the time of his death; or who was totally disabled due to pneumoconiosis at the time of his death; or whose death was due to pneumoconiosis.

(b) The following sections of this subpart set out the conditions of entitlement to benefits for a miner, a widow, child, parent, brother, or sister; describe the events which terminate or preclude entitlement to benefits and the procedures for filing a claim; and prescribe certain requirements as to evidence. Also see Subpart C of this part for regulations relating to the relationship and dependency requirements applicable to claimants for benefits as a widow, child, parent, brother, or sister, and to beneficiaries with dependents.

5. In § 410.201, paragraph (c) is revised to read as follows:

§ 410.201 Conditions of entitlement; miner.

An individual is entitled to benefits if such individual:

* * * * *

(c) Has filed a claim for benefits in accordance with the provisions of §§ 410.220–410.234.

6. In § 410.202, paragraphs (b) and (c) are revised to read as follows:

§ 410.202 Duration of entitlement; miner.

* * * * *

(b) The last month for which such individual is entitled to such benefit is the month before the month:

(1) In which the miner dies (see, however, § 410.226); or

(2) In no part of which the miner is under a disability.

(c) A miner's entitlement to benefits under Part B of title IV of the Act which is based on a claim which is filed (see § 410.227) after June 30, 1973, and before January 1, 1974, shall terminate on December 31, 1973, unless sooner terminated under paragraph (b) of this section.

7. Section 410.210 is revised to read as follows:

§ 410.210 Conditions of entitlement; widow or surviving divorced wife.

An individual is entitled to benefits if such individual:

(a) Is the widow (see § 410.320) or surviving divorced wife (see § 410.321) of a miner (see § 410.110(j));

(b) Is not married (or, for months prior to May 1972, had not remarried since the miner's death);

(c) Has filed a claim for benefits in accordance with the provisions of §§ 410.220–410.234;

(d) Was dependent on the miner at the pertinent time (see § 410.360 or § 410.361); and

(e) The deceased miner:

(1) Was entitled to benefits at the time of his death; or

(2) Died before January 1, 1974, and it is determined that he was totally disabled due to pneumoconiosis at the time of his death, or that his death was due to pneumoconiosis (see Subpart D of this part).

8. Section 410.211 is revised to read as follows:

§ 410.211 Duration of entitlement; widow or surviving divorced wife.

(a) An individual is entitled to benefits as a widow, or as a surviving divorced wife, for each month beginning with the first month in which all of the conditions of entitlement prescribed in § 410.210 are satisfied.

(b) The last month for which such individual is entitled to such benefit is the month before the month in which either of the following events first occurs:

(1) The widow or surviving divorced wife remarries; or

(2) The widow or surviving divorced wife dies; or

(3) Where the individual qualifies as the widow of a miner under § 410.320(d), she ceases to qualify as provided therein.

9. Following § 410.211, new §§ 410.212, 410.213, and 410.214 are added to read as follows:

§ 410.212 Conditions of entitlement; child.

(a) An individual is entitled to benefits if such individual:

(1) Is the child (see § 410.330) of (i) a deceased miner (see § 410.110(j)) or (ii) of the widow of a miner who was entitled to benefits at the time of her death (see §§ 410.210 and 410.211);

(2) Has filed a claim for benefits in accordance with the provisions of §§ 410.220–410.234;

(3) Meets the dependency requirements in § 410.370;

(4) Is a child of a miner and the deceased miner

(i) Was entitled to benefits at the time of his death, or

(ii) Died before January 1, 1974, and his death is determined to have been due to pneumoconiosis (see Subpart D of this part), or

(iii) Died before January 1, 1974, and it is determined that at the time of his death he was totally disabled by pneumoconiosis (see Subpart D of this part).

(b) A child is not entitled to benefits for any month for which a widow of a miner establishes entitlement to benefits.

§ 410.213 Duration of entitlement; child.

(a) An individual is entitled to benefits as a child for each month beginning with the first month in which all of the conditions of entitlement prescribed in § 410.212 are satisfied.

(b) The last month for which such individual is entitled to such benefit is the month before the month in which any one of the following events first occurs:

(1) The child dies;

(2) The child marries;

(3) The child attains age 18 and,

(i) Is not under a disability at that time, and

(ii) Is not a student (as defined in § 410.370) during any part of the month in which he attains age 18;

(4) If the child's entitlement is based on his status as a student, the earlier of:

(i) The first month during no part of which he is a student, or

(ii) The month in which he attains age 23 and is not under a disability at that time;

(5) If the child's entitlement is based on disability, the first month in no part of which such individual is under a disability.

(c) A child whose entitlement to benefits terminated with the month before the month in which he attained age 18, or later, may thereafter (provided he is not married) again become entitled to such benefits upon filing application for such reentitlement, beginning with the first month after such termination in which he is a student and has not attained the age of 23.

§ 410.214 Conditions of entitlement; parent, brother, or sister.

An individual is entitled to benefits if:

(a) Such individual.

(1) Is the parent, brother, or sister (see § 410.340) of a deceased miner (see § 410.110(j));

(2) Has filed a claim for benefits in accordance with the provisions of §§ 410.220–410.234;

(3) Was dependent on the miner at the pertinent time (see § 410.380); and

(4) Files proof of support before June 1, 1974, or within 2 years after the miner's death, whichever is later, or it is shown to the satisfaction of the Administration that there is good cause for failure to file such proof within such period (see § 410.216).

(b) In the case of a brother, he also:

(1) Is under 18 years of age; or

(2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see Subpart P of Part 404 of this chapter), which began before he attained age 18, or in the case of a student, before he ceased to be a student (see § 410.370(c)); or

(3) Is a student (see § 410.370(c)); or

(4) Is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see Subpart P of Part 404 of this chapter), at the time of the miner's death.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the deceased miner:

(1) Was entitled to benefits at the time of his death; or

(2) Died before January 1, 1974, and his death is determined to have been due to pneumoconiosis (see Subpart D of this part); or

(3) Died before January 1, 1974, and it is determined that at the time of his death he was totally disabled by pneumoconiosis (see Subpart D of this part).

(d) Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section.

(1) A parent is not entitled to benefits if the deceased miner was survived by a widow or child at the time of his death, and

(2) A brother or sister is not entitled to benefits if the deceased miner was survived by a widow, child, or parent at the time of his death.

10. Section 410.215 is redesignated as § 410.219 and new §§ 410.215 and 410.216 are added to read as follows:

§ 410.215 Duration of entitlement; parent, brother, or sister.

(a) A parent, brother, or sister is entitled to benefits beginning with the month all the conditions of entitlement described in § 410.214 are met.

(b) The last month for which such parent is entitled to benefits is the month before the month in which the parent dies.

(c) The last month for which such sister is entitled to benefits is the month before the month in which any of the following events occurs:

(1) She dies;

(2) (i) She marries or remarries; or

(ii) If already married, she receives support in any amount from her spouse.

(d) The last month for which such brother is entitled to benefits is the month before the month in which any of the following events first occurs:

(1) He dies;

(2) (i) He marries or remarries; or

(ii) If already married, he receives support in any amount from his spouse;

(3) He attains age 18 and,

(i) Is not under a disability at that time, and

(ii) Is not a student (see § 410.370(c)) during any part of the month in which he attains age 18;

(4) If his entitlement is based on his status as a student, the earlier of:

(i) The first month during no part of which he is a student; or

(ii) The month in which he attains age 23 and is not under a disability at that time;

(5) If his entitlement is based on disability, the first month in no part of which such individual is under a disability.

§ 410.216 "Good cause" for delayed filing of proof of support.

(a) *What constitutes "good cause."* "Good cause" may be found for failure to file proof of support within the 2-year period where the parent, brother, or sister establishes to the satisfaction of the Administration that such failure to file was due to:

(1) Circumstances beyond the individual's control, such as extended illness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished the individual by the Administration; or

(3) Efforts by the individual to secure supporting evidence without a realization that such evidence could be submitted after filing proof of support; or

(4) Unusual or unavoidable circumstances, the nature of which demonstrate that the individual could not reasonably be expected to have been aware of the need to file timely the proof of support.

(b) *What does not constitute "good cause."* "Good cause" for failure to file timely such proof of support does not exist when there is evidence of record in the Administration that the individual was informed that he should file within the initial 2-year period and he failed to do so through negligence or intent not to file.

11. In § 410.220, a new paragraph (f) is added to read as follows:

§ 410.220 Claim for benefits; definitions.

* * * * *

(f) *Provisions with respect to claims applicable with respect to requests.* The provisions of §§ 410.222–410.234 (relating to the preparation, execution, or filing of a claim for benefits) are applicable to the preparation, execution, and filing of a written request required under this part e.g., a request to be selected as representative payee (see § 410.581 et seq.), a request for separate payment of an augmentation (see § 410.511), a request for reconsideration (see § 410.622), etc. In such cases, the term "claimant" as used therein refers to the individual filing the request on his own behalf or the individual on whose behalf such request is filed.

12. Section 410.221 is revised to read as follows:

§ 410.221 Prescribed application and request forms.

(a) Claims shall be made as provided in this subpart on such application forms and in accordance with such instructions (provided thereon or attached thereto) as are prescribed by the Administration.

(b) The application forms used by the public to file claims for benefits under Part B of title IV of the Act are SSA–46 (application for benefits under the Federal Coal Mine Health and Safety Act

of 1969 (coal miner's claim of total disability)), SSA–47 (application for benefits under the Federal Coal Mine Health and Safety Act of 1969 (widow's claim)), SSA–48 (application for benefits under the Black Lung Benefits Act of 1972 (child's claim)), and SSA–49 (application for benefits under the Black Lung Act of 1972 (parent's, brother, or sister's claim)).

(c) The form used by an individual to request that such individual be selected as a representative payee or by a dependent to request that payment be certified to him separately is SSA–50 (Request to be Selected as Payee).

(d) For further information about some of the forms used in the administration of Part B of title IV of the Act, see §§ 422.505(b), 422.515, 422.525, and 422.527 of this chapter.

13. Section 410.222 is revised to read as follows:

§ 410.222 Execution of a claim.

The Administration determines who is the proper party to execute a claim in accordance with the following rules:

(a) If the claimant has attained the age of 18, is mentally competent, and is physically able to execute the claim, the claim shall be executed by him. Where, however, paragraph (d) of this section applies, the claim may also be executed by the claimant's legal guardian, committee, or other representative.

(b) If the claimant is between the ages of 16 and 18, is mentally competent, has no legally appointed guardian, committee, or other representative, and is not in the care of any person, such claimant may execute the claim upon filing a statement on the prescribed form indicating capacity to act on his own behalf.

(c) If the claimant is mentally competent but has not attained age 18 and is in the care of a person, the claim may be executed by such person.

(d) If the claimant (regardless of his age) has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian, committee, or representative.

(e) If the claimant (regardless of his age) is mentally incompetent or is physically unable to execute the claim, it may be executed by the person who has the claimant in his care or by a legally appointed guardian, committee, or other representative.

(f) Where the claimant is in the care of an institution and is not mentally competent or physically able to execute a claim, the manager or principal officer of such institution may execute the claim.

(g) For good cause shown, the Administration may accept a claim executed by a person other than one described in paragraph (a), (b), (c), (d), (e), or (f) of this section.

14. Section 410.226 is revised to read as follows:

§ 410.226 Periods for which claims are effective.

(a) *Application effective for entire month of filing.* Benefits are payable for full calendar months. If the claimant meets all the requirements for entitlement to benefits in the same calendar month in which his application is filed, the application will be effective for the whole month. If a miner does in the first month for which he meets all the requirements for entitlement to benefits, he will, notwithstanding the provisions of § 410.202(b), be considered to be entitled to benefits for that month.

(b) *Prospective life of claims.* A claim which is filed before the claimant meets all the requirements for entitlement to such benefits will be deemed a valid claim if the claimant meets such requirements of entitlement (1) before the Administration makes a final decision on such claim or (2) if the claimant has timely requested judicial review of such final decision before such review is completed. If the claimant first meets the requirements for entitlement to benefits in a month after the month of actual filing but before a final administrative or judicial decision is rendered on his claim, his claim will be deemed to have been effectively filed in such first month of entitlement.

(c) *Retroactive life of claims.* Except in the case of a claim for benefits as a surviving child (see § 410.212) a claim for benefits has no retroactive effect. (See, however, § 410.230.) Generally, a claim for benefits for a surviving child is effective (depending on the first month of eligibility) for up to 12 months preceding the month in which such claim is filed. However, if such claim is filed before December 1972, such claim may be effective retroactively (depending on the first month of eligibility) to December 1969.

§ 410.227 [Amended]

15. In § 410.227, paragraph (c) is revoked.

16. Section 410.231 is revised to read as follows:

§ 410.231 Time limits for filing claims.

(a) A claim by or on behalf of a miner must be filed on or before December 31, 1973, and when so filed, is a claim for benefits under Part B of title IV of the Act. (See § 410.227 for when a claim is considered to have been filed. See also § 410.202(c) for the duration of entitlement to benefits of a miner based on a claim for such benefits which is filed after June 30, 1973, and before January 1, 1974.)

(b) In the case of a miner who was entitled to benefits for the month before the month of his death, or died in the first month for which he met all the requirements for entitlement (see § 410.226), a claim for benefits by or on behalf of the widow, child, parent, brother, or sister of a miner must be filed by December 31, 1973, or within 6 months after the miner's death, whichever is later. When so filed, it constitutes a claim for benefits under Part B of title IV of the Act.

(c) In the case of a miner who was not entitled to benefits for the month before the month of his death, and whose death occurred prior to January 1, 1974, a claim for benefits by or on behalf of the widow, child, parent, brother, or sister of a miner must be filed by December 31, 1973, or, in the case of the death of a miner occurring after June 30, 1973, and before January 1, 1974, within 6 months of such miner's death. When so filed, it constitutes a claim for benefits under Part B of title IV of the Act.

(d) Notwithstanding the provisions of paragraphs (b) and (c) of this section, if a widow established entitlement to benefits under this part (see § 410.210), a claim by or on behalf of a surviving child of a miner or of such widow, must be filed within 6 months after the death of such miner or of such widow, or by December 31, 1973, whichever is the later.

17. Section 410.234 is revised to read as follows:

§ 410.234 Interim provisions.

(a) Notwithstanding any other provision of this subpart, a written request for benefits which is filed before January 31, 1972, and which meets the requirements of this subpart except for the filing of a prescribed application form, shall be considered a claim for benefits. Nevertheless, where a prescribed application form has not been filed, the Administration may require that such a form be completed and filed before adjudicating the claim. (See § 410.240(a).)

(b) Notwithstanding any other provision of this part, where (1) a request has been made before the effective date of this regulation that a claim for benefits be withdrawn and (2) such request has been approved (see § 410.232), such claim may nevertheless be reinstated and adjudicated under the provisions of the Black Lung Benefits Act of 1972 (Public Law 92–303).

18. In § 410.240, paragraphs (b) and (h) are revised to read as follows:

§ 410.240 Evidence.

* * * * *

(b) *Failure to submit requested evidence of eligibility.* Whenever a claimant for benefits has submitted no evidence or insufficient evidence of eligibility, the Administration will inform the claimant what evidence is necessary for a determination of eligibility and will request him to submit such evidence within a specified reasonable time which may be extended for a further reasonable time upon the claimant's request. The claimant's failure to submit evidence as requested by the Administration within such specified reasonable time or any requested extension thereof shall be a basis for determining that the conditions of eligibility concerning which such evidence was requested have not been met (see § 410.610(g)).

* * * * *

(h) *Reimbursement for reasonable expenses in obtaining medical evidence.* Claimants for benefits under this part shall be reimbursed promptly for reasonable medical expenses incurred by them for services from medical sources of their

choice, in establishing their claims, including the reasonable and necessary cost of travel incident thereto. A medical expense generally is not "reasonable" when the medical evidence for which the expense was incurred is of no value in the adjudication of a claim. Medical evidence will be considered to be of "no value" when, for instance, it is only duplicative or when it is wholly extraneous to the medical issue of whether the claimant is disabled or died due to pneumoconiosis. In order to minimize inconvenience and expense to the claimant, he should not generally incur any medical expense for which he intends to claim reimbursement without first contacting the district office to determine what types of evidence not already available to the Administration may be useful in adjudicating his claim, what types of medical evidence may be reimbursable, and what would constitute a "reasonable medical expense" in a given case. Where a reasonable expense for medical evidence is ascertained, the Administration may authorize direct payment to the provider of such evidence.

19. Section 410.250 is revised to read as follows:

§ 410.250 Effect of conviction of felonious and intentional homicide on entitlement to benefits.

An individual who has been finally convicted by a court of competent jurisdiction of the felonious and intentional homicide of a miner or of a widow shall not be entitled to receive any benefits payable because of the death of such miner or widow, and such felon shall be considered nonexistent in determining the entitlement to benefits of other individuals with respect to such miner or widow.

20. Section 410.300 is revised to read as follows:

§ 410.300 Relationship and dependency; general.

(a) In order to establish entitlement to benefits, a widow, child, parent, brother, or sister must meet relationship and dependency requirements with respect to the miner or widow, as applicable, prescribed by or pursuant to the Act.

(b) In order for an entitled miner or widow to qualify for augmented benefits because of one or more dependents (see § 410.510(c), such dependents must meet relationship and dependency requirements with respect to such beneficiary prescribed by or pursuant to the Act.

(c) References in §§ 410.310(c), 410.320(c), 410.330(d), and 410.340, to the "same right to share in the intestate personal property" of a deceased miner (or widow), refer to the right of an individual to share in such distribution in his own right and not by right of representation.

21. In § 410.310, paragraph (d) is revised to read as follows:

§ 410.310 Determination of relationship; wife.

An individual will be considered to be the wife of a miner if:

* * * * *

(d) (1) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment (see § 410.391), would have been a valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household (see § 410.393) in the month in which there is filed a request that the miner's benefits be augmented because such individual qualifies as his wife (see § 410.510(c)). The provisions of this paragraph shall not apply, however, if the miner's benefits are or have been augmented under § 410.510(c) because another person qualifies or has qualified as his wife and such other person is, or is considered to be, the wife of such miner under paragraph (a), (b), or (c) of this section at the time such request is filed.

(2) The qualification for augmentation purposes of an individual who would not be considered to be the wife of such miner but for this paragraph (d), shall end with the month before the month in which (i) the Administration determines that the benefits of the miner should be augmented on account of another person, if such other person is (or is considered to be) the wife of such miner under paragraph (a), (b), or (c) of this section, or (ii) if the individual who previously qualified as a wife for purposes of § 410.510(c), entered into a marriage valid without regard to this paragraph, with a person other than such miner.

22. Following § 410.310, a new § 410.311 is added to read as follows:

§ 410.311 Determination of relationship; divorced wife.

An individual will be considered to be the divorced wife of a miner if her marriage to such miner has been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided,* That if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which that divorce became final.

23. In § 410.320, paragraph (d) is revised to read as follows:

§ 410.320 Determination of relationship; widow.

* * * * *

(d) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment (see § 410.391) would have been a valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household (see § 410.393) at the time of the miner's death. The provisions of this paragraph shall not apply if another person is or has been entitled to benefits as the widow of the miner and such other person is, or is considered to be, the widow of such miner under paragraph (a), (b), or (c) of this section at the time such individual files her claim for benefits.

24. Following § 410.320, a new § 410.321 is added to read as follows:

§ 410.321 Determination of relationship; surviving divorced wife.

An individual will be considered to be the surviving divorced wife of a deceased miner if her marriage to such miner had been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided,* That, if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which that divorce became final.

25. In § 410.330, paragraph (f)(3) is revoked and the material preceding paragraph (a) is revised to read as follows:

§ 410.330 Determination of relationship; child.

As used in this section, the term "beneficiary" means only a widow entitled to benefits at the time of her death (see § 410.211), or a miner, except where there is a specific reference to the "father" only, in which case it means only a miner. An individual will be considered to be the child of a beneficiary if:

* * * * *

(f) * * *

(3) [Revoked]

26. Following § 410.330, a new § 410.340 is added to read as follows:

§ 410.340 Determination of relationship; parent, brother, or sister.

An individual will be considered to be the parent, brother, or sister of a miner if the courts of the State in which such miner was domiciled (see § 410.392) at the time of his death would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's parent, brother, or sister. Where, under such law, the individual does not bear the relationship to the miner of parent, brother, or sister, but would, under State law, have the same status (i.e., right to share in the miner's intestate personal property) as a parent, brother, or sister, the individual will be deemed to be such.

27. Section 410.350 is revised to read as follows:

§ 410.350 Determination of dependency; wife.

An individual who is the miner's wife (see § 410.310) will be determined to be dependent upon the miner if:

(a) She is a member of the same household as the miner (see § 410.393); or

(b) She is receiving regular contributions from the miner for her support (see § 410.395(c)); or

(c) The miner has been ordered by a court to contribute to her support (see § 410.395(e)); or

(d) She is the natural mother of the son or daughter of the miner; or

(e) She was married to the miner (see § 410.310) for a period of not less than 1 year.

28. Following § 410.350, a new § 410.351 is added to read as follows:

§ 410.351 Determination of dependency; divorced wife.

An individual who is the miner's divorced wife (see § 410.311) will be determined to be dependent upon the miner if:

(a) She is receiving at least one-half of her support from the miner (see § 410.395(g)); or

(b) She is receiving substantial contributions from the miner pursuant to a written agreement (§ 410.395 (c) and (f)); or

(c) There is in effect a court order for substantial contributions to her support to be furnished by such miner (see § 410.395 (c) and (e)).

29. Section 410.360 is revised to read as follows:

§ 410.360 Determination of dependency; widow.

(a) *General.* An individual who is the miner's widow (see § 410.320) will be determined to have been dependent on the miner if, at the time of the miner's death:

(1) She was living with the miner (see § 410.393); or

(2) She was dependent upon the miner for support or the miner has been ordered by a court to contribute to her support (see § 410.395); or

(3) She was living apart from the miner because of his desertion or other reasonable cause; or

(4) She is the natural mother of his son or daughter; or

(5) She had legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(6) He had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(7) She was married to him at the time both of them legally adopted a child under the age of 18; or

(8) She was married to him for a period of not less than 9 months immediately prior to the day on which he died (but see paragraph (b) of this section).

(b) *Waiver of 9-month requirement.*—(1) *General.* Except as provided in subparagraph (3) of this paragraph, the requirement in paragraph (a)(8) of this section that the surviving spouse of a miner must have been married to him for a period of not less than 9 months immediately prior to the day on which he died in order to qualify as such miner's widow, shall be deemed to be satisfied where such miner dies within the applicable 9-month period, if his death:

(i) Is accidental (as defined in subparagraph (2) of this paragraph), or

(ii) Occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in § 404.1013 (f) (2) and (3) of this chapter), and such surviving spouse was married to such miner for a period of not less than 3 months immediately prior to the day on which he died.

(2) *Accidental death.* For purposes of subparagraph (1)(i) of this paragraph, the death of a miner is accidental if such individual receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than 3 months after the day on which he receives such bodily injuries. The term "accident" means an event that was unpremeditated and unforeseen from the standpoint of the deceased individual. To determine whether the death of an individual did, in fact, result from an accident the Administration will consider all the circumstances surrounding the casualty. An intentional and voluntary suicide will not be considered to be death by accident; however, suicide by an individual who is so insane as to be incapable of acting intentionally and voluntarily will be considered to be death by accident. In no event will the death of an individual resulting from violent and external causes be considered a suicide unless there is direct proof that the fatal injury was self-inflicted.

(3) *Applicability.* The provisions of this paragraph shall not apply if the Administration determines that at the time of the marriage involved, the miner could not reasonably have been expected to live for 9 months.

30. Following § 410.360, a new § 410.361 is added to read as follows:

§ 410.361 Determination of dependency; surviving divorced wife.

An individual who is the miner's surviving divorced wife (see § 410.321) will be determined to have been dependent on the miner if, for the month preceding the month in which the miner died:

(a) She was receiving at least one-half of her support from the miner (see § 410.395(g)); or

(b) She was receiving substantial contributions from the miner pursuant to a written agreement (see § 410.395 (c) and (f)); or

(c) There was in effect a court order for substantial contributions to her support to be furnished by such miner (see § 410.395 (c) and (e)).

31. Section 410.370 is revised to read as follows:

§ 410.370 Determination of dependency; child.

For purposes of augmenting the benefits of a miner or widow (see § 410.510 (c)), the term "beneficiary" as used in this section means only a miner or widow entitled to benefits (see §§ 410.201 and 410.210); or, for purposes of an individual's entitlement to benefits as a surviving child (see § 410.212), the term "beneficiary" as used in this section means only a deceased miner (see § 410.200) or a deceased widow who was entitled to benefits for the month prior to the month of her death (see §§ 410.210 and 410.211). An individual who is the beneficiary's child (see § 410.330) will, as applicable, be determined to be, or to have been, dependent on the beneficiary, if the child:

(a) Is unmarried; and

(b)(1) Is under 18 years of age; or

(2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see Subpart P of Part 404 of this chapter). For purposes of entitlement to benefits as a surviving child (see § 410.212), such disability must have begun before the child attained age 18, or, in the case of a student, before he ceased to be a student (see paragraph (c) of this section).

(3) Is 18 years of age or older and is a student.

(c)(1) The term "student" means a "full-time student" as defined in section 202(d)(7) of the Social Security Act, 42 U.S.C. 402(d)(7) (see § 404.320(c) of this chapter), or an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(i) A school, college, or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof; or

(ii) A school, college, or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body; or

(iii) A school, college, or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(iv) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal, or a State government or any political subdivision thereof, providing courses of not less than 3 months' duration that prepare the student for a livelihood in a trade, industry, vocation, or profession.

(2) A student will be considered to be "pursuing a full-time course of study or training at an institution" if he is enrolled in a noncorrespondence course and is carrying a subject load which is considered full time for day students under the institution's standards and practices. However, a student will not be considered to be "pursuing a full-time course of study or training" if he is enrolled in a course of study or training of less than

13 school weeks' duration. A student beginning or ending a full-time course of study or training in part of any month will be considered to be pursuing such course for the entire month.

(3) A child is deemed not to have ceased to be a student:

(i) During any interim between school years, if the interim does not exceed 4 months and he shows to the satisfaction of the Administration that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim; or

(ii) During periods of reasonable duration during which, in the judgment of the Administration, he is prevented by factors beyond his control from pursuing his education.

(4) A student whose 23d birthday occurs during a semester or other enrollment period in which he is pursuing a full-time course of study or training shall continue to be considered a student for as long as he otherwise qualifies under this section until the end of such period.

32. Section 410.380 is revised to read as follows:

§ 410.380 Determination of dependency; parent, brother, or sister.

An individual who is the miner's parent, brother, or sister (see § 410.340), will be determined to have been dependent on the miner if, during the 1-year period immediately prior to such miner's death:

(a) Such individual and the miner were living in the same household (see § 410.393); and

(b) Such individual was totally dependent on the miner for support (see § 410.395(h)).

33. Following § 410.380, a new § 410.390 is added to read as follows:

§ 410.390 Time of determinations.

(a) *Relationship and dependency of wife or child.* With respect to the wife or child of a miner entitled to benefits, and with respect to the child of a widow entitled to benefits, the determination as to whether an individual purporting to be a wife or child is related to or dependent upon such miner or widow shall be based on the facts and circumstances with respect to the period of time as to which such issue of relationship or dependency is material. (See, for example, § 410.510(c).)

(b) *Relationship and dependency of widow.* The determination as to whether an individual purporting to be the widow of a miner was related to or dependent upon such miner is made after such individual effectively files a claim for benefits (see § 410.227) as a widow. Such determination is based on the facts and circumstances with respect to the time of the miner's death (except as provided in § 410.320(d)). A prior determination that such individual was determined to be, or not to be, the wife of such miner, pursuant to §§ 410.310 and 410.350, for purposes of augmenting the miner's benefits for a certain period (see § 410.510(c)), is not determinative of the issue of whether the individual is the widow of such miner or of whether she was dependent on such miner.

(c) *Relationship and dependency of surviving divorced wife.* The determination as to whether an individual purporting to be a surviving divorced wife of a miner was related to or dependent upon such miner is made when such individual effectively files a claim for benefits (see § 410.227) as a surviving divorced wife. Such determination is made with respect to the time of the miner's death. A prior determination that such individual was, or was not, the divorced wife of such miner, pursuant to §§ 410.311 and 410.351, for purposes of augmenting the miner's benefits for a certain period (see § 410.510(c)), is not determinative of the issue of whether the individual is the surviving divorced wife of such miner or of whether she was dependent on such miner.

34. In § 410.392, paragraph (b) is revised to read as follows:

§ 410.392 Domicile.

* * * * *

(b) The domicile of a deceased miner or widow is determined as of the time of his or her death.

* * * * *

35. Section 410.393 is revised to read as follows:

§ 410.393 Members of the same household; "living with"; "living in the same household"; and "living in the miner's household."

(a) *Defined.* (1) The term "member of the same household" as used in section 402(a)(2) of the Act (with respect to a wife); the term "living with" as used in section 402(e) of the Act (with respect to a widow); and the term "living in the same household" as used in §§ 410.310(d) and 410.320(d), mean that a husband and wife were customarily living together as husband and wife in the same place of abode.

(2) The term "living in the miner's household" as used in section 412(a)(5) of the Act (with respect to a parent, brother, or sister (see § 410.380)), means that the miner and such parent, brother, or sister, were sharing the same residence.

(b) *Temporary absence.* The temporary absence from the same residence of either the miner, or his wife, parent, brother, or sister (as the case may be), does not preclude a finding that one was "living with" the other, or that they were "members of the same household," etc. The absence of one such individual from the residence in which both had customarily lived shall, in the absence of evidence to the contrary, be considered temporary:

(1) If such absence was due to service in the Armed Forces of the United States; or

(2) If the period of absence from his or her residence did not exceed 6 months, and neither individual was outside the United States, and the absence was due to business or employment reasons, or because of confinement in a penal institution or in a hospital, nursing home, or other curative institution; or

(3) In any other case, if the evidence establishes that despite such absence they nevertheless reasonably expected to resume physically living together at some time in the reasonably near future.

(c) *Death during absence.* Where the death of one of the parties occurred while away from the residence for treatment or care of an illness or an injury (e.g., in a hospital), the fact that the death was foreseen as possible or probable does not in and of itself preclude a finding that the parties were "living with" one another or were "member[s] of the same household" etc. at the time of death.

(d) *Absences other than temporary.* In situations other than those described in paragraphs (b) and (c) of this section, the absence shall not be considered temporary, and the parties may not be found to be "living with" one another or to be "member[s] of the same household" etc. A finding of temporary absence would not be justified where one of the parties was committed to a penal institution for life or for a period exceeding the reasonable life expectancy of either, or was under a sentence of death; or where the parties had ceased to live in the same place of abode because of marital or family difficulties and had not resumed living together before death.

(e) *Relevant period of time.* (1) The determination as to whether a widow had been "living with" her husband shall be based upon the facts and circumstances as of the time of death of the miner.

(2) The determination as to whether a wife is a "member of the same household" as her husband shall be based upon the facts and circumstances with respect to the period or periods of time as to which the issue of membership in the same household is material. (See § 410.510(b).)

(3) The determination as to whether a parent, brother, or sister was "living in the miner's household" shall take account only of the 1-year period, immediately prior to the miner's death. (See § 410.380.)

§ 410.394 [Revoked]

36. Section 410.394 is revoked.

37. Section 410.395 is revised to read as follows:

§ 410.395 Contributions and support.

(a) *"Support" defined.* The term "support" includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for the maintenance of the person supported.

(b) *"Contributions" defined.* The term "contributions" refers to contributions actually provided by the contributor from his own property, or the use thereof, or by the use of his own credit.

(c) *"Regular contributions" and "substantial contributions" defined.* The

terms "regular contributions" and "substantial contributions" mean contributions that are customary and sufficient to constitute a material factor in the cost of the individual's support.

(d) *Contributions and community property.* When a wife receives, and uses for her support, income from her services or property and such income, under applicable State law, is the community property of herself and the miner, no part of such income is a "contribution" by the miner to his wife's support regardless of any legal interest the miner may have therein. However, when a wife receives, and uses for her support, income from the services and the property of the miner and, under applicable State law, such income is community property, all of such income is considered to be a contribution by the miner to his wife's support.

(e) *"Court order for support" defined.* References to support orders in §§ 410.330(f)(1), 410.350(c), and 410.360(b) mean any court order, judgment, or decree of a court of competent jurisdiction which requires regular contributions that are a material factor in the cost of the individual's support and which is in effect at the applicable time. If such contributions are required by a court order, this condition is met whether or not the contributions were actually made.

(f) *"Written agreement" defined.* The term "written agreement" in the phrase "substantial contributions * * * pursuant to a written agreement" (see §§ 410.351(b), 410.361(b)) means an agreement signed by the miner providing for substantial contributions by him for the individual's support. It must be in effect at the applicable time but it need not be legally enforceable.

(g) *"One-half support" defined.* The term "one-half support" means that the miner made regular contributions, in cash or in kind, to the support of a divorced wife (see § 410.351(a)), or of a surviving divorced wife (see § 410.361(a)), at the specified time or for the specified period, and that the amount of such contributions equaled or exceeded one-half the total cost of such individual's support at such time or during such period.

(h) *"Totally dependent for support" defined.* The term "totally dependent on the miner for support" as used in § 410.380(b), means that such miner made regular contributions to the support of his parent, brother, or sister, as the case may be, and that the amount of such contributions at least equaled the total cost of such individual's support.

38. Subpart D of Part 410 (§§ 410.401–410.421) is revoked and a new Subpart D (§§ 410.401–410.490) is added to read as follows:

Subpart D—Total Disability or Death Due to Pneumoconiosis

Sec.

Subpart D—Total Disability or Death Due to Pneumoconiosis

§ 410.401 Scope of Subpart D.

(a) *General.* This subpart establishes the standards for determining whether a coal miner is totally disabled due to pneumoconiosis, whether he was totally disabled due to pneumoconiosis at the time of his death, or whether his death was due to pneumoconiosis.

(b) *"Pneumoconiosis" defined.* The term "pneumoconiosis" is defined in § 410.110(o). The provisions for determining that a miner is or was totally disabled due to pneumoconiosis, or its sequelae as set out in the Appendix following this Subpart D, are included in §§ 410.410–410.430. The provisions for determining that a miner's death was due to pneumoconiosis are included in §§ 410.450–410.462.

(c) *Related provisions.* Certain related provisions of general application are included in §§ 410.470–410.476.

(d) *Relation to the Social Security Act.* Section 402(f) of the Act, as amended, 30 U.S.C. 902(f), provides that regulations defining total disability "shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act." Section 413(b) of the Act, 30 U.S.C. 923(b), also provides, in pertinent part, that in "carrying out the provisions of this part [that is, part B of title IV of the Act], the Secretary [of Health, Education, and Welfare] shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the * * * procedures he uses in determining entitlement to disability insurance benefits under section 223 of the Social Security Act * * *." Accordingly, the standards prescribed herein for determining total disability are comparable, except where the Act otherwise requires (e.g., see §§ 410.412(a)(1) and 410.412(b)(1)), to those applied to determine the existence and continuance of a disability for purposes of title II of the Social Security Act (see Subpart P of Part 404 of this chapter).

§ 410.410 Total disability due to pneumoconiosis.

(a) Benefits are provided under the Act to coal miners "who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's coal mines," and to the eligible survivors of miners who are determined to have been totally disabled due to pneumoconiosis at the time of their death. (For benefits to the eligible survivors of miners whose deaths are determined to have been due to pneumoconiosis, see § 410.450.)

(b) To establish entitlement to benefits on the basis of a coal miner's total disability due to pneumoconiosis, a claimant must submit the evidence necessary to establish: (1) That he is a coal miner, that he is totally disabled due to pneumoconiosis, and that his pneumoconiosis arose out of employment in the Nation's coal mines; or (2) that the deceased individual was a miner, that he was totally disabled due to pneumoconiosis at the time of his death, and that his pneumoconiosis arose out of employment in the Nation's coal mines.

(c) Total disability is defined in § 410.412; the basic provision on determining the existence of pneumoconiosis is in § 410.414; and the requirement that the pneumoconiosis must have arisen out of coal mine employment is in § 410.416. Two of the statutory presumptions with respect to the burden of proving the foregoing are in §§ 410.414(b) and 410.418, and the provision for determining the existence of total disability when the presumption in § 410.418 does not apply is included in § 410.422.

§ 410.412 "Total disability" defined.

(a) A miner shall be considered totally disabled due to pneumoconiosis if:

(1) His pneumoconiosis prevents him from engaging in gainful work in the immediate area of his residence requiring the skills and abilities comparable to those of any work in a mine or mines in which he previously engaged with some regularity and over a substantial period of time (that is, "comparable and gainful work"; see §§ 410.424–410.426); and

(2) His impairment can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months.

(b) A miner shall be considered to have been totally disabled due to pneumoconiosis at the time of his death, if

(1) His pneumoconiosis prevented him from engaging in gainful work in the immediate area of his residence requiring the skills and abilities comparable to those of any work in a mine or mines in which he previously engaged with some regularity and over a substantial period of time (that is, "comparable and gainful work"; see §§ 410.424–410.426); and

(2) His impairment was expected to result in death, or it lasted or was expected to last for a continuous period of not less than 12 months.

§ 410.414 Determining the existence of pneumoconiosis.

(a) *General.* A finding of the existence of pneumoconiosis may be made under the provisions of § 410.428 by:

(1) Chest roentgenogram; or

(2) Biopsy; or

(3) Autopsy.

(b) *Presumption relating to respiratory or pulmonary impairment.* (1) Even though the existence of pneumoconiosis is not established as provided in paragraph (a) of this section, if other evidence demonstrates the existence of a totally disabling chronic respiratory or pulmonary impairment (see §§ 410.412, 410.422, and 410.426), it may, in the absence of evidence to the contrary (see subparagraph (2) of this paragraph), be presumed that a miner is totally disabled due to pneumoconiosis, or that a miner was totally disabled due to pneumoconiosis at the time of his death.

(2) This presumption may be rebutted only if it is established that the miner does not, or did not, have pneumoconiosis, or that his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

(3) The provisions of this paragraph shall apply where a miner was employed for 15 or more years in one or more of the Nation's underground coal mines; in one or more of the Nation's other coal mines where the environmental conditions were substantially similar to those in an underground coal mine; or in any combination of both.

(4) However, where the evidence shows a work history reflecting many years of such coal mine employment (although less than 15) as well as a severe lung impairment, such evidence may be considered, in the exercise of sound judgment, to establish entitlement in such case, provided that a mere showing of a respiratory or pulmonary impairment shall not be sufficient to establish such entitlement.

(c) *Other relevant evidence.* Even though the existence of pneumoconiosis is not established as provided in paragraph (a) or (b) of this section, a finding of total disability due to pneumoconiosis may be made if other relevant evidence establishes the existence of a totally disabling chronic respiratory or pulmonary impairment, and that such impairment arose out of employment in a coal mine. As used in this paragraph, the term "other relevant evidence" includes any medical history, evidence submitted by the miner's physician, his spouse's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the individual's physical condition, and other supportive materials. In any event, no claim for benefits under Part B of title IV of the Act shall be denied solely on the basis of a negative chest roentgenogram (X-ray).

§ 410.416 Determining that pneumoconiosis arose out of employment in a coal mine.

(a) If a miner was employed for 10 or more years in the Nation's coal mines, and is suffering or suffered from pneumoconiosis, it will be presumed, in the absence of persuasive evidence to the contrary, that the pneumoconiosis arose out of such employment.

(b) In any other case, a miner who is suffering or suffered from pneumoconiosis, must submit the evidence necessary to establish that the pneumoconiosis arose out of employment in the Nation's coal mines. (See §§ 410.110 (h), (i), (j), (k), (l), and (m).)

§ 410.418 Irrebuttable presumption of total disability due to pneumoconiosis.

There is an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis, or that a minor was totally disabled due to pneumoconiosis at the time of his death, if he is suffering or suffered from a chronic dust disease of the lung which:

(a) When diagnosed by chest roentgenogram (X-ray), yields one or more large opacities (greater than 1 centimeter in diameter) and would be classified in Category A, B, or C (that is, as "complicated pneumoconiosis"), in:

(1) The International Classification of the Radiographs of the Pneumoconioses of the International Labour, Office Extended Classification (1968) (which may be referred to as the "ILO Classification (1968)"), or

(2) The Classification of the Pneumoconioses of the Union Internationale Contra Cancer/Cincinnati (1968) (which may be referred to as the "UICC/Cincinnati (1968) Classification"), or

(b) When diagnosed by biopsy or autopsy, yields massive lesions in the lung, that is, shows the existence of progressive massive fibrosis; or

(c) When established by diagnoses by means other than those specified in paragraphs (a) and (b) of this section, would be a condition which could reasonably be expected to yield the results described in paragraph (a) or (b) of this section had diagnoses been made as therein prescribed: *Provided, however,* That any diagnoses made under this paragraph shall accord with generally acceptable medical procedures for diagnosing pneumoconiosis.

§ 410.422 Determining total disability: General criteria.

(a) A determination of total disability due to pneumoconiosis is made in accordance with this section when a miner cannot be presumed to be totally disabled due to pneumoconiosis (or to have been totally disabled due to pneumoconiosis at the time of his death), under the provisions of § 410.418. In addition, when a miner has (or had) a chronic respiratory or pulmonary impairment, a determination of whether or not such impairment is (or was) totally disabling is also made in accordance with this section for purposes of § 410.414(b).

(b) A determination of total disability may not be made for purposes of this part unless pneumoconiosis is (or is presumed to be) the impairment involved.

(c) Whether or not the pneumoconiosis in a particular case renders (or rendered) a miner totally disabled, as defined in § 410.412, is determined from all the facts of that case. Primary consideration is given to the medical severity of the individual's pneumoconiosis (see § 410.424). Consideration is also given to such other factors as the individual's age, education, and work experience (see § 410.426).

§ 410.424 Determining total disability: Medical criteria only.

(a) Medical considerations alone shall justify a finding that a miner is (or was) totally disabled where his impairment is one that meets (or met) the duration requirement in § 410.412(a)(2), and is listed in the appendix to this subpart, or if his impairment is medically the equivalent of a listed impairment. However, medical considerations alone shall not justify a finding that an individual is (or was) totally disabled if other evidence rebuts such a finding, e.g., the individual is (or was) engaged in comparable gainful employment (see § 410.412).

(b) An individual's impairment shall be determined to be medically the equivalent of an impairment listed in the appendix to this subpart only if the medical findings with respect thereto are at least equivalent in severity and duration to the listed findings of the listed impairment. Any decision as to whether an individual's impairment is medically the equivalent of an impairment listed in the appendix to this subpart, shall be based on medically acceptable clinical and laboratory diagnostic techniques, including a medical judgment furnished by one or more physicians designated by the Administration, relative to the question of medical equivalence.

§ 410.426 Determining total disability: Age, education, and work experience criteria.

(a) Pneumoconiosis which constitutes neither an impairment listed in the appendix to this subpart (see § 410.424), nor the medical equivalent thereof, shall nevertheless be found totally disabling if because of the severity of such impairment, the miner is (or was) not only unable to do his previous coal mine work, but also cannot (or could not), considering his age, his education, and work experience, engage in any other kind of comparable and gainful work (see § 410.412(a)(1)) available to him in the immediate area of his residence. A miner shall be determined to be under a disability only if his pneumoconiosis is (or was) the primary reason for his inability

to engage in such comparable gainful work. Medical impairments other than pneumoconiosis may not be considered.

(b) Subject to the limitations in paragraph (a) of this section, pneumoconiosis shall be found disabling if it is established that the miner has (or had) a respiratory impairment because of pneumoconiosis demonstrated on the basis of a ventilatory study in which the maximum voluntary ventilation (MVV) or maximum breathing capacity (MBC), and 1 second forced expiratory volume (FEV_1), are equal to or less than the values specified in the following table or by a medically equivalent test:

Height (inches)	MVV (MBC) equal to or less than	and	FEV_1 equal to or less than
	L./Min.		*L.*
57 or less	52		1.4
58	53		1.4
59	54		1.4
60	55		1.5
61	56		1.5
62	57		1.5
63	58		1.5
64	59		1.6
65	60		1.6
66	61		1.6
67	62		1.7
68	63		1.7
69	64		1.8
70	65		1.8
71	66		1.8
72	67		1.9
73 or more	68		1.9

(c) Where the values specified in paragraph (b) of this section are not met, pneumoconiosis may nevertheless be found disabling if a physical performance test establishes an impairment which is medically the equivalent of the values specified in the table in paragraph (b) of this section.

(d) Where a ventilatory study and/or a physical performance test is medically contraindicated, or cannot be obtained, pneumoconiosis may nevertheless be found disabling if other relevant evidence (see § 410.414(c)) establishes that the miner has (or had) a chronic respiratory or pulmonary impairment which, considering his age, his education, and work experience, prevents (or prevented) him from engaging in comparable and gainful employment.

(e) When used in this section, the term "age" refers to chronological age and the extent to which it affects the miner's capacity to engage in comparable and gainful work.

(f) When used in this section, the term "education" is used in the following sense: Education and training are factors in determining the employment capacity of a miner. Lack of formal schooling, however, is not necessarily proof that a miner is an uneducated person. The kinds of responsibilities with which he was charged when working may indicate ability to do more than unskilled work even though his formal education has been limited.

§ 410.428 X-ray, biopsy, and autopsy evidence of pneumoconiosis.

(a) A finding of the existence of pneumoconiosis may be made under the provisions of § 410.414(a) if:

(1) A chest roentgenogram (X-ray) establishes the existence of pneumoconiosis classified as Category 1, 2, 3, A, B, or C according to:

(i) The International Classification of Radiographs of the Pneumoconioses of the International Labour, Office Extended Classification (1968); or

(ii) The Classification of the Pneumoconioses of the Union Internationale Contra Cancer/Cincinnati (1968).

A chest roentgenogram (X-ray) classified as Category Z under the ILO Classification (1958) or Short Form (1968) will be reclassified as Category 0 or Category 1 and only the latter accepted as evidence of pneumoconiosis. A chest roentgenogram (X-ray) classified under any of the foregoing classifications as Category 0, including subcategories o/–, o/o, or o/1 under the UICC/Cincinnati (1968) Classification, is not by itself accepted as evidence of pneumoconiosis; or

(2) An autopsy shows the existence of pneumoconiosis, or

(3) A biopsy (other than a needle biopsy) shows the existence of pneumoconiosis. Such biopsy would not be expected to be performed for the sole purpose of diagnosing pneumoconiosis. Where a biopsy is performed for other purposes, however (e.g., in connection with a lung resection), the report thereof will be considered in determining the existence of pneumoconiosis.

(b) The roentgenogram, to conform to accepted medical standards, should represent a posterior-anterior view of the chest, and such other views as the Administration may require, taken at a preferred distance of 6 feet (a minimum of 5 feet is required) between the focal point and the film on a 14 x 7 inch or 14 x 14 inch X-ray film.

(c) A report of autopsy or biopsy shall include a detailed gross (Macroscopic) and microscopic description of the lungs or visualized portion of a lung. If an operative procedure has been performed to obtain a portion of a lung, the evidence should include a copy of the operative note and the pathology report of the gross and microscopic examination of the surgical specimen. If any autopsy has been performed, the evidence should include a complete copy of the autopsy report.

§ 410.430 Ventilatory studies.

Spirometric tests to measure ventilatory function must be expressed in liters or liters per minute. The reported maximum voluntary ventilation (MVV) or maximum breathing capacity (MBC) and 1-second forced expiratory volume (FEV_1) should represent the largest of at least three attempts. The MVV or the MBC reported should represent the observed value and should not be calculated from FEV_1. The three appropriately labeled spirometric tracings, showing distance per second on the abscissa and the distance per liter on the ordinate, must be incorporated in the file. The paper speed to record the FEV_1 should be at least 20 millimeters (mm.) per second. The height of the individual must be recorded. Studies should not be performed during or soon after an acute respiratory illness. If wheezing is present on auscultation of the chest, studies must be performed following administration of nebulized broncho-dilator. A statement shall be made as to the individual's ability to understand the directions, and cooperate in performing the tests. If the tests cannot be completed the reason for such failure should be explained.

§ 410.432 Cessation of disability.

(a) Where it has been determined that a miner is totally disabled under § 410.412, such disability shall be found to have ceased in the month in which his impairment, as established by the medical evidence, is no longer of such severity as to prevent him from engaging in comparable and gainful activity.

(b) Except where a finding is made as specified in paragraph (a) of this section which results in an earlier month of cessation, if a miner is requested to furnish necessary medical or other evidence or to present himself for a necessary medical examination by a date specified in the request and the miner fails to comply with such request, the disability may be found to have ceased in the month within which the date for compliance falls, unless the Administration determines that there is a good cause for such failure.

§ 410.450 Death due to pneumoconiosis.

Benefits are provided under the Act to the eligible survivor of a coal miner who was entitled to benefits at the time of his death, or whose death is determined to have been due to pneumoconiosis. (For benefits to the eligible survivors of a miner who is determined to have been totally disabled due to pneumoconiosis at the time of his death, regardless of the cause of death, see §§ 410.410–410.430.) Except as otherwise provided in §§ 410.454–410.462, the claimant must submit the evidence necessary to establish that the miner's death was due to pneumoconiosis and that the pneumoconiosis arose out of employment in the Nation's coal mines.

§ 410.454 Determining the existence of pneumoconiosis—survivor's claim.

(a) *Medical findings.* A finding of the existence of pneumoconiosis may be made under the provisions of § 410.428 by:

(1) Chests roentgenogram; or

(2) Biopsy; or

(3) Autopsy.

(b) *Presumption relating to respiratory or pulmonary impairment—survivor's claim.* (1) Even though the existence of penumoconiosis is not established as provided in paragraph (a) of this section, if other evidence demonstrates the existence of a chronic respiratory or pulmonary impairment from which the miner was totally disabled (see § 410.412) prior to his death, it will be presumed in the absence of evidence to the contrary (see subparagraph (2) of this paragraph) that the death of the miner was due to pneumoconiosis.

(2) This presumption may be rebutted only if it is established that the miner did not have pneumoconiosis, or that

his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

(3) The provisions of this paragraph shall apply where a miner was employed for 15 or more years in one or more of the Nation's underground coal mines; in one or more of the Nation's other coal mines where the environmental conditions were substantially similar to those in an underground coal mine; or in any combination of both.

(4) However, where the evidence shows a work history reflecting many years of such coal mine employment (although less than 15) as well as a severe lung impairment, such evidence may be considered, in the exercise of sound judgment, to establish entitlement in such case, provided that a mere showing of a respiratory or pulmonary impairment shall not be sufficient to establish such entitlement.

(c) *Other relevant evidence.* Even though the existence of pneumoconiosis is not established as provided in paragraph (a) or (b) of this section, a finding of death due to pneumoconiosis may be made if other relevant evidence establishes the existence of a totally disabling chronic respiratory or pulmonary impairment, and that such impairment arose out of employment in a coal mine. As used in this paragraph, the term "other relevant evidence" includes any medical history, evidence submitted by the miner's physician, his spouse's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the individual's physical condition, and other supportive materials. In any event, no claim for benefits under Part B of title IV of the Act shall be denied solely on the basis of a negative chest roentgenogram (X-ray).

§ 410.456 Determining that pneumoconiosis arose out of employment in a coal mine—survivor's claim.

(a) If a miner was employed for 10 years or more in the Nation's coal mines, and suffered from pneumoconiosis, it will be presumed, in the absence of persuasive evidence to the contrary, that the pneumoconiosis arose out of such employment.

(b) In any other case, the claimant must submit the evidence necessary to establish that the pneumoconiosis from which the deceased miner suffered, arose out of employment in the Nation's coal mines. (See §§ 410.110 (h), (i), (j), (k), (l), and (m).)

§ 410.458 Irrebuttable presumption of death due to pneumoconiosis—survivor's claim.

There is an irrebuttable presumption that the death of a miner was due to pneumoconiosis if he suffered from a chronic dust disease of the lung which meets the requirements of § 410.418.

§ 410.462 Presumption relating to respirable disease.

(a) Even though the existence of pneumoconiosis is not established as provided in § 410.454(a), if a deceased miner was employed for 10 years or more in the Nation's coal mines and died from a respirable disease, it will be presumed, in the absence of evidence to the contrary, that his death was due to pneumoconiosis arising out of employment in a coal mine.

(b) Death will be found due to a respirable disease when death is medically ascribed to a chronic dust disease, or to another chronic lung disease the characteristics of which are not inconsistent with the diagnosis of pneumoconiosis. Death will not be found due to a respirable disease where the disease reported does not suggest a reasonable possibility that death was due to pneumoconiosis. Where the evidence establishes that a deceased miner suffered from pneumoconiosis or a respirable disease and death may have been due to multiple causes, death will be found due to pneumoconiosis if it is not medically feasible to distinguish which disease caused death or specifically how much each disease contributed to causing death.

§ 410.470 Determination by nongovernmental organization or other governmental agency.

The decision of any nongovernmental organization or any other governmental agency that an individual is, or is not, disabled for purposes of any contract, schedule, regulation, or law, or that his death was or was not due to a particular cause, shall not be determinative of the question of whether or not an individual is totally disabled due to pneumoconiosis, or was totally disabled due to pneumoconiosis. As used in this section, the term "other governmental agency" includes the Administration with respect to a determination or decision relating to entitlement to disability insurance benefits under section 223 of the Social Security Act, since the requirements for entitlement under the latter Act differ from those relating to benefits under this part. However, a final determination or decision that an individual is disabled for purposes of section 223 of the Social Security Act where the cause of such disability is pneumoconiosis shall be binding on the Administration on the issue of disability with respect to claims under this part.

§ 410.471 Conclusion by physician regarding miner's disability or death.

The function of deciding whether or not an individual is totally disabled due to pneumoconiosis, or was totally disabled due to pneumoconiosis at the time of his death, or that his death was due to pneumoconiosis, is the responsibility of the Administration. A statement by a physician that an individual is, or is not, "disabled," "permanently disabled," "totally disabled," "totally and permanently disabled," "unable to work," or a statement of similar import, being a conclusion upon the ultimate issue to be decided by the Administration, shall not be determinative of the question of whether or not an individual is under a disability. However, all statements and other evidence (including statements of the individual's physician) shall be considered in adjudicating a claim.

§ 410.472 Consultative examinations.

Upon reasonable notice of the time and place thereof, any individual filing a claim alleging to be totally disabled due to pneumoconiosis shall present himself for and submit to reasonable physical or mental examinations or tests, at the expense of the Administration, by a physician or other professional or technical source designated by the Administration or the State agency authorized to make determinations as to disability. If any such individual fails or refuses to present himself for any examination or test, such failure or refusal, unless the Administration determines that there is good cause therefor, may be a basis for determining that such individual is not totally disabled. Religious or personal scruples against medical examination or test shall not excuse an individual from presenting himself for a medical examination or test. Any claimant may request that such test be performed by a physician or other professional or technical source of his choice at the expense of the Administration. However, granting such request does not preclude the Administration from requiring that additional or supplemental tests be conducted by a physician or other professional or technical source designated by the Administration.

§ 410.473 Evidence of continuation of disability.

An individual who has been determined to be totally disabled due to pneumoconiosis, upon reasonable notice, shall, if requested to do so (e.g., where there is an issue about the validity of the original adjudication of disability) present himself for and submit to examinations or tests as provided in § 410.472, and shall submit medical reports and other evidence necessary for the purposes of determining whether such individual continues to be under a disability.

§ 410.474 Place and manner of submitting evidence.

Evidence in support of a claim for benefits based on disability shall be filed in the manner and at the place or places prescribed in Subpart B of this part, or where appropriate, at the office of a State agency authorized under agreement with the Secretary to make determinations as to disability under title II of the Social Security Act, or with an employee of such State agency authorized to accept such evidence at a place other than such office.

§ 410.475 Failure to submit evidence.

An individual shall not be determined to be totally disabled unless he furnishes such medical and other evidence thereof as the Administration may require. Religious or personal scruples against medical examinations, tests, or treatment shall not excuse an individual from submitting evidence of disability.

§ 410.476 Responsibility to give notice of event which may affect a change in disability status.

An individual who is determined to be totally disabled due to pneumoconiosis shall notify the Administration promptly if:

(a) His respiratory or pulmonary condition improves; or

(b) He engages in any gainful work activity or there is an increase in the amount of such activity or his earnings therefrom.

§ 410.490 Interim adjudicatory rules for certain Part B claims filed by a miner before July 1, 1973, or by a survivor where the miner died before January 1, 1974.

(a) *Basis for rules.* In enacting the Black Lung Act of 1972; the Congress noted that adjudication of the large backlog of claims generated by the earlier law could not await the establishment of facilities and development of medical tests not presently available to evaluate disability due to pneumoconiosis, and that such claims must be handled under present circumstances in the light of limited medical resources and techniques. Accordingly, the Congress stated its expectancy that the Secretary would adopt such interim evidentiary rules and disability evaluation criteria as would permit prompt and vigorous processing of the large backlog of claims consistent with the language and intent of the 1972 amendments and that such rules and criteria would give full consideration to the combined employment handicap of disease and age and provide for the adjudication of claims on the basis of medical evidence other than physical performance tests when it is not feasible to provide such tests. The provisions of this section establish such interim evidentiary rules and criteria. They take full account of the congressional expectation that in many instances it is not feasible to require extensive pulmonary function testing to measure the total extent of an individual's breathing impairment, and that a chronic respiratory or pulmonary impairment can exist in an individual as the result of impairment in the transfer of oxygen from the lung alveoli to cellular level even though his chest roentgenogram (X-ray) or ventilatory function tests are normal.

(b) *Interim presumption.* With respect to a miner who files a claim for benefits before July 1, 1973, and with respect to a survivor of a miner who dies before January 1, 1974, when such survivor timely files a claim for benefits, such miner will be presumed to be totally disabled due to pneumoconiosis, or to have been totally disabled due to pneumoconiosis at the time of his death, or his death will be presumed to be due to pneumoconiosis, as the case may be, if:

(1) One of the following medical requirements is met:

(i) A chest roentgenogram (X-ray), biopsy, or autopsy establishes the existence of pneumoconiosis (see § 410.428); or

(ii) In the case of a miner employed for at least 15 years in underground or comparable coal mine employment, ventilatory studies establish the presence of a chronic respiratory or pulmonary disease (which meets the requirements for duration in § 410.412(a)(2)) as demonstrated by values which are equal to or less than the values specified in the following table:

	Equal to or less than—	
	FEV_1	and MVV
67" or less	2.3	92
68"	2.4	96
69"	2.4	96
70"	2.5	100
71"	2.6	104
72"	2.6	104
73" or more; and	2.7	108

(2) The impairment established in accordance with subparagraph (1) of this paragraph arose out of coal mine employment (see §§ 410.416 and 410.456).

(3) With respect to a miner who meets one of the medical requirements in subparagraph (1) of this paragraph, he will be presumed to be totally disabled due to pneumoconiosis arising out of coal mine employment, or to have been totally disabled at the time of his death, due to pneumoconiosis arising out of such employment, or his death will be presumed to be due to pneumoconiosis arising out of such employment, as the case may be, if he has at least 10 years of the requisite coal mine employment (see § 410.414(b)).

(c) *Rebuttal of presumption.* The presumption in paragraph (b) of this section may be rebutted if:

(1) There is evidence that the individual is, in fact, doing his usual coal mine work or comparable and gainful work (see § 410.412(a)(1)), or

(2) Other evidence, including physical performance tests (where such tests are available and their administration is not contraindicated), establish that the individual is able to do his usual coal mine work or comparable and gainful work (see § 410.412(a)(1)).

APPENDIX

A miner with pneumoconiosis as evidenced in § 410.414, plus one of the following sets of medical specifications, may be found to be under a total disability, in the absence of evidence rebutting such finding:

(1) Diffusing capacity of the lungs for carbon monoxide less than 6 ml./mm. Hg./min. (steady-state methods) or less than 9 ml./mm. Hg./min. (single-breath methods) or less than 30 percent of predicted normal (all methods—actual value and predicted normal for the method used should be reported); or

(2) Arterial oxygen tension at rest (standing) or during exercise and simultaneously determined arterial p^{CO_2} equal to, or less than, the values specified in the following table:

Arterial p^{CO_2} (mm. Hg)	and	*Arterial p^{O_2} equal to or less than (mm. Hg)*
30 or below		65
31		64
32		63
33		62
34		61
35		60
36		59
37		58
38		57
39		56
40		55

or

(3) Cor pulmonale with right-sided congestive failure as evidenced by peripheral edema and liver enlargement, with:

(A) Right ventricular enlargement or outflow tract prominence on X-ray or fluoroscopy; or

(B) ECG showing QRS duration less than 0.12 second and R of 5 mm. or more in V_1 and R/S of 1.0 or more in V_1 and transition zone (decreasing R/S) left of V_1; or

(4) Congestive heart failure with signs of vascular congestion such as hepatomegaly or peripheral or pulmonary edema, with:

(A) Cardio-thoracic ratio of 55 percent or greater, or equivalent enlargement of the transverse diameter of the heart, as shown on teleroentgenogram (6-foot film); or

(B) Extension of the cardiac shadow (left ventricle) to the vertebral column on lateral chest roentgenogram and total of S in V_1 or V_2 and R in V_5 or V_6 of 35 mm. or more on ECG.

39. Section 410.505 is revised to read as follows:

§ 410.505 Payees.

Benefits may be paid, as appropriate, to a beneficiary (see § 410.110(r)), to a qualified dependent (see § 410.511), or to a representative payee on behalf of such beneficiary or dependent (see § 410.581 ff.). Also, where an amount is payable under Part B of title IV of the Act for any month to two or more individuals who are members of the same family, the Administration may, in its discretion, certify to any two or more of such individuals joint payment of the total benefits payable to them for such month.

40. Section 410.510 is amended by revising the section heading, paragraphs (a), (b), and (c), the heading to paragraph (d), and by adding new paragraphs (e) and (f) to read as follows:

§ 410.510 Computation of benefits.

(a) *Basic rate.* The benefit amount of each beneficiary entitled to a benefit for a month is determined, in the first instance, by computing the "basic rate." The basic rate is equal to 50 percent of the minimum monthly payment to which a totally disabled Federal employee in Grade GS–2 would be entitled for such month under the Federal Employees' Compensation Act, chapter 81, title 5, United States Code. That rate for a month is determined by:

(1) Ascertaining the lowest annual rate of pay ("step 1") for Grade GS–2 of the General Schedule applicable to such month (see 5 U.S.C. 5332);

(2) Ascertaining the monthly rate thereof by dividing the amount determined in subparagraph (1) of this paragraph by 12;

(3) Ascertaining the minimum monthly payment under the Federal Employees' Compensation Act by multiplying the amount determined in subparagraph (2) of this paragraph by 0.75 (that is, by 75 percent) (see 5 U.S.C. 8112); and

(4) Ascertaining the basic rate under the Act by multiplying the amount determined in subparagraph (3) of this paragraph by 0.50 (that is, by 50 percent).

(b) *Basic benefit.* When a miner or widow is entitled to benefits for a month for which he or she has no dependents who qualify under Subpart C of this part,

and when a surviving child of a miner or widow, or a parent, brother, or sister of a miner, is entitled to benefits for a month for which he or she is the only beneficiary entitled to benefits, the amount of benefits to which such beneficiary is entitled is equal to the basic rate as computed in accordance with this section (raised, if not a multiple of 10 cents, to the next higher multiple of 10 cents (see paragraph (d) of this section)). This amount is referred to as the "basic benefit."

(c) *Augmented benefit.* (1) When a miner or widow is entitled to benefits for a month for which he or she has one or more dependents who qualify under Subpart C of this part, the amount of benefits to which such miner or widow is entitled is increased. This increase is referred to as an "augmentation."

(2) Any request to the Administration that the benefits of a miner or widow be augmented in accordance with this paragraph shall be in writing on such form and in accordance with such instructions as are prescribed by the Administration. Such request shall be filed with the Administration in accordance with those provisions of Subpart B of this part dealing with the filing of claims as if such request were a claim for benefits, and as if such dependent were the "beneficiary" referred to therein. (See § 410.220(f).) Ordinarily, such request is made as part of the claim of the miner or widow for benefits.

(3) The benefits of a miner or widow are augmented to take account of a particular dependent beginning with the first month in which such dependent satisfies the conditions set forth in Subpart C of this part, and continues to be augmented through the month before the month in which such dependent ceases to satisfy the conditions set forth in Subpart C of this part, except in the case of a child who qualifies as a dependent because he is a student (see § 410.370(c)). In the latter case such benefits continue to be augmented through the month before the first month during no part of which he qualifies as a student.

(4) The basic rate is augmented by 50 percent for one such dependent, 75 percent for two such dependents, and 100 percent for three or more such dependents (see paragraph (d) of this section).

(d) *Benefit rates for miners and widows.* * * *

(e) *Survivor benefit.* (1) As used in this section, "survivor" means a surviving child of a miner or widow, or, for months beginning May 1972, a surviving parent, brother, or sister of a miner, who establishes entitlement to benefits under the provisions of Subpart B of this part.

(2) When one survivor is entitled to benefits for a month, his benefit is the amount specified in paragraph (d)(1) of this section; when two survivors are so entitled, the benefit of each is one-half the amount specified in paragraph (d)(2) of this section; when three survivors are so entitled, the benefit of each is one-third the amount specified in paragraph (d)(3) of this section; when four survivors are so entitled, the benefit of each is one-quarter of the amount specified in paragraph (d)(4) of this section; and when more than four survivors are so entitled, the benefit of each is determined by dividing the amount specified in paragraph (d)(4) by the number of such survivors.

(f) *Computation and rounding.* (1) Any computation prescribed by this section is made to the third decimal place.

(2) Monthly benefits are payable in multiples of 10 cents. Therefore, a monthly payment of amounts derived under paragraph (c)(4) or (e)(2) of this section which is not a multiple of 10 cents is increased to the next higher multiple of 10 cents.

(3) Since a fraction of a cent is not a multiple of 10 cents, such an amount which contains a fraction in the third decimal place is raised to the next higher multiple of 10 cents.

41. Following § 410.510, a new § 410.511 is added to read as follows:

§ 410.511 Certification to dependent of augmentation portion of benefit.

(a) If the benefit of a miner or of a widow is augmented because of one or more dependents (see § 410.510(c)), and it appears to the Administration that the best interest of such dependent would be served thereby, the Administration may certify payment of the amount of such augmentation (to the extent attributable to such dependent) (see §§ 410.510(c) and 410.536) to such dependent directly or to a representative payee for the use and benefit of such dependent (see § 410.581 ff.).

(b) Any request to the Administration to certify separate payment of the amount of an augmentation in accordance with paragraph (a) of this section, shall be in writing on such form and in accordance with such instructions as are prescribed by the Administration, and shall be filed with the Administration in accordance with those provisions of Subpart B of this part dealing with the filing of claims as if such request were a claim for benefits (see § 410.220(f)).

(c) In determining whether it is in the best interest of such dependent to certify separate payment of the amount of the augmentation in benefits attributable to him, the Administration shall apply the standards pertaining to representative payment in §§ 410.581–410.590, and the instructions issued pursuant thereto.

(d) When the Administration determines (see § 410.610(m)) that the amount of a miner's benefit attributable to the miner's wife or child should be certified for separate payment to a person other than such miner, or that the amount of a widow's benefit attributable to such widow's child should be certified for separate payment to a person other than the widow, and the miner or widow disagrees with such determination and alleges that separate certification is not in the best interest of such dependent, the Administration shall reconsider that determination (see §§ 410.622 and 410.623).

(e) Any payment made under this section, if otherwise valid under the Act, is a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

42. In § 410.515, paragraph (a)(1) is revised and a new paragraph (a)(4) is added to read as follows:

§ 410.515 Modification of benefit amounts; general.

* * * * *

(a) *Reduction.* * * *

(1) In the case of benefits to a miner, parent, brother, or sister, the excess earnings from wages and from net earnings from self-employment (see § 410.530) of such miner, parent, brother, or sister, respectively; or

* * * * *

(4) The fact that a claim for benefits from an additional beneficiary is filed, or that such a claim is effective for a month prior to the month of filing (see § 410.535), or a dependent qualifies under Subpart C of this part for an augmentation portion of the benefit of a miner or widow for a month for which another dependent has previously qualified for an augmentation (see § 410.536).

* * * * *

43. In § 410.520, paragraph (d) is revised to read as follows:

§ 410.520 Reductions; receipt of State benefit.

* * * * *

(d) Amounts paid or incurred, or to be incurred, by the individual for medical, legal, or related expenses in connection with his claim for State benefits (defined in paragraph (a) of this section) or the injury or occupational disease, if any, on which such award of State benefits (or settlement agreement) is based, are excluded in computing the reduction under paragraph (b) of this section, to the extent that they are consonant with State law. Such medical, legal, or related expenses may be evidenced by the State benefit award, compromise agreement, or court order in the State benefit proceedings, or by such other evidence as the Administration may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Any expenses not established by evidence required by the Administration will not be excluded.

44. Section 410.530 is revised to read as follows:

§ 410.530 Reductions; excess earnings.

Benefit payments to a miner, parent, brother, or sister are reduced by an amount equal to the deductions which would be made with respect to excess earnings under the provisions of sections 203 (b), (f), (g), (h), (j), and (l) of

the Social Security Act (42 U.S.C. 403 (b), (f), (g), (h), (j), and (l)), as if such benefit payments were benefits payable under section 202 of the Social Security Act (42 U.S.C. 402). (See §§ 404.428–404.456 of this chapter.)

45. Following § 410.530, new §§ 410.535 and 410.536 are added to read as follows:

§ 410.535 Reductions; effect of an additional claim for benefits.

Beginning with the month in which a person (other than a miner) files a claim and becomes entitled to benefits, the benefits of other persons entitled to benefits with rspect to the same miner, are adjusted downward, if necessary, so that no more than the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) will be paid. Certain claims may also be effective retroactively for benefits for months before the month of filing (see § 410.226). For any month before the month of filing, however, otherwise correct benefits that have been previously certified by the Administration for payment to other persons with respect to the same miner may not be changed. Rather, the benefits of the person filing a claim in the later month is reduced for each month of the retroactive period to the extent that may be necessary so that the earlier and otherwise correct payment to some other person is not made erroneous. That is, for each month of the retroactive period, the amount payable to the person filing the later claim is the difference, if any, between (a) the total amount of benefits actually certified for payment to other persons for that month and (b) the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) payable for that month to all persons, including the person filing later.

§ 410.536 Reductions; effect of augmentation of benefits based on subsequent qualification of individual.

(a) Ordinarily, a written request that the benefits of a miner or widow be augmented on account of a qualified dependent (see § 410.510(c)) is made as part of the claim for benefits filed by such miner or widow. However, it may also be made thereafter.

(b) In the latter case, beginning with the month in which such a request is filed on account of a particular dependent and in which such dependent qualifies for augmentation purposes under Subpart C of this part, the augmented benefits attributable to other qualified dependents (with respect to the same miner or widow), if any, are adjusted downward, if necessary, so that the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) will not be exceeded.

(c) Where, based on the entitlement to benefits of a miner or widow, a dependent would have qualified for augmentation purposes for a prior month of such miner's or widow's entitlement had such request been filed in such prior month, such request is effective for such prior month. For any month before the month of filing such request, however, otherwise correct benefits previously certified by the Administration may not be changed. Rather, the amount of the augmented benefit attributable to the dependent filing such request in the later month is reduced for each month of the retroactive period to the extent that may be necessary, so that no earlier payment to some other dependent is made erroneous. This means that for each month of the retroactive period, the amount payable to the dependent filing the later augmentation request is the difference, if any, between (1) the total amount of augmented benefits certified for payment to other dependents for that month, and (2) the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) payable for that month to all dependents, including the dependent filing later.

46. In § 410.560, paragraph (a) is revised to read as follows:

§ 410.560 Overpayments.

(a) *General.* As used in this subpart, the term "overpayment" includes a payment where no amount is payable under Part B of title IV of the Act; a payment in excess of the amount due under Part B of title IV of the Act; a payment resulting from the failure to reduce benefits under section 412(b) of the Act (see §§ 410.520 and 410.530); a payment to a resident of a State whose residents are not eligible for payment (see § 410.550); a payment of past due benefits to an individual where such payment had not been reduced by the amount of attorney's fees payable directly to an attorney (see § 410.686d); and a payment resulting from the failure to terminate benefits of an individual no longer entitled thereto. As used in this section, the term "beneficiary" includes a qualified dependent for augmentation purposes and the term "benefit" includes the amount of augmented benefits attributable to a particular dependent (see § 410.510(c)).

* * * * *

47. Following § 405.560, new §§ 410.561, 410.561a, 410.561b, 410.561c, 410.561d, 410.561e, 410.561f, 410.561g, 410.561h, and 410.563 are added to read as follows:

§ 410.561 Notice of right to waiver consideration.

Whenever an initial determination is made that more than the correct amount of payment has been made, notice of the provisions of section 204(b) of the Social Security Act regarding waiver of adjustment or recovery shall be sent to the overpaid individual and to any other individual against whom adjustment or recovery of the overpayment is to be effected (see § 410.561a).

§ 410.561a When waiver of adjustment or recovery may be applied.

There shall be no adjustment or recovery in any case where an incorrect payment under Part B of title IV of the Act has been made with respect to an individual:

(a) Who is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of title IV of the Act, or

(2) Be against equity and good conscience.

§ 410.561b Fault.

"Fault" as used in "without fault" (see § 410.561a) applies only to the individual. Although the Administration may have been at fault in making the overpayment, that fact does not relieve the overpaid individual or any other individual from whom the Administration seeks to recover the overpayment from liability for repayment if such individual is not without fault. In determining whether an individual is at fault, the Administration will consider all pertinent circumstances, including his age, intelligence, education, and physical and mental condition. What constitutes fault (except for "reduction overpayments" (see § 410.561e)) on the part of the overpaid individual or on the part of any other individual from whom the Administration seeks to recover the overpayment depends upon whether the facts show that the incorrect payment to the individual resulted from:

(a) An incorrect statement made by the individual which he knew or should have known to be incorrect; or

(b) Failure to furnish information which he knew or should have known to be material; or

(c) With respect to the overpaid individual only, acceptance of a payment which he either knew or could have been expected to know was incorrect.

§ 410.561c Defeat the purpose of title IV.

(a) *General.* "Defeat the purpose of title IV" for purposes of this subpart, means defeat the purpose of benefits under this title, i.e., to deprive a person of income required for ordinary and necessary living expenses. This depends upon whether the person has an income or financial resources sufficient for more than ordinary and necessary needs, or is dependent upon all of his current benefits for such needs. An individual's ordinary and necessary expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, insurance (e.g., life, accident, and health insurance including premiums for supplementary medical insurance benefits under title XVIII of the Social Security Act), taxes, installment payments, etc.;

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is legally responsible; and

(4) Other miscellaneous expenses which may reasonably be considered as part of the individual's standard of living.

(b) *When adjustment or recovery will defeat the purpose of title IV.* Adjustment or recovery will defeat the purposes of title IV in (but is not limited to) situations where the person from whom

recovery is sought needs substantially all of his current income (including black lung benefits) to meet current ordinary and necessary living expenses.

§ 410.561d Against equity and good conscience; defined.

"Against equity and good conscience" means that adjustment or recovery of an incorrect payment will be considered inequitable if an individual, because of a notice that such payment would be made or by reason of the incorrect payment, relinquished a valuable right (example (1)); or changed his position for the worse (example (2)). In reaching such a determination, the individual's financial circumstances are irrelevant.

Example 1: After being awarded benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later that (due to Administration error) his award was erroneous because he did not have pneumoconiosis. Due to his age, the individual was unable to get his job back and could not get any other employment. In this situation, recovery or adjustment of the incorrect payments would be against equity and good conscience because the individual gave up a valuable right.

Example 2: A widow, having been awarded benefits for herself and daughter, entered her daughter in college because the monthly benefits made this possible. After the widow and her daughter received payments for almost a year, the deceased worker was found not to have had pneumoconiosis and all payments to the widow and child were incorrect. The widow has no other funds with which to pay the daughter's college expenses. Having entered the daughter in college and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she and her daughter had never been entitled to benefits. In this situation, the recovery of the incorrect payments would be inequitable.

§ 410.561e When an individual is "without fault" in a reduction-overpayment.

Except as provided in § 410.561g, or elsewhere in this subpart, an individual will be considered "without fault" in accepting a payment which is incorrect because he failed to report an event relating to excess earnings specified in section 203(b) of the Social Security Act, or which if incorrect because a reduction in his benefits equal to the amount of a deduction required under section 203(b) of the Social Security Act is necessary (see § 410.530), if it is shown that such failure to report or such acceptance of the overpayment was due to one of the following circumstances:

(a) Reasonable belief that only his net cash earnings ("take-home" pay) are included in determining the annual earnings limitation or the monthly earnings limitation under section 203(f) of the Social Security Act (see § 410.530).

(b) Reliance upon erroneous information from an official source within the Social Security Administration (or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under Part B of title IV of the Act) with respect to the interpretation of a pertinent provision of the Act or regulations pertaining thereto. For example, this circumstance could occur where the individual is misinformed by such source as to the interpretation of a provision in the Act or regulations relating to reductions.

(c) The beneficiary's death caused the earnings limit applicable to his earnings for purposes of reduction and the charging of excess earnings to be reduced below $1,680 for a taxable year.

(d) Reasonable belief that in determining, for reduction purposes, his earnings from employment and/or net earnings from self-employment in the taxable year in which he became entitled to benefits, earnings in such year prior to such entitlement would be excluded. However, this provision does not apply if his earnings in the taxable year, beginning with the first month of entitlement, exceeded the earnings limitation amount for such year.

(e) Unawareness that his earnings were in excess of the earnings limitation applicable to the imposition of reductions and the charging of excess earnings or that he should have reported such excess where these earnings were greater than anticipated because of:

(1) Retroactive increases in pay, including backpay awards;

(2) Work at a higher pay rate than realized;

(3) Failure of the employer of an individual unable to keep accurate records to restrict the amount of earnings or the number of hours worked in accordance with a previous agreement with such individual;

(4) The occurrence of five Saturdays (or other workdays, e.g., five Mondays) in a month and the earnings for the services on the fifth Saturday or other workday caused the reductions.

(f) The continued issuance of benefit checks to him after he sent notice to the Administration of the event which caused or should have caused the reductions provided that such continued issuance of checks led him to believe in good faith that he was entitled to checks subsequently received.

(g) Lack of knowledge that bonuses, vacation pay, or similar payments, constitute earnings for purposes of the annual earnings limitation.

(h) Reasonable belief that earnings in excess of the earnings limitation amount for the taxable year would subject him to reductions only for months beginning with the first month in which his earnings exceeded the earnings limitation amount. However, this provision is applicable only if he reported timely to the Administration during the taxable year when his earnings reached the applicable limitation amount for such year.

(i) Reasonable belief that earnings from employment and/or net earnings from self-employment after the attainment of age 72 in the taxable year in which he attained age 72 would not cause reductions with respect to benefits payable for months in that taxable year prior to the attainment of age 72.

(j) Reasonable belief by an individual entitled to benefits that earnings from employment and/or net earnings from self-employment after the termination of entitlement in the taxable year in which the termination event occurred would not cause reductions with respect to benefits payable for months in that taxable year prior to the month in which the termination event occurred.

(k) Failure to understand the reduction provisions of the Social Security Act or the occurrence of unusual or unavoidable circumstances the nature of which clearly shows that the individual was unaware of a violation of such reduction provisions. However, these provisions do not apply unless he made a bona fide attempt to restrict his annual earnings or otherwise comply with the reduction provisions of the Act.

§ 410.561f When an individual is "without fault" in an entitlement overpayment.

A benefit payment under Part B of title IV of the Act to or on behalf of an individual who fails to meet one or more requirements for entitlement to such payment or the payment exceeds the amount to which he is entitled, constitutes an entitlement overpayment. Where an individual or other person on behalf of an individual accepts such overpayment because of reliance on erroneous information from an official source within the Administration (or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under Part B of title IV of the Act) with respect to the interpretation of a pertinent provision of the Act or regulations pertaining thereto, such individual, in accepting such overpayment, will be deemed to be "without fault."

§ 410.561g When an individual is at "fault" in a reduction-overpayment.

(a) *Degree of care.* An individual will not be "without fault" if the Administration has evidence in its possession which shows either a lack of good faith or failure to exercise a high degree of care in determining whether circumstances which may cause reductions from his benefits should be brought to the attention of the Administration by an immediate report or by return of a benefit check. The high degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he is being overpaid. Accordingly, variances in the personal circumstances and situations of individual payees are to be considered in determining whether the necessary degree of care has been exercised by an individual to warrant a finding that he was without fault in accepting a "reduction-overpayment."

(b) *Subsequent reduction-overpayments.* An individual will not be without fault where, after having been exonerated for a "reduction-overpayment" and after having been advised of the correct interpretation of the reduction provision,

he incurs another "reduction-overpayment" under the same circumstances as the first overpayment.

§ 410.561h When adjustment or recovery of an overpayment will be waived.

(a) *Adjustment or recovery deemed "against equity and good conscience."* In the situations described in §§ 410.561e (a), (b), and (c), and 410.561f, adjustment or recovery will be waived since it will be deemed such adjustment or recovery is "against equity and good conscience." Adjustment or recovery will also be deemed "against equity and good conscience" in the situation described in § 410.561e(d), but only as to a month in which the individual's earnings from wages do not exceed the total monthly benefits affected for that month.

(b) *Adjustment or recovery considered to "defeat the purpose of title IV or be "against equity and good conscience" under certain circumstances.* In the situation described in § 410.561e(d) (except in the case of an individual whose monthly earnings from wages in employment do not exceed the total monthly benefits affected for a particular month), and in the situations described in § 410.561e (e) through (k), adjustment or recovery shall be waived only where the evidence establishes that adjustment or recovery would work a financial hardship (see § 410.561c) or would otherwise be inequitable (see § 410.561d).

§ 410.563 Liability of a certifying officer.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any individual:

(a) Where adjustment or recovery of such amount is waived under section 204(b) of the Social Security Act; or

(b) Where adjustment under section 204(a) of the Social Security Act is not completed prior to the death of all individuals against whose benefits or lump sums reductions are authorized; or

(c) Where a claim for recovery of an overpayment is compromised or collection or adjustment action is suspended or terminated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) (see § 410.565).

48. In § 410.570, paragraphs (b) and (c) are revised, paragraphs (d) and (e) are redesignated as (e) and (f) respectively, and a new paragraph (d) is added to read as follows:

§ 410.570 Underpayments.

* * * * *

(b) *Underpaid individual is living.* If an individual to whom an underpayment is due is living, the amount of such underpayment will be paid to such individual either in a single payment (if he is not entitled to a monthly benefit) or by increasing one or more monthly benefit payments to which such individual is or becomes entitled.

(c) *Underpaid individual dies before adjustment of underpayment.* If an individual to whom an underpayment is due dies before receiving payment or negotiating a check or checks representing such payment, such underpayment will be distributed to the living person (or persons) in the highest order of priority as follows:

(1) The deceased individual's surviving spouse who was either:

(i) Living in the same household (as defined in § 410.393) with the deceased individual at the time of such individual's death, or

(ii) In the case of a deceased miner, entitled for the month of death to widow's black lung benefits.

(2) In the case of a deceased miner or widow, his or her child entitled to benefits as the surviving child of such miner or widow for the month in which such miner or widow died (if more than one such child, in equal shares to each such child). As used in this subparagraph, "entitled to benefits as a surviving child" refers to the benefit described in § 410.212, and not to the payment described in § 410.510(c).

(3) In the case of a deceased miner, his parent entitled to benefits as the surviving parent of such miner for the month in which such miner died (if more than one such parent, in equal shares to each such parent).

(4) The surviving spouse of the deceased individual who does not qualify under subparagraph (1) of this paragraph.

(5) The child or children of the deceased individual who do not qualify under subparagraph (2) of this paragraph (if more than one such child, in equal shares to each such child).

(6) The parent or parents of the deceased individual who do not qualify under subparagraph (3) of this paragraph (if more than one such parent, in equal shares to each such parent).

(7) The legal representative of the estate of the deceased individual as defined in paragraph (e) of this section.

(d) *Person qualified to receive underpayment dies before receiving payment.* In the event that a person who is otherwise qualified to receive an underpayment under the provisions of paragraph (c) of this section, dies before receiving payment or before negotiating the check or checks representing such payment, his share of the underpayment will be divided among the remaining living person(s) in the same order of priority. In the event that there is (are) no other such person(s), the underpayment will be paid to the living person(s) in the next lower order of priority under paragraph (c) of this section.

* * * * *

49. Following § 410.580, new §§ 410.581–410.590 are added to read as follows:

§ 410.581 Payments on behalf of an individual.

When it appears to the Administration that the interest of a beneficiary entitled to a payment under Part B of title IV of the Act would be served thereby, certification of payment may be made by the Administration, regardless of the legal competency or incompetency of the beneficiary entitled thereto, either for direct payment to such beneficiary, or for his use and benefit to a relative or some other person as the "representative payee" of the beneficiary. When it appears that an individual who is receiving benefit payments may be incapable of managing such payments in his own interest, the Administration shall, if such individual is age 18 or over and has not been adjudged legally incompetent, continue payments to such individual pending a determination as to his capacity to manage benefit payments and the selection of a representative payee. As used in §§ 410.581–410.590, the term "beneficiary" includes the dependent of a miner or widow who could qualify for certification of separate payment of an augmentation portion of such miner's or widow's benefits (see §§ 410.510(c) and 410.511).

§ 410.582 Submission of evidence by representative payee.

Before any amount shall be certified for payment to any relative or other person as representative payee for and on behalf of a beneficiary, such relative or other person shall submit to the Administration such evidence as it may require of his relationship to, or his responsibility for the care of, the beneficiary on whose behalf payment is to be made, or of his authority to receive such payment. The Administration may, at any time thereafter, require evidence of the continued existence of such relationship, responsibility, or authority. If any such relative or other person fails to submit the required evidence within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Administration, and the required evidence is thereafter submitted.

§ 410.583 Responsibility of representative payee.

A relative or other person to whom certification of payment is made on behalf of a beneficiary as representative payee shall, subject to review by the Administration and to such requirements as it may from time to time prescribe, apply the payments certified to him on behalf of a beneficiary only for the use and benefit of such beneficiary in the manner and for the purposes determined by him to be in the beneficiary's best interest.

§ 410.584 Use of benefits for current maintenance.

Payments certified to a relative or other person on behalf of a beneficiary shall be considered as having been applied for the use and benefit of the beneficiary when they are used for the beneficiary's current maintenance—i.e., to replace current income lost because of the disability, retirement, or death, of the insured individual. Where a beneficiary is receiving care in an institution (see § 410.586), current maintenance shall include the customary charges made by the institution to individuals it provides

with care and services like those it provides the beneficiary and charges made for current and foreseeable needs of the beneficiary which are not met by the institution.

§ 410.585 Conservation and investment of payments.

Payments certified to a relative or other person on behalf of a beneficiary which are not needed for the current maintenance of the beneficiary except as they may be used pursuant to § 410.587 shall be conserved or invested on the beneficiary's behalf. Preferred investments are U.S. Savings Bonds, but such funds may also be invested in accordance with the rules applicable to investment of trust estates by trustees. For example, surplus funds may be deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association if the account is either federally insured or is otherwise insured in accordance with State law requirements. Surplus funds deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association must be in a form of account which clearly shows that the representative payee has only a fiduciary, and not a personal interest in the funds. The preferred forms of such accounts are as follows:

_____
(Name of beneficiary)
by
_____,
(Name of representative payee)
representative payee; or

_____
(Name of beneficiary)
by
_____,
(Name of representative payee)
trustee.

U.S. Savings Bonds purchased with surplus funds by a representative payee for a minor should be registered as follows:

_____
(Name of beneficiary)
_____, a minor
(Social Security No.)
for whom
_____ is representa-
(Name of payee)
tive payee for black lung benefits.

U.S. Savings Bonds purchased with surplus funds by a representative payee for an incapacitated adult beneficiary should be registered as follows:

_____,
(Name of beneficiary)
_____, for whom
(Social Security No.)
_____ is representa-
(Name of payee)
tive payee for black lung benefits.

A representative payee who is the legally appointed guardian or fiduciary of the beneficiary may also register U.S. Savings Bonds purchased with funds from the payment of benefits under Part B of title IV in accordance with applicable regulations of the U.S. Treasury Department (31 CFR 315.5 through 315.8). Any other approved investment of the beneficiary's funds made by the representative payee must clearly show that the payee holds the property in trust for the beneficiary.

§ 410.586 Use of benefits for beneficiary in institution.

Where a beneficiary is confined in a Federal, State, or private institution because of mental or physical incapacity, the relative or other person to whom payments are certified on behalf of the beneficiary shall give highest priority to expenditure of the payments for the current maintenance needs of the beneficiary, including the customary charges made by the institution (see § 410.584) in providing care and maintenance. It is considered in the best interests of the beneficiary for the relative or other person to whom payments are certified on the beneficiary's behalf to allocate expenditure of the payments so certified in a manner which will facilitate the beneficiary's earliest possible rehabilitation or release from the institution or which otherwise will help him live as normal a life as practicable in the institutional environment.

§ 410.587 Support of legally dependent spouse, child, or parent.

If current maintenance needs of a beneficiary are being reasonably met, a relative or other person to whom payments are certified as representative payee on behalf of the beneficiary may use part of the payment so certified for the support of the legally dependent spouse, a legally dependent child, or a legally dependent parent of the beneficiary.

§ 410.588 Claims of creditors.

A relative or other person to whom payments under Part B of title IV of the Act are certified as representative payee on behalf of a beneficiary may not be required to use such payments to discharge an indebtedness of the beneficiary which was incurred before the first month for which payments are certified to a relative or other person on the beneficiary's behalf. In no case, however, may such payee use such payments to discharge such indebtedness of the beneficiary unless the current and reasonably foreseeable future needs of the beneficiary are otherwise provided for.

§ 410.589 Accountability.

A relative or other person to whom payments are certified as representative payee on behalf of a beneficiary shall submit a written report in such form and at such times as the Administration may require, accounting for the payments certified to him on behalf of the beneficiary unless such payee is a court-appointed fiduciary and, as such, is required to make an annual accounting to the court, in which case a true copy of each such account filed with the court may be submitted in lieu of the accounting form prescribed by the Administration. If any such relative or other person fails to submit the required accounting within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Administration, and the required accounting is thereafter submitted.

§ 410.590 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested funds from payments under Part B of title IV of the Act certified to him on behalf of a beneficiary shall, upon direction of the Administration, transfer any such funds (including interest earned from investment of such funds) to a successor payee appointed by the Administration, or, at the option of the Administration, shall transfer such funds, including interest, to the Administration for recertification to a successor payee or to the beneficiary.

50. In § 410.601, a new paragraph (e) is added to read as follows:

§ 410.601 Determinations of disability.

* * * * *

(e) *Simultaneous claims.* The adjudication of any claim under this part shall not be delayed for the adjudication of any other benefit claim by the same individual pending before the Administration.

51. Section 410.610 is amended by revising paragraphs (b) and (h) and adding new paragraphs (k), (l), (m), and (n) to read as follows:

§ 410.610 Administrative actions that are initial determinations.

* * * * *

(b) *Modification of the amount of benefits.* The Administration shall, under the circumstances hereafter stated in this paragraph, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether:

(1) There should be a reduction under section 412(b) (or section 412(a)(5)) of the Act, and if a reduction is to be made, the amount thereof (see § 410.515(a)); or

(2) There has been an overpayment (see § 410.560) or an underpayment (see § 410.570) of benefits and, if so, the amount thereof, and the adjustment to be made by increasing or decreasing the monthly benefits to which a beneficiary is entitled (see § 410.515(b)), and, in the case of an underpayment due a deceased beneficiary, the person to whom the underpayment should be paid.

* * * * *

(h) *Failure to file or prosecute claim under applicable State workmen's compensation law.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether an individual has failed to file or to prosecute a claim under the applicable State workmen's compensation law pursuant to § 410.219.

* * * * *

(k) *Waiver of adjustment or recovery of monthly benefits.* The Administration

shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether there shall be no adjustment or recovery where an overpayment with respect to an individual has been made (see § 410.561).

(l) *Need for representative payment.* The Administration shall make findings setting forth the pertinent facts and conclusions and an initial determination as to whether representative payment shall serve the interests of an individual by reason of his incapacity to manage his benefit payments (see § 410.581); except that findings as to incapacity with respect to an individual under age 18 or with respect to an individual adjudged legally incompetent shall not be considered an initial determination.

(m) *Separate certification of payment to dependent.* Where the benefit of a miner or of a widow is increased ("augmented") because he or she has a qualified dependent (see § 410.510(c)), and it appears to the Administration that it would be in the best interest of any such dependent to have the amount of the augmentation (to the extent attributable to such dependent) certified separately to such dependent (see § 410.511(a)) or to a representative payee on his behalf (see § 410.505), the Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether separate payment of an augmented amount should be certified.

(n) *Support of parent, brother, or sister.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether a parent, brother, or sister, meets the requirements for support from the miner set forth in the pertinent provisions of section 412(a)(5) of the Act and whether proof of support was submitted to the Administration within the time limits set forth in the Act or under the provisions described in § 410.214(d).

52. Section 410.615 is revised to read as follows:

§ 410.615 Administrative actions that are not initial determinations.

Administrative actions which shall not be considered initial determinations, but which may receive administrative review include, but are not limited to, the following:

(a) The suspension of benefits pursuant to the criteria in section 203(h)(3) of the Social Security Act (42 U.S.C. 403(h)(3)), pending investigation and determination of any factual issue as to the applicability of a reduction under section 412(b) of the Act equivalent to the amount of a deduction because of excess earnings under section 203(b) of the Social Security Act (42 U.S.C. 403(b)) (see §§ 410.515(d) and 410.530).

(b) The appointment or continuance of a representative payee for and on behalf of a beneficiary under Part B of title IV of the Act (see § 410.505).

(c) The certification of any two or more individuals of the same family for joint payment of the total benefits payable to such individuals (see § 410.505).

(d) The withholding by the Administration in any month, for the purpose of recovering an overpayment, of less than the full amount of benefits otherwise payable in that month (see § 410.560(c)).

(e) The authorization approving or regulating the amount of the fee that may be charged or received by a representative for services before the Administration (see § 410.686b(e)).

(f) The disqualification or suspension of an individual from acting as a representative in a proceeding before the Administration (see § 410.688).

(g) The determination by the Administration under the authority of the Federal Claims Collection Act (31 U.S.C. 951–953) not to compromise a claim for overpayment under Part B of title IV of the Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromise amount and the time and manner of payment (see § 410.565).

(h) Where the amount in controversy is less than $100, the denial of a request for reimbursement of medical expenses (see § 410.240(h)) which are claimed to have been incurred by the claimant in establishing his claim for benefits, or the approval of such request for reimbursement in an amount less than the amount requested. (Also see § 410.610(j).)

53. Section 410.620 is revised to read as follows:

§ 410.620 Notice of initial determination.

Written notice of an initial determination shall be mailed to the party to the determination at his last known address, except that no such notice shall be required in the case of a determination that a party's entitlement to benefits has ended because of such party's death (see § 410.610(c)). If the initial determination disallows, in whole or in part, the claim of a party, or if the initial determination is to the effect that a party's entitlement to benefits has ended, or that a reduction or adjustment is to be made in benefits, the notice of the determination sent to the party shall state the specific reasons for the determination. Such notice shall also inform the party of the right to reconsideration (see § 410.623). Where more than the correct amount of payment has been made, see § 410.561.

54. Section 410.623 is revised to read as follows:

§ 410.623 Reconsideration; right to reconsideration.

The Administration shall reconsider an initial determination if a written request for reconsideration is filed, as provided in § 410.624, by or for the party to the initial determination (see § 410.610). The Administration shall also reconsider an initial determination if a written request for reconsideration is filed, as provided in § 410.624, by an individual as a widow, child, parent, brother, sister, or representative of a decedent's estate, who makes a showing in writing that his or her rights with respect to benefits, may be prejudiced by such determination.

55. Section 410.628 is revised to read as follows:

§ 410.628 Notice of reconsidered determination.

Written notice of the reconsidered determination shall be mailed to the parties at their last known addresses. The reconsidered determination shall state the specific reasons therefor and inform the parties of their right to a hearing (see § 410.630).

56. Section 410.633 is revised to read as follows:

§ 410.633 Additional parties to the hearing.

The following individuals, in addition to those named in § 410.632, may also be parties to the hearing. A widow, child, parent, brother, sister, or representative of a decedent's estate, who makes a showing in writing that such individual's rights with respect to benefits may be prejudiced by any decision that may be made, may be a party to the hearing.

57. Section 410.636 is revised to read as follows:

§ 410.636 Time and place of hearing.

The hearing examiner shall fix a time and a place within the United States for the hearing, written notice of which, unless waived by a party, shall be mailed to the parties at their last known addresses or given to them by personal service, not less than 10 days prior to such time. As used in this section and in § 410.647, the United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. Writteen notice of the objections of any party to the time and place fixed for a hearing shall be filed by the objecting party with the hearing examiner at the earliest practicable opportunity (before the time set for such hearing). Such notice shall state the reasons for the party's objection and his choice as to the time and place within the United States for the hearing. The hearing examiner may, for good cause, fix a new time and/or place within the United States for the hearing.

58. Following § 410.638, a new § 410.639 is added to read as follows:

§ 410.639 Subpenas.

When reasonably necessary for the full presentation of a case, a hearing examiner or a member of the Appeals Council, may, either upon his own motion or upon the request of a party, issue subpenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. Parties who desire the issuance of a subpena shall, not less than 5 days prior to the time fixed for the

hearing, file with the hearing examiner or at a district office of the Administration a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpena shall state the pertinent facts which the party expects to establish by such witnesses or document and whether such facts could be established by other evidence without the use of a subpena. Subpenas, as provided for above, shall be issued in the name of the Secretary, and the Administration shall pay the cost of the issuance and the fees and mileage of any witness so subpenaed, as provided in section 205(d) of the Social Security Act.

59. Section 410.645 is revised to read as follows:

§ 410.645 Joint hearings.

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing, the hearing examiner may fix the same time and place for each hearing and conduct all such hearings jointly. However, where there is no common issue of law or fact involved in two or more hearings and any party objects to a joint hearing, a joint hearing may not be held. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others, and a separate or joint decision shall be made, as appropriate.

60. Section 410.647 is revised to read as follows:

§ 410.647 Waiver of right to appear and present evidence.

(a) *General.* Any party to a hearing shall have the right to appear before the hearing examiner, personally or by representative, and present evidence and contentions. If all parties are unwilling, unable, or waive their right to appear before the hearing examiner, personally or by representative, it shall not be necessary for the hearing examiner to conduct an oral hearing as provided in §§ 410.636 to 410.646, inclusive. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the hearing examiner. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the hearing examiner, the hearing examiner may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 410.636 to 410.646, inclusive, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts in issue in the case.

(b) *Record as basis for decision.* Where all of the parties have waived their right to appear in person or through a representative and the hearing examiner does not schedule an oral hearing, the decision shall be based on the record. Where a party residing outside the United States at a place not readily accessible to the United States does not indicate that he wishes to appear in person or through a representative before a hearing examiner, and there are no other parties to the hearing who wish to appear, the hearing examiner may decide the case on the record. In any case where the decision is to be based on the record, the hearing examiner shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial determination and reconsideration, and whatever additional relevant and material evidence the party or parties may present in writing for consideration by the hearing examiner. Such documents shall be considered as all of the evidence in the case.

61. In § 410.650, paragraph (b) is revised to read as follows:

§ 410.650 Dismissal for cause.

The hearing examiner may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

* * * * *

(b) *No right to hearing.* Where the party requesting a hearing is not a proper party under § 410.632 or § 410.633 or does not otherwise have a right to a hearing under § 410.630. This would include, but is not limited to, an individual claiming as a representative payee appointed pursuant to § 410.581 (see § 410.615).

* * * * *

62. Section 410.655 is revised to read as follows:

§ 410.655 Effect of hearing examiner's decision.

The hearing examiner's decision, provided for in § 410.654, shall be final and binding upon all parties to the hearing unless it is reviewed by the Appeals Council (see §§ 410.663–410.665) or unless it is revised in accordance with § 410.671. If a party's request for review of the hearing examiner's decision is denied (see § 410.662) or is dismissed (see § 410.667), such decision shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as provided in section 205(g) of the Social Security Act, as incorporated by section 413(b) of the Act (see § 410.670a), or unless the decision is revised in accordance with § 410.671.

63. Section 410.666 is revised to read as follows:

§ 410.666 Effect of Appeals Council's decision or refusal to review.

The Appeals Council may deny a party's request for review or it may grant review and either affirm or reverse the hearing examiner's decision. The decision of the Appeals Council, or the decision of the hearing examiner where the request for review of such decision is denied (see § 410.662), shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States under the provisions of section 205(g) of the Social Security Act, as incorporated by section 413(b) of the Act (see § 410.670a), or unless the decision is revised under the provisions described in § 410.671.

64. Section 410.669 is revised to read as follows:

§ 410.669 Extension of time to request hearing or review or begin civil action.

(a) *General.* Any party to a reconsidered determination, a decision of a hearing examiner, or a decision of the Appeals Council (resulting from an initial determination as described in § 410.610), may petition for an extension of time for filing a request for hearing or review or for commencing a civil action in a district court of the United States, although the time for filing such request or commencing such action (see §§ 410.631 and 410.661 and section 205(g) of the Social Security Act as incorporated by section 413(b) of the Act), has passed. If an extension of the time fixed by § 410.631 for requesting a hearing before a hearing examiner is sought, the petition may be filed with a hearing examiner. In any other case, the petition shall be filed with the Appeals Council. The petition shall be writing and shall state the reasons why the request or action was not filed within the required time. For good cause shown, a hearing examiner or the Appeals Council, as the case may be, may extend the time for filing such request or action.

(b) *Where civil action commenced against wrong defendant.* If a party to a decision of the Appeals Council, or to a decision of the hearing examiner where the request for review of such decision is denied (see § 410.662), timely commences a civil action in a district court as provided by section 205(g) of the Social Security Act as incorporated by section 413(b) of the Act, but names as defendant the United States or any agency, officer, or employee thereof instead of the Secretary either by name or by official title, and causes process to be served in such action as required by the Federal Rules of Civil Procedure, the Administration shall mail notice to such party that he has named the incorrect defendant in such action: and the time within which such party may commence the civil action pursuant to section 205(g) of the Social Security Act against the Secretary shall be deemed to be extended to and including the 60th day following the date of mailing of such notice.

65. Section 410.670a is revised to read as follows:

§ 410.670a Judicial review.

A civil action may be commenced in a district court of the United States with

respect to a decision of the Appeals Council, or to a decision of the hearing examiner where the request for review of such decision is denied by the Appeals Council, as provided in section 205 (g) and (h) of the Social Security Act, as incorporated by section 413(b) of the Act.

66. Following § 410.670a, a new § 410.670b is added to read as follows:

§ 410.670b Interim provision for the adjudication of certain claims filed prior to May 19, 1972.

(a) *General.* Section 6 of the Black Lung Benefits Act of 1972 added a section 431 to title IV of the Federal Coal Mine Health and Safety Act of 1969 which requires the Secretary to review, under the terms of the 1972 amendments, all claims for benefits which were filed prior to May 1972 (the date of enactment of the 1972 amendments), and which were either pending before the Administration on that date, or which had been previously disallowed. Therefore, notwithstanding any other provision of this subpart, and in keeping with the objective of providing for effective and expeditious processing of the large backlog of claims that have to be reexamined under the 1972 amendments, all such claims for benefits will be adjudicated under the terms of the amended Act in accordance with this section.

(b) *Cases remanded by the Federal courts.* (1) Those claims described in paragraph (a) of this section which are remanded to the Secretary by the Federal courts are reviewed in the Bureau of Hearings and Appeals.

(2) A decision will be rendered by a hearing examiner in all such claims which can be allowed under the 1972 amendments on the evidence then of record. Such decision shall be considered the hearing examiner's decision referred to in § 410.654, and a party to the decision may request review thereof by the Appeals Council in accordance with §§ 410.660 and 410.661.

(3) A copy of such hearing examiner's decision shall be mailed to such party at his last known address. The date of mailing of such decision will replace the date of any prior notice of an initial determination for purposes of § 410.672.

(4) Those claims described in paragraph (a) of this section which are remanded to the Secretary by the Federal courts and which cannot be allowed in the Bureau of Hearings and Appeals under the 1972 amendments on the evidence then of record, shall be remanded to the Administration's Bureau of Disability Insurance for a new determination.

(c) *Claims pending in the Bureau of Hearings and Appeals.* (1) Those claims described in paragraph (a) of this section which are pending before a hearing examiner or the Appeals Council and which can be allowed under the 1972 amendments on the evidence then of record will be decided by a hearing examiner or the Appeals Council, and this decision will constitute the decision referred to in § 410.654 or § 410.655(c).

(2) Such claims pending before a hearing examiner or the Appeals Council which cannot be allowed under the 1972 amendments on the evidence then of record shall be remanded to the Administration's Bureau of Disability Insurance for a new determination.

(d) *Claims pending in, or remanded to, the Bureau of Disability Insurance.* (1) Those claims described in paragraph (a) of this section in which no timely request for hearing has been filed, or in which a hearing examiner or the Appeals Council has previously rendered or affirmed a decision of disallowance, or which have been remanded by the Bureau of Hearings and Appeals in accordance with paragraph (b) or (c) of this section, shall be reviewed in the Bureau of Disability Insurance and a new determination made.

(2) Written notice of such determination shall be mailed to the party at his last known address. If such new determination is adverse to the party in whole or in part, the notice shall explain the basis for the determination. It shall also advise the party of his right to request further consideration of the determination by the Bureau of Disability Insurance if he has additional evidence or contentions as to fact or law to submit. The effective date of such notice shall be a date 30 days later than the date of mailing and shall be expressly indicated in such notice.

(3) Before this effective date, the party may request further consideration of the determination by the Bureau of Disability Insurance if he has additional evidence or contentions as to fact or law to submit. If such further consideration is requested timely, the new determination referred to in subparagraph (1) of this paragraph shall not go into effect. Rather, his claim will be further considered as requested and a further determination made. Written notice of the latter determination will be mailed to the party at his last known address. If this determination is adverse to the party in whole or in part, the notice shall explain the basis for the determination. The effective date of such notice shall be the date of mailing.

(4) A determination made as provided in subparagraph (1) or (3) of this paragraph shall be final and binding upon all parties to such determination unless a hearing is requested within 6 months of the effective date of the notice of the determination, except where a previously filed hearing request or request for review by the Appeals Council or by a court is still pending, in which case the claim will be referred to a hearing examiner for a hearing.

(5) Those claims described in paragraph (a) of this section in which no initial determination has been made shall be adjudicated under the 1972 amendments in accordance with the other provisions of this part.

§ 410.683a [Reserved]

67. Following § 410.683, reservation is made for a future § 410.683a and a new § 410.683b is added to read as follows:

§ 410.683b Transfer or assignment.

The Administration shall not certify any amount for payment to an assignee or transferee of the person entitled to such payment under the Act, nor shall the Administration certify such amount for payment to any person claiming such payment by virtue of an execution, levy, attachment, garnishment, or other legal process or by virtue of any bankruptcy or insolvency proceeding against or affecting the person entitled to the payment under the Act.

68. Section 410.686 is revised to read as follows:

§ 410.686 Authority of representative.

A representative, appointed and qualified as provided in §§ 410.684 and 410.685, may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before the Administration under Part B of title IV of the Act, including reconsideration, hearing and review, except that such representative may not execute a claim for benefits, unless he is a person designated in § 410.222 as authorized to execute a claim. A representative shall be entitled to present or elicit evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any administrative action, determination, or decision, or request to any party for the production of evidence may be sent to the representative of such party, and such notice or request shall have the same force and effect as if it had been sent to the party represented. (For fees to representatives for services performed before the Administration for an individual see § 410.686b.)

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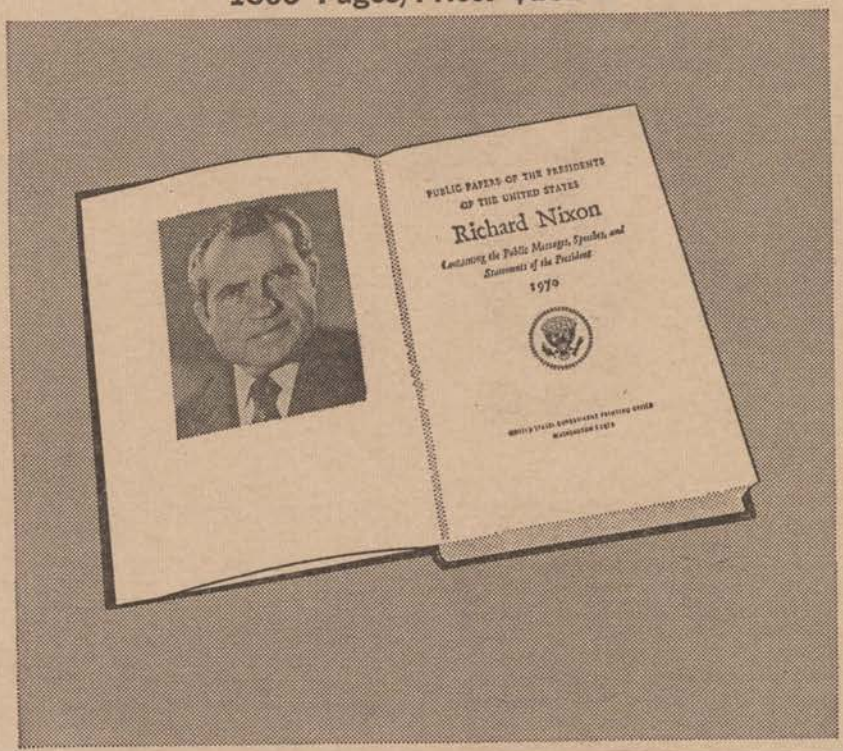

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