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## HIGHLIGHTS OF THIS ISSUE

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## Title 40—PROTECTION OF ENVIRONMENT

### Chapter I—Environmental Protection Agency

SUBCHAPTER C—AIR PROGRAMS

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### National Ambient Air Quality Standards

On May 31, 1972 (37 F.R. 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. Since that date, the Administrator and many of the States have acted to correct the plan deficiencies identified in that publication and to clarify and revise the information presented there.

On June 14, 1972 (37 F.R. 11826), the Administrator proposed regulations to correct deficiencies in the regulatory provisions of the plans for 25 States. On July 27, 1972 (37 F.R. 15080), and September 22, 1972 (37 F.R. 19806), the Administrator took final action on 12 of those States. This publication sets forth final rule making on 12 of the remaining 13 States; the remaining State (Oklahoma) will be dealt with in a future publication. Four of these 12 States submitted supplemental information which demonstrated that all deficiencies in regulatory provisions had been corrected; therefore, no further rule making action will be taken with respect to the regulations proposed for Maine, South Carolina, Tennessee, and Washington. These four States bring to 24 the number of States whose plans contain completely approved regulatory provisions. Regulations are promulgated below for five States (Louisiana, Michigan, Missouri, New Jersey, and the Virgin Islands). As discussed below, regulations are not promulgated at this time to correct deficiencies in control strategies for nitrogen oxides in the following States: Massachusetts, Maryland, Michigan, Missouri, New Jersey, and Texas.

Regulations for the control of nitrogen oxides emissions were proposed for the above six States on June 14, 1972 (37 F.R. 11826). The preamble to those proposed regulations indicated that the air quality data for nitrogen dioxide which was used to classify air quality control regions may be in error, and the Administrator would reassess the classifications and, where appropriate, revise them. After considering the numerous comments on the proposed nitrogen oxides regulations, the Administrator has decided to postpone the promulgation of any such regulations until after the regional classification reassessment. It is the Administrator's determination that this postponement will not substantially delay the control of nitrogen oxides emissions where such control is required.

It is the Administrator's intention to complete the regional classification reassessment and to promulgate nitrogen oxides emissions regulations for stationary sources in the appropriate regions by April 2, 1973. Compliance schedules from sources covered by such regulations will be required by July 1, 1973, which is consistent with the commitments made by the Administrator in proposing the regulations. No change will be made at this time in the Administrator's May 31, 1972, disapprovals of nitrogen oxides control strategies unless supplemental information was submitted by the involved States to correct the deficiencies.

Section 110(a)(2)(F)(iv) of the Clean Air Act and 40 CFR 51.10(e) require that State implementation plans include procedures for making emission data, as correlated with applicable emission limitations, available to the public. The regulations promulgated below for the State of Missouri provide for the Administrator's carrying out this program. This is necessary because Missouri does not have the necessary legal authority to assure that such procedures will be carried out.

Section 110(a)(2)(F)(v) of the Clean Air Act and 40 CFR 51.16 require that State implementation plans include adequate contingency plans to deal with air pollution emergency episodes. The regulations promulgated below include provisions requiring owners or operators of large particulate matter sources in the city of Springfield, Mo., to submit emission control action programs for reducing or eliminating particulate matter emissions during episode situations. These programs will provide a basis for the Administrator to carry out emergency abatement actions in an informed, expeditious manner. This promulgation is necessary because the Springfield Department of Health does not have adequate legal authority to abate emissions on an emergency basis.

Section 110(a)(2)(B) of the Clean Air Act and 40 CFR 51.15 require that State implementation plans contain legally enforceable compliance schedules and that any such compliance schedule that extends beyond January 31, 1974, shall contain periodic increments of progress toward compliance. The regulations promulgated below provide the Administrator with a means of obtaining the necessary compliance schedules from sources in the State of Michigan which are subject to the State's fuel sulfur limitations and a means of obtaining the periodic increments of progress from certain sources in the State of New Jersey. This promulgation for Michigan is necessary because Rule 336.49 (fuel sulfur limitations) of the Michigan Air Pollution Commission does not require individually negotiated compliance schedules to be submitted until January 1, 1974, thus precluding submission of all schedules to EPA by February 15, 1973, as required in 40 CFR 51.15(a)(2). For New Jersey, promulgation is necessary because the plan does not specify compliance dates for sources subject to Chapter 7 of the State's Air Pollution Control Code. Regulations promulgated below for Louisiana require sources to submit schedules for compliance with the hydrocarbon emission limitations being promulgated by EPA for the State of Louisiana, since the State could not prescribe compliance schedules for such sources.

Section 110(a)(2) of the Clean Air Act and 40 CFR 51.18 require that State implementation plans provide for legally enforceable procedures that will enable the States to prevent construction of new sources or modification of existing sources if such construction or modification: (1) Will result in violation of the applicable portion of the State's control strategy or (2) will interfere with attainment or maintenance of a national ambient air quality standard. The regulations promulgated below provide the Administrator with such procedures for action under (2) above with respect to stationary sources in Michigan and the Virgin Islands and certain sources in New Jersey (those subject to Chapter 9 of the New Jersey Air Pollution Code). The regulations also provide procedures for preventing construction of new or modified sources in New Jersey using liquid or gaseous fuel and of any stationary source in Louisiana if any such source would violate any portion of the applicable control strategy or would interfere with the attainment or maintenance of a national standard. The plans for these three States did not provide adequate procedures to prevent construction or modification of sources in the circumstances noted.

Because Louisiana's measures for controlling hydrocarbon emissions in the Southern Louisiana-Southeast Texas Interstate Region were not enforceable, the Administrator proposed on June 14, 1972 (37 F.R. 11826), hydrocarbon controls in Louisiana's portion of the region. On July 17, 1972, the Governor of Louisiana submitted to the Administrator revised rules and regulations for control of hydrocarbon emissions in the region. These regulations require reasonably available control technology, except that only ethylene producers are covered by the State's waste gas disposal provision.

The unregulated hydrocarbon emissions from other waste gas disposal sources are 45,000 tons/year, which is sufficient to prevent the national standard for photochemical oxidants from being attained; therefore, the necessary substitute regulation is promulgated below. The Administrator also has provided a 2-year extension of the 1975 attainment date for the photochemical oxidants national standard in this region. This extension is provided since it is deemed that the additional technology, including transportation controls, needed to attain the national standard will not be available by 1975 and that the needed reductions can be obtained by 1977 through the effects of the Federal Motor Vehicle Emission Control Program (40 CFR Part 85). The requirements of 40 CFR 51.30 and the Act for providing a 2-year extension are satisfied as discussed below:

(1) Attainment of the national standards for photochemical oxidants in the region will require approximately a 40-percent reduction in reactive hydrocarbon emissions, based on air quality and emissions data from the Metropolitan New Orleans area which is determined to have the highest level of hydrocarbon emissions in the region from stationary sources and motor vehicles combined.

(2) Regulations adopted by the State and those promulgated below by the Administrator require the application of reasonably available hydrocarbon emission control technology as defined in Appendix B to 40 CFR Part 51. Compliance schedules will be negotiated with the stationary sources covered by the provisions of the State's and EPA's regulations, to provide for their compliance as expeditiously as practicable, but not later than July 1975. The Agency has determined that application of the required controls will achieve hydrocarbon emission reductions of approximately 35 percent by that date.

(3) An investigation was made to identify any technology or other control alternatives which could provide the necessary additional control of approximately 5 percent. The Agency has determined that no additional control technology applicable to stationary sources of hydrocarbon emissions is reasonably available, and that any further control would have to be applied to motor vehicles. Further, the Agency has determined that hydrocarbon emissions to be achieved by the Federal Motor Vehicle Emission Control Program, especially under the very stringent emission standards which take effect in model year 1975, will allow attainment of the national standards for photochemical oxidants in all portions of the region by July 1977.

(4) The Agency has considered whether the imposition of transportation control measures in the Metropolitan New Orleans area is a feasible approach to achieve the 5-percent reduction noted above prior to July 1977. It has been determined that, because of the lead time necessary for their development, adoption, and implementation, transportation control measures do not constitute technology or alternatives which will be available soon enough to permit compliance with the July 1975 deadline, nor do they constitute reasonable interim control measures pending accomplishment of the necessary reductions by the Federal Motor Vehicle Emission Control Program.

The table specifying the latest dates for attainment of the national standard for photochemical oxidants is amended to reflect this extension.

Public hearings on the proposed regulations were held by the Environmental Protection Agency in most affected States. Interested parties presented their comments at these hearings and through the mail. Consideration of this information and further review of the proposed regulations led to only minor revisions:

(1) The Administrator will specify at least one location in each of the affected States where he will make emission data obtained by the Agency available to the public. It should be noted that these data will not be generally available before March 1, 1973, because the Administrator must notify sources of their reporting requirements, insure that valid data are collected, and correlate reported emissions with allowed emissions.

(2) The date for submission of compliance schedules to EPA has been changed from December 31, 1972, to "120 days from the effective date of the compliance schedule regulation." Since it has not been possible to promulgate regulations for correcting plan deficiencies for all States at once, this change allows all sources subject to Federal regulations for compliance schedules an equal amount of time to submit such schedules to the Administrator.

(3) The proposed regulations for compliance schedule "increments of progress" was modified to clarify the definition of "increments of progress".

In this publication, the Administrator prescribes the latest dates by which certain of the national ambient air quality standards are to be attained in Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, South Carolina, Tennessee, and Texas. The dates are those proposed by the Administrator on June 14, 1972 (37 F.R. 11826), for these States because their plans failed to specify dates by which national ambient air quality standards would be attained, as required by the Act and 40 CFR Part 51.10.

The regulations described above, with the exception of regulations providing for the review of new sources and modifications, are effective on the date of their publication in the FEDERAL REGISTER. The Agency finds that good cause exists for making such regulations effective upon publication, for the following reasons:

(1) The regulations do not require persons affected to take immediate action, and

(2) Section 110 of the Clean Air Act calls for promulgation of such regulations by the Administrator no later than July 31, 1972.

The regulations providing for review of new sources and modifications (§§ 52.976(b), 52.1176(b) and 52.1578 (c) and (d)) are effective 30 days after the date of their publication in the FEDERAL REGISTER.

This publication also contains amendments to the Administrator's approval/disapprovals pertinent to 12 States. For Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, Tennessee, Texas, South Carolina, Washington, and the Virgin Islands, certain previous disapprovals are revoked because the States submitted supplemental information which corrected some or all plan deficiencies. For Connecticut and Washington, the table specifying latest dates for attainment of national ambient air quality standards is amended to reflect supplemental information submitted by the States.

These amendments are effective on the date of their publication in the FEDERAL REGISTER (10–28–72). The Agency finds that good cause exists for not publishing these amendments as a notice of proposed rule making and for making them effective immediately upon publication, for the following reasons:

(1) The implementation plans were prepared, adopted, and submitted by the States, and reviewed and evaluated by the Administrator pursuant to 40 CFR Part 51, which, prior to promulgation, had been published as a notice of proposed rule making for comment by interested persons,

(2) The approved implementation plan provisions were adopted in accordance with procedural requirements of State and Federal law, which provided for adequate public participation through notice, public hearings, and time for comments, and consequently further public participation is unnecessary, and

(3) The Administrator is required by law to promulgate substitute provisions for any regulatory portion of a plan for which no approval is in effect, and a deferred effective date would necessitate promulgation of Federal regulations for State regulations already judged approvable

(42 U.S.C. 1857c– 5 and 9).

Dated: October 24, 1972.

WILLIAM D. RUCKELSHAUS,
*Administrator,*
*Environmental Protection Agency.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In Subparts V, W, X, AA, FF, PP, RR, and SS, the note beneath the tables setting forth dates of attainment of national standards is amended by replacing the word "proposed" with the word "prescribed". As amended, the note reads:

NOTE: Dates or footnotes which are underlined are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

## Subpart H—Connecticut

2. In § 52.370 paragraph (c) is revised to read as follows:

**§ 52.370 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on March 21, April 6, and August 2, 1972, by the Connecticut Department of Environmental Protection.

3. Section 52.374 is revised to read as follows:

**§ 52.374 Attainment dates for national standards.**

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Connecticut's plan.

| Air quality control region | Pollutant | | | | | | |
|---|---|---|---|---|---|---|---|
| | Particulate matter | | Sulfur oxides | | Nitrogen dioxide | Carbon monoxide | Photochemical oxidants (hydrocarbons) |
| | Primary | Secondary | Primary | Secondary | | | |
| New Jersey-New York-Connecticut Interstate. | June 1975.... | (a)..... | June 1975.... | June 1975.... | June 1975.... | June 1975.... | June 1975. |
| Hartford-New Haven-Springfield Interstate. | June 1975.... | (a)..... | June 1975.... | June 1975.... | June 1975.... | June 1975.... | June 1975. |
| Northwestern Intrastate. | (c)..... | (c)..... | (c)..... | (c)..... | (c)..... | (c)..... | (c). |
| Eastern Intrastate. | (b)..... | June 1975.... | (c)..... | (c)..... | (c)..... | (c)..... | (c). |

a 18 month extension granted.
b Air quality levels below primary standards.
c Air quality levels below secondary standards.

## Subpart T—Louisiana

4. In § 52.970, paragraph (c) is revised to read as follows:

**§ 52.970 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) February 28, and May 8, 1972, by the Louisiana Air Control Commission, and

(2) July 17, 1972.

5. In § 52.973, paragraph (a) is revised and paragraph (b) is added. As amended, § 52.973 reads as follows:

**§ 52.973 Control strategy and regulations: Photochemical oxidants (hydrocarbons).**

(a) The requirements of § 51.14 of this chapter are not met, since the plan does not provide for the degree of control necessary to meet the national standard for photochemical oxidants (hydrocarbons) in Louisiana's portion of the Southern Louisiana-Southeast Texas Interstate Region.

(b) Regulation for control of hydrocarbon emissions:

(1) The requirements of this paragraph are applicable in the Louisiana portion of the Southern Louisiana-Southeast Texas Interstate Region (§ 81.52 of this chapter).

(2) No person shall discharge or cause the discharge of organic compounds into the atmosphere in excess of 15 lbs. (6.8 kg.) per day (24 hours) from a waste gas disposal system unless the waste gas stream is incinerated by a smokeless flare or other device approved by the Administrator.

(3) For the purpose of this regulation, "organic compound" means any compound containing carbon and hydrogen.

(4) Compliance with this paragraph shall be in accordance with the provisions of § 52.980(a).

**§§ 52.974 and 52.975 [Revoked]**

6. Sections 52.974 and 52.975 are revoked.

7. In § 52.976, paragraph (a) is revised and paragraph (b) is added. As amended, § 52.976 reads as follows:

**§ 52.976 Review of new sources and modifications.**

(a) The requirements of § 51.18 of this chapter are not met since Louisiana's Regulation 6.0 does not provide procedures to prevent construction or modification of a source which would violate applicable portions of the control strategy or would interfere with attainment or maintenance of the national standards. Regulation 6.0 does not provide that approval of any construction or modification does not affect the owner's responsibility to comply with applicable portions of the control strategy.

(b) Regulation for review of new sources and modifications:

(1) This requirement is applicable to any stationary source in the State of Louisiana, the construction or modification of which is commenced after the effective date of this paragraph.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this paragraph without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(v) Any additional information, plans, specifications, evidence or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any local, State, or Federal regulation which is part of the applicable plan; and

(ii) The source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require,

(ii) Safe access to each port,

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(7) Any owner or operator subject to the provisions of this paragraph shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of the source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of a source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated, but not later than 180 days after initial startup of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(9) Approval to construct shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generator, which uses gas as a fuel for space heating, air conditioning, or heating water, is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(10) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

8. Section 52.979 is revised to read as follows:

**§ 52.979 Attainment dates for national standards.**

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information in Louisiana's plan, except where noted.

| Air quality control region | Pollutant | | | | | | |
|---|---|---|---|---|---|---|---|
| | Particulate matter | | Sulfur oxides | | Nitrogen dioxide | Carbon monoxide | Photochemical oxidants (hydrocarbons) |
| | Primary | Secondary | Primary | Secondary | | | |
| Southern Louisiana Southeast Texas Interstate. | (a) | (a) | (a) | (a) | (b) | (b) | July, 1977. |
| Shreveport-Texarkana-Tyler Interstate. | (a) | (a) | (b) | (b) | (b) | (b) | (b). |
| Monroe-El Dorado Interstate. | (a) | (a) | (b) | (b) | (b) | (b) | (b). |

NOTE: Footnotes which are underlined are prescribed by the Administrator because the plan did not provide a specific date.

[a] 3 years from plan approval.

[b] Air quality levels presently below secondary standards.

**§ 52.977 [Revoked]**

9. Section 52.977 is revoked.

10. Subpart T is amended by adding § 52.980 as follows:

**§ 52.980 Compliance schedules.**

(a) *Federal compliance schedule.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of any stationary source subject to § 52.973(b) shall comply with such regulation on or before December 31, 1973.

(i) Any owner or operator in compliance with § 52.973(b) on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator who achieves compliance with § 52.973(b) after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) Any owner or operator of a stationary source subject to subparagraph (1) of this paragraph may, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with § 52.973(b) as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process change, or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process change; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved schedule has been met.

11. Subpart T is amended by adding § 52.981 as follows:

**§ 52.981 Extensions.**

The Administrator hereby extends for 2 years the attainment date for the national standard for photochemical oxidants in the Louisiana portion of the Southern Louisiana-Southeast Texas Interstate Region.

## Subpart U—Maine

12. In § 52.1020, paragraph (c) is added as follows:

**§ 52.1020 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on July 28, 1972, by the Environmental Improvement Commission, State of Maine.

13. Section 52.1022 is revised to read as follows:

**§ 52.1022 Approval status.**

The Administrator approves Maine's plan for the attainment and maintenance of the national standards.

**§ 52.1023 [Revoked]**

14. Section 52.1023 is revoked.

## Subpart V—Maryland

15. In § 52.1070, paragraph (c) is revised to read as follows:

**§ 52.1070 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) February 25, March 3 and 7, April 4 and 28, and May 8, 1972, by the Maryland Bureau of Air Quality Control, and

(2) July 27, 1972, by the Maryland Department of Natural Resources.

**§ 52.1074 [Revoked]**

16. Section 52.1074 is revoked.

17. Section 52.1075 is revised to read as follows:

**§ 52.1075 Control strategy: Nitrogen dioxide.**

(a) The requirements of § 51.14(c)(3) of this chapter are not met since the plan does not provide for the degree of nitrogen oxides emission reduction attainable through the application of reasonably available control technology in the Metropolitan Baltimore Intrastate Region.

(b) Section 04G2 of Maryland's "Regulations Governing the Control of Air Pollution in Area III" (regulation 10.-03.38 for the Metropolitan Baltimore Intrastate Region), which is part of the nitrogen dioxide control strategy, is disapproved.

**§ 52.1076 [Revoked]**

18. Section 52.1076 is revoked.

## Subpart W—Massachusetts

19. In § 52.1120, paragraph (c) is revised to read as follows:

**§ 52.1120 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) February 22 and May 5, 1972, by the Bureau of Air Quality Control, Massachusetts Department of Public Health,

(2) April 27, 1972, by the Division of Environmental Health, Massachusetts Department of Public Health, and

(3) August 28, 1972.

**§ 52.1125 [Amended]**

20. In § 52.1125, paragraph (a) is revoked.

**§ 52.1126 [Revoked]**

21. Section 52.1126 is revoked.

## Subpart X—Michigan

22. In § 52.1170, paragraph (c) is revised to read as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) March 3 and July 24, 1972, by the Department of Public Health, Air Pollution Control Division,

(2) May 4, 1972, by the Department of Environmental Protection, city of Grand Rapids, and

(3) March 30 and July 12, 1972.

**§ 52.1173 [Revoked]**

23. Section 52.1173 is revoked.

24. Section 52.1174 is revised to read as follows:

**§ 52.1174 Control strategy: Nitrogen dioxide.**

(a) The requirements of § 51.14(c)(3) of this chapter are not met since the plan does not provide for the degree of nitrogen oxides emission reduction attainable through the application of reasonably available control technology in the Metropolitan Detroit-Port Huron Intrastate Region.

25. Section 52.1175 is amended by adding paragraph (b), as follows:

**§ 52.1175 Compliance schedules.**

* * * * *

(b) *Federal compliance schedule.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of a stationary source subject to R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health shall comply with such regulation on, or before, December 31, 1973. This paragraph shall apply in Macomb, Oakland, and St. Clair Counties of the Metropolitan Detroit-Port Huron Intrastate Region (§ 81.37 of this chapter), the Michigan portion of the Metropolitan Toledo Interstate Region (§ 81.43 of this chapter) and the South Central Michigan Intrastate Region (§ 81.196 of this chapter).

(i) Any owner or operator in compliance with R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator in compliance with R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) Any owner or operator of a stationary source subject to subparagraph (1) of this paragraph may, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with R 336.49 as expeditiously as practicable but no later than the dates specified in R 336.49(7).

(i) If the owner or operator chooses to comply with the provisions of R 336.49(7), Table 3, the compliance schedule shall contain dates by which contracts will be awarded to obtain the appropriate fuel and dates by which this fuel will be burned exclusively.

(ii) If the owner or operator chooses to comply with the provisions of R 336.49(7), Table 4, the compliance schedule shall provide for periodic increments of progress toward compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process change, or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of on-site construction or installation of emission control equipment or process change; completion of on-site construction or installation of emission control equipment or process modification, and final compliance.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

26. Section 52.1176 is amended by adding paragraph (b), as follows:

**§ 52.1176 Review of new sources and modifications.**

* * * * *

(b) *Regulation for review of new sources and modifications.* (1) This requirement is applicable to any stationary source in the State of Michigan, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the new source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, conditional approval, or denial. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(6) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generators, which use gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(7) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

## Subpart AA—Missouri

27. In § 52.1320, paragraph (c) is revised to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) February 28, March 27, May 2 and 11, and July 12, 1972, by the Missouri Air Conservation Commission and,

(2) August 8, 1972.

28. In § 52.1324 paragraph (a) is revised and paragraph (b) is added. As amended, § 52.1324 reads as follows:

**§ 52.1324 General requirements.**

(a) The requirements of § 51.10(e) of this chapter are not met since the State does not have adequate legal authority to make all emissions data, as correlated with applicable emission limitations, available to the public. None of the local agencies have adequate procedures to make emission data available to the public.

(b) Regulation for public availability of emission data:

(1) The owner or operator of any stationary source in the State of Missouri shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

(2) The information recorded shall be summarized and reported to the Administrator, on forms furnished by the Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1–June 30 and July 1–December 31, except that the initial reporting period shall commence on the date the Administrator issues notification of the recordkeeping requirements.

(3) Information recorded by the owner or operator and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures. The Administrator will designate one or more places in Missouri where such emission data and correlations will be available for public inspection.

29. Section 52.1325 is revised to read as follows:

**§ 52.1325 Legal authority.**

(a) The requirements of § 51.11(a)(6) of this chapter are not met since the authority is inadequate to make emission data, as correlated with applicable emission limitations, available to the public. Section 203.050.4 of the Missouri Air Conservation Law requires confidential treatment of data related to secret processes or methods of manufacture or production.

(b) The requirements of § 51.11(f) of this chapter are not met since the following deficiencies exist in local legal authority.

(1) St. Louis County Division of Air Pollution Control:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to make emission data available to the public is inadequate because section 612.350, St. Louis County Air Pollution Control Code, requires confidential treatment in certain circumstances if the data concern secret processes (§ 51.11(a)(6) of this chapter).

(2) St. Louis City Division of Air Pollution Control:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to require reports on the nature and amounts of emissions from stationary sources is lacking (§ 51.11(a)(5) of this chapter).

(iii) Authority to require installation, maintenance, and use of emission monitoring devices is lacking. Authority to make emission data available to the public is inadequate because Section 39 of Ordinance 54699 requires confidential treatment in certain circumstances if the data relate to production or sales figures or to processes or production unique to the owner or operator or would tend to affect adversely the competitive position of the owner or operator (§ 51.11(a)(6) of this chapter).

(3) Kansas City Health Department:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(4) Independence Health Department:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to make emission data available to the public is lacking since section 11.161 of the code of the city of Independence requires confidential treatment in certain circumstances if the data relate to secret processes or trade secrets affecting methods or results of manufacture (§ 51.11(a)(6) of this chapter).

(5) Springfield Department of Health:

(i) Authority to abate emissions on an emergency basis is lacking (§ 51.11(a)(3) of this chapter).

(ii) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(iii) Authority to make emission data available to the public is inadequate because section 2A–42 of the Springfield City Code requires confidential treatment of such data in certain circumstances (§ 51.11(a)(6) of this chapter).

30. Section 52.1327 is amended by adding paragraph (b), as follows:

**§ 52.1327 Prevention of air pollution emergency episodes.**

* * * * *

(b) *Regulation for emission control action program (city of Springfield).* (1) The owner or operator of any stationary source in the city of Springfield which emits 100 tons (90.7 metric tons) or more per year of particulate matter shall prepare and submit to the Administrator a standby plan for reducing or elminating emissions of particulate matter during periods of Yellow Alert, Red Alert, or Emergency Alert, as defined in the Air Pollution Control Regulations of the Springfield-Greene County area.

(i) Each such plan shall be submitted within 90 days of the effective date of this regulation and shall be subject to review and approval by the Administrator. Any such plan will be approved unless the Administrator notifies the owner or operator within 60 days that such plan has been disapproved. The Administrator will set forth his reasons for any disapproval.

(ii) Each such plan shall identify the specific facility from which particulate matter is emitted, the manner in which reduction of emissions will be achieved during a Yellow Alert, Red Alert, or Emergency Alert, and the approximate reduction in emissions to be achieved by each reduction measure.

(iii) During a Yellow Alert, Red Alert, or Emergency Alert, a copy of such plan shall be made available on the source premises for inspection by the Administrator.

(2) Upon notification by the Administrator or appropriate city official that a Yellow Alert, Red Alert, or Emergency Alert has been declared, the owner or operator of each source which has a standby plan approved by the Administrator shall implement the emission reduction measures specified in such plan.

(3) Any owner or operator of a stationary source in the city of Springfield not subject to the requirements of subparagraph (1) of this paragraph shall, when requested by the Administrator in writing, prepare and submit a standby plan in accordance with this paragraph.

**§§ 52.1328, 52.1329, and 52.1330 [Revoked]**

31. Sections 52.1328, 52.1329, and 52.1330 are revoked.

## Subpart FF—New Jersey

32. In § 52.1570, paragraph (c) is revised to read as follows:

**§ 52.1570 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) April 17, May 15, and July 6, 1972, by the New Jersey Department of Environmental Protection, and

(2) June 23, 1972, by the New Jersey Department of Law and Public Safety.

**§§ 52.1574 and 52.1575 [Revoked]**

33. Sections 52.1574 and 52.1575 are revoked.

34. Section 52.1577 is amended by revoking paragraph (a) and adding paragraph (d). As amended, § 52.1577 reads as follows:

**§ 52.1577 Compliance schedules.**

(a) [Revoked]

* * * * *

(d) *Regulation for increments of progress.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of any stationary source in the State of New Jersey to which an exception extending beyond December 31, 1973, is applicable under Chapter 7, section 7.1(c) of the New Jersey Air Pollution Control Code shall, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval, a proposed compliance schedule that demonstrates compliance with the emission limitations prescribed by Chapter 7 of the New Jersey Air Pollution Control Code as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process changes or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process change; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(2) Where any such owner or operator demonstrates to the satisfaction of the Administrator that compliance with the applicable regulations will be achieved on or before December 31, 1973, no compliance schedule shall be required.

(3) Any owner or operator required to submit a compliance schedule pursuant to this paragraph shall within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

35. Section 52.1578 is amended by adding paragraph (c) and (d), as follows:

**§ 52.1578 Review of new sources and modifications.**

* * * * *

(c) *Regulation for review of new sources and modifications—stationary sources using liquid or gaseous fuel.* (1) This requirement is applicable to any stationary source in the State of New Jersey using liquid or gaseous fuel, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(v) Any addiitonal information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any applicable local, State, or Federal regulation which is part of the applicable plan.

(ii) The source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing on his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require.

(ii) Safe access to each port.

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(7) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of the source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of the source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated but not later than 180 days after initial startup of such source the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of the source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(9) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Fuel burning equipment which uses gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 1,000,000 B.t.u. per hour (252 million gm-cal/hr.).

(iii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iv) Other sources of minor significance specified by the Administrator.

(10) Approval to construct or modify a source shall not relieve any owner or operator of the responsibility to comply with any local, State, or Federal regulation which is part of the applicable plan.

(d) *Regulation for review of new sources and modifications—stationary sources subject to Chapter 9 of the New Jersey Air Pollution Control Code.* (1) This requirement is applicable to any stationary source in the State of New Jersey which is subject to review under Chapter 9 of the New Jersey Air Pollution Control Code, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location of the source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction work is suspended for 1 year.

(6) Approval to construct or modify a source shall not relieve any person of the responsibility to comply with any local, State, or Federal regulation which is part of the applicable plan.

## Subpart PP—South Carolina

36. In § 52.2120, paragraph (c) is revised to read as follows:

**§ 52.2120 Identification of plan.**

* * * * *

(c) Supplemental information was submitted on:

(1) May 4, 1972, by the South Carolina Pollution Control Authority, and

(2) July 21 and August 23, 1972.

**§ 52.2123 [Revoked]**

37. Section 52.2123 is revoked.

38. Section 52.2124 is amended by adding paragraph (c), as follows:

**§ 52.2124 Legal authority.**

* * * * *

(c) *Delegation of authority.* Pursuant to section 114 of the Act, South Carolina requested a delegation of authority to enable it to obtain information necessary to determine whether air pollution

sources are in compliance with applicable laws, regulations, and standards, including the authority to require recordkeeping and reporting; and to require owners or operators of stationary sources to install, maintain, and use emission monitoring devices; also the authority for the State to make emission data available to the public as reported and as correlated with any applicable emissions standards or limitations. The Administrator has determined that South Carolina is qualified to receive a delegation of the authority it requested. Accordingly, the Administrator delegates authority in section 114(a)(1) (A), (B), and (C) and section 114(c) of the Act to the State of South Carolina.

§§ 52.2125, 52.2126, 52.2127 [Revoked]

39. Sections 52.2125, 52.2126, and 52.2127 are revoked.

### Subpart RR—Tennessee

40. In § 52.2220, paragraph (c) is revised to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 27, 1972, from the Memphis and Shelby County Health Department,

(2) February 3 and 10, April 13, and May 3, 8, and 12, 1972, from the Division of Air Pollution Control of the Tennessee Department of Public Health, and

(3) August 17, 1972.

§ 52.2223 [Revoked]

41. Section 52.2223 is revoked.

§ 52.2224 [Amended]

42. In § 52.2224, paragraph (b) is revoked.

§§ 52.2225, 52.2226, 52.2228, and 52.2229 [Revoked]

43. Sections 52.2225, 52.2226, 52.2228, and 52.2229 are revoked.

### Subpart SS—Texas

44. In § 52.2270, paragraph (c) is revised to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 25, May 2 and 3, 1972, by the Texas Air Control Board, and

(2) July 31, 1972.

§§ 52.2274, 52.2275, and 52.2277 [Revoked]

45. Sections 52.2274, 52.2275, and 52.2277 are revoked.

46. In § 52.2280, paragraph (a) is revised to read as follows:

§ 52.2280 Transportation and land-use controls.

(a) To complete the requirements of § 51.11(b) and § 51.14 of this chapter, the Governor of Texas must submit to the Administrator:

(1) No later than February 15, 1973, the selection of the appropriate transportation control alternative and a demonstration that said alternative, along with Texas' stationary source emission limitations for hydrocarbons and the Federal Motor Vehicle Control Program, will attain and maintain the national standards for photochemical oxidants (hydrocarbons) in the Austin-Waco, Metropolitan Dallas-Fort Worth, Metropolitan San Antonio, and El Paso-Las Cruces-Alamogordo Regions by 1975, and in the Corpus Christi-Victoria and Metropolitan Houston-Galveston Regions by 1977. By this date (February 15, 1973), the State must also include a detailed timetable for implementing the legislative authority, regulations, and administrative policies required for carrying out the selected transportation control alternatives.

(2) No later than July 30, 1973, the legislative authority that is needed for carrying out the required transportation control alternative.

(3) No later than December 31, 1973, the necessary adopted regulations and administrative policies needed to implement the required transportation control alternative.

### Subpart WW—Washington

47. In § 52.2470, paragraph (c) is revised to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) January 28, May 5, and September 11, 1972, and

(2) July 19, 1972, by the State of Washington Department of Ecology.

48. Section 52.2473 is revised to read as follows:

§ 52.2473 Approval status.

The Administrator approves Washington's plan for the attainment and maintenance of the national standards.

§§ 52.2474, 52.2475, 52.2476, 52.2477 [Revoked]

49. Sections 52.2474, 52.2475, 52.2476, and 52.2477 are revoked.

50. Section 52.2478 is revised to read as follows:

§ 52.2478 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Washington's plan.

| Air quality control region | Pollutant | | | | | | |
|---|---|---|---|---|---|---|---|
| | Particulate matter | | Sulfur oxides | | Nitrogen dioxide | Carbon monoxide | Photochemical oxidants (hydrocarbons) |
| | Primary | Secondary | Primary | Secondary | | | |
| Eastern Washington-Northern Idaho Interstate. | July 1975 | July 1975 | (b) | (b) | (b) | June 1977.* | (b). |
| Northern Washington Intrastate. | (a) | July 1975 | (b) | (b) | (b) | (b) | (b). |
| Olympic-Northwest Washington Intrastate. | July 1975 | July 1975 | (a) | July 1975 | (b) | (b) | (b). |
| Portland Interstate. | July 1975 | July 1975 | July 1975 | July 1975 | (b) | (b) | (b). |
| Puget Sound Intrastate. | Dec. 1973 | July 1975 | Jan. 1975 | Jan. 1975 | July 1975 | June 1977 | June 1977.* |
| South Central Washington Intrastate. | July 1975 | July 1975 | (b) | (b) | (b) | (b) | (b). |

* Air quality levels presently below primary standards.
b Air quality levels presently below secondary standards.
* Transportation and/or land use control strategies are to be submitted no later than Feb. 15, 1973, with the first semiannual report.

### Subpart CCC—U.S. Virgin Islands

51. In § 52.2770, paragraph (c) is revised to read as follows:

§ 52.2770 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 26, 1972, by the Division of Environmental Health, United States Virgin Islands Department of Health, and

(2) August 17, 1972.

§§ 52.2773, 52.2774 [Revoked]

52. Sections 52.2773 and 52.2774 are revoked.

53. Section 52.2775 is amended by adding paragraph (b), as follows:

§ 52.2775 Review of new sources and modifications.

* * * * *

(b) *Regulation for review of new sources and modifications.* (1) This requirement is applicable to any stationary source subject to review under section 206–20, chapter 9, title 12, Virgin Islands Code, the construction or modification of which is commenced after the effective date of this paragraph.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective

date of this regulation without first obtaining approval from the Administrator of the location of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(6) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generators, which use gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(7) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

[FR Doc.72-18385 Filed 10-27-72;8:45 am]

# Title 6—ECONOMIC STABILIZATION

## Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-262]

### INSTITUTIONAL PROVIDER OF HEALTH SERVICES; NET REVENUE PERCENTAGE

#### Price Commission Ruling

*Facts.* H is an institutional provider of health services. H is a non-profit organization. H has reached final settlement with the Medicare intermediary for the fiscal years ending June 30, 1969, through 1971. The net effect of the final adjustments is that H will receive $106,000 for the 3 years from 1969-71.

*Issue.* Whether H must adjust its base period net revenues percentage?

*Ruling.* No. H should not adjust its base period net revenue percentage.

Section 300.18(b)(1) provides that the price increases of an institutional provider that is a non-profit organization, may not result in an increase in the provider's net revenues (after deducting operating expenses and depreciation) as a percentage of total operating revenues over that prevailing during the base period. Economic Stabilization Regulations, 6 CFR 300.18(b)(1) (1972). "Base period" means any two, at the option of the person concerned, of that person's last 3 fiscal years ending before August 15, 1971. Economic Stabilization Regulations, 6 CFR 300.5 (1972). In other words, the base period net revenue percentage of any institutional provider of health services is the net revenue percentage actually prevailing during the base period. Consequently, a subsequent adjustment of revenues with a medicare intermediary is not grounds for adjustment of the base period figures. The adjusted revenues should be picked up in the year of the final settlement as operating revenues.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 20, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72-18411 Filed 10-27-72;8:47 am]

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[Price Commission Ruling 1972-263]

### INSTITUTIONAL PROVIDERS; PRICE INCREASES

#### Price Commission Ruling

*Facts.* Hospital H, expects to incur an increase in allowable costs for furnishing the service performed in Department A of the hospital. H plans to raise the price for the service performed in Department B of the hospital on the basis of the increase in allowable costs in A.

*Issue.* Whether the price of the service performed in B may be increased to reflect the increase in allowable costs in A under the provisions of the Economic Stabilization Regulations pertaining to health?

*Ruling.* Yes. An institutional provider of health services may apply an increase in allowable costs in one department to increase the price charged in another department.

Section 300.18(b) provides in part that an institutional provider of health services may charge a price in excess of the base price with respect to the furnishing of a service to reflect net increases in allowable costs since the end of the last fiscal year, which the institutional provider will incur during the currentf fiscal year. Economic Stabilization Regulations, § 300.18(b), 37 F.R. 18548 (1972). In other words, a price in excess of the base price may be charged for a service if the hospital will incur a net increase in allowable costs in the current year over cost incurred in the former year. The present language of § 300.18(b) does not limit the price increase to the service in which the increase in allowable costs will be incurred. Consequently, H may increase the price for the Department B service to reflect the increase in allowable costs which it will incur in Department A.

This ruling does not apply in the period prior to September 12, 1972.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72-18412 Filed 10-27-72;8:47 am]

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[Price Commission Ruling 1972-264]

### RESTAURANT PRICING; PRICE INCREASE JUSTIFICATION

#### Price Commission Ruling

*Facts.* X restaurant has experienced a cost increase in the potatoes it purchases. A also has incurred increased wage costs. X wants to raise the price of a cup of coffee to reflect all of the above increased costs even though the price of coffee has remained constant. This is a historical pricing practice of X. In the past, X has increased prices on items that have great demand where costs on slower moving items have increased.

*Issue.* Can X increase the price of coffee to reflect cost increases in wages and potatoes?

*Ruling.* X can increase the price of coffee to reflect cost increases in wages and potatoes. A restaurant is considered to be a service organization. Price Commission Ruling 1972–7, 37 F.R. 762 (1972). Economic Stabilization Regulation, § 300.14(b), 37 F.R. 18082 (1972), provides, "a service organization may charge a price in excess of the base price only to reflect increases in allowable costs that it incurred since the last price increase, or that it incurred after January 1, 1971, whichever was later, with respect to the service concerned * * *"

In this case, "service concerned" means the entire service provided by X in serving prepared foods to X's customers. X is not restricted to increasing the price of coffee only if the price he pays for ground coffee increases. In accordance with his customary pricing practices, X may increase the prices of one or more items on his menu to reflect increased costs he incurs in providing his food service to customers even though the increased costs are not directly related to the menu item or items he chooses to increase.

This ruling supersedes Price Commission Ruling 1972–187, 37 F.R. 11981 (1972). Ruling 1972–187 is effective until September 7, 1972, when Regulation § 300.14 was amended. Prior to its amendment Regulation § 300.14 referred to cost increases in the "item concerned" rather than the "service concerned."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72–18413 Filed 10–27–72;8:47 am]

[Price Commission Ruling 1972–265]

## REPRICING MANUFACTURERS' INVENTORIES

### Price Commission Ruling; Correction

*Ruling.* Price Commission Ruling 1972–138, 37 F.R. 7998 (1972) is corrected by changing the final paragraph to state as follows: "This ruling supersedes the holding in Price Commission Ruling 1972–20, 37 F.R. 767 (1972) that a firm may increase the price of items it is holding in its own inventory as of the effective date of the price increase approved by the Price Commission but that in no case may the increased price be applied to merchandise in the possession of a potential purchaser. That part of a ruling which is superseded remains in effect until the effective date of the new ruling that restates the substance of the prior ruling. In this case the superseded portion of Price Commission Ruling 1972–20 remains in effect until April 17, 1972."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 25, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

Approved: October 25, 1972.

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72–18414 Filed 10–27–72;8:47 am]

[Price Commission Ruling 1972–266]

## EFFECTIVE DATE OF PRICE INCREASE APPROVAL

### Price Commission Ruling; Correction

*Ruling.* Price Commission Ruling 1972–213, 37 F.R. 13651 (1972) is corrected by changing the final paragraph to state as follows: "This ruling is intended to clarify Price Commission Ruling 1972–138, 37 F.R. 767 (1972) by stating additional facts which the Commission may take into account and how those facts affect its determination of the effective date of any price increase. Price Commission Ruling 1972–138 remains in effect from April 18, 1972."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

Approved: October 24, 1972.

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72–18415 Filed 10–27–72;8:47 am]

[Price Commission Ruling 1972–267]

## BASE PRICE—INSTITUTIONAL HEALTH PROVIDERS—COST REIMBURSEMENTS

### Price Commission Ruling

*Facts.* H is an institutional provider of health services. H provides health services to welfare patients under a contract with the State Department of Social Services, S. The contract specifies the services which H will perform and that He will be reimbursed for its cost in providing those services. H maintains its books on a calendar year basis. At the beginning of the calendar year H and S estimate the cost of providing the services. Each month S reimburses H at this "interim rate." At the conclusion of the calendar year, S and H determine the cost of the services and adjust the amount of reimbursement. The overpayment or underpayment is adjusted at the end of the year. For 1971, the agreed "interim rate" for service X was $25, whereas the adjusted, yearend rate for X was $33.

*Issue.* What is the base price for the service X, which is provided by H to the welfare patients?

*Ruling.* The base price for service X for H's welfare class of purchasers is $33.

Section 300.405(a) provides in part that the base price with respect to a sale of a unit of services to a specific class of purchasers is the highest price, at or above which, at least 10 percent of those units were priced by the seller in transactions with that class of purchasers during the freeze base period. Economic Stabilization Regulations, § 300.405(a), 37 F.R. 11472 (1972). A transaction is considered to occur at the time a binding contract is entered into by the parties. Economic Stabilization Regulation, 6 CFR 300.5 (1972). In other words, the amount at which the health provider priced its services in its freeze base period contracts is the base price for its services.

In the present case, the amount at which H priced its services was not set at the time the contract was entered into by H and S.

The understanding was that the final price would be determined after the year in which the services were performed. Consequently, the adjusted yearend price may be considered to be the price at which the health provider priced its service in its freeze base period transactions. In the present case the base price for the service X which is provided by H to welfare patients is $33.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 20, 1972.

LEE H. HENKEL, Jr.,
*Chief Counsel,*
*Internal Revenue Service.*

SAMUEL R. PIERCE, Jr.,
*General Counsel,*
*Department of the Treasury.*

[FR Doc.72–18416 Filed 10–27–72;8:47 am]

# Title 7—AGRICULTURE

## Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

### SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH–306]

## PART 863—WAGES; SUGARCANE; FLORIDA

### Fair and Reasonable Wage Rates

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Belle Glade, Fla., on June 16,

1972, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarcane; Florida" remain in full force and effect as to the crops to which they were applicable.

Sec.
863.28 Requirements.
863.29 Applicability of wage requirements.
863.30 Payment of wages.
863.31 Evidence of compliance.
863.32 Subterfuge.
863.33 Claim for unpaid wages.
863.34 Failure to pay all wages in full.
863.35 Checking compliance.

AUTHORITY: The provisions of these §§ 863.28 to 863.35 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

### § 863.28 Requirements.

A producer of sugarcane in Florida shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work, as provided in § 863.29, shall have been paid in accordance with the following:

(a) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher (except as provided in subparagraph (5) of this paragraph), but not less than the following, which shall become effective on October 30, 1972, and shall remain in effect until amended, superseded, or terminated:

(1) *Work performed on a time basis.*

| Class of worker | Rate per hour |
|---|---|
| (i) Tractor drivers and principal operators of mechanical harvesting and loading equipment | $2.30 |
| (ii) All other workers, including those employed to assist in the operation of mechanical harvesting and loading equipment such as harvester cutter blade operators | 2.00 |

(2) *Workers 14 and 15 years of age and full-time students when employed on a time basis.* For workers 14 and 15 years of age and, where the Secretary of Labor has by certificate or order provided for the employment of full-time students 14 years of age or older on a part-time basis (not to exceed 20 hours in any workweek during the time school is in session) or on a part-time or full-time basis during school vacations, the rate shall be not less than 85 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph. (The act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day, will result in a deduction from Sugar Act payments to the producer.)

(3) *Apprentice operators of tractors and mechanical harvesting and loading equipment when employed on a time basis.* The hourly wage rate for a learner or apprentice, who is being trained as a tractor driver or the principal operator of mechanical harvesting or loading equipment, shall be not less than $2. The training period for such workers shall not exceed 6 workweeks.

(4) *Handicapped workers when employed on a time basis.* The wage rate for workers certified by the Regional Director, Wage and Hour Division, U.S. Department of Labor, 1371 Peachtree Street NE., Atlanta, GA 30309, to be handicapped because of age or physical or mental deficiency or injury, and whose productive capacity is thereby impaired, shall be not less than 75 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph.

(5) *Work performed on a piecework basis.* The piecework rate for the cutting of sugarcane for processing into raw sugar shall be as established by a producer prior to the commencement of work, and the piecework rate for any operation other than the cutting of sugarcane shall be as agreed upon between the producer and the worker: *Provided,* That the hourly rate of earnings of each worker employed on piecework during each pay period (not to be in excess of 2 weeks) shall average for the time worked at piecework rates during such pay period not less than the applicable hourly rate for the class of worker prescribed in subparagraphs (1), (2), (3), or (4) of this paragraph: *Provided further,* That, if the piecework rates established by a producer for the cutting of sugarcane for processing into raw sugar do not yield for the entire harvest season an average hourly rate of earnings to all such workers (such average to be calculated only with respect to those workers completing the full term of employment) as a group employed by the producer of $0.20 more than the applicable hourly rate when employed on a time basis, the producer shall proportionately increase the total earnings of each worker who completes his full term of employment so that the average hourly rate of earnings for all workers as a group reaches that level.

(b) *Compensable working time.* For work performed under paragraph (a) of this section, compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field, except time taken out for meals during the working day. If the producer requires the operator of mechanical equipment, driver of animals, or any other class of worker to report to a place other than the field, such as an assembly point or tractor shed located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(c) *Equipment necessary to perform work assignment.* The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. The worker may be charged for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

### § 863.29 Applicability of wage requirements.

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugarcane on any acreage from which sugarcane is marketed or processed for the production of sugar, harvested for seed, or any acreage which qualifies as bona fide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by an independent contractor who perform services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truckdrivers employed by a contractor engaged only in hauling sugarcane; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop or crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators or independent contractors and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarcane, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

### § 863.30 Payment of wages.

Workers shall be paid by check or in currency for all work performed, except to the extent that the cash payment is reduced by the following deductions: cash advances made to the worker by the producer; the market value or the amount agreed upon for supplies furnished by the producer at the request of the worker; meals, lodging, and transportation expense which the producer agreed to furnish for a stated amount; and mandatory deductions such as taxes and social security contributions. In addition, a producer may deduct the

amounts he has paid to a third party on behalf of the worker in connection with his employment as a farmworker which are acknowledged in writing signed by the worker or his agent or substantiated by other evidence acceptable to the county ASC committee to be an indebtedness of the worker, and which cover the expense of services and benefits furnished the worker by the third party, and which the worker or his agent has agreed may be deducted from his wages, such as public utilities, medical services, group hospitalization or other insurance for the benefit of the worker. As evidence of payments to a third party for which a deduction is made from the earnings of a worker, the producer shall maintain for a period of 3 years, for the inspection of the worker and the local county ASCS office, receipted bills or other written satisfactory evidence that support such deductions. Payments made to a labor contractor, supervisor, or labor trainer, or the cost of meals, lodging, transportation, and insurance covering injury or illness resulting from employment, any or all of which the producer agreed to furnish the worker free of charge, shall not be deducted from cash wages due the worker. When any deductions are made, the producer shall furnish to the worker, at time of settlement, a statement showing the gross amount of wages due for work performed and the amount of each deduction properly identified.

**§ 863.31 Evidence of compliance.**

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed upon rates per unit of work, total earnings and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.

**§ 863.32 Subterfuge.**

The producer shall not reduce the wage rates to workers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

**§ 863.33 Claim for unpaid wages.**

Any person who believes he has not been paid in accordance with this part may file a wage claim with the local Agricultural Stabilization and Conservation County Committee against the producer on whose farm the work was performed. Such claim must be filed on Form SU-191, entitled "Claim Against Producer for Unpaid Wages," within 2 years from the date the work with respect to which the claim is made was performed. Detailed instructions and Forms SU-191 are available at the local county ASCS office. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the Florida State Agricultural Stabilization and Conservation Committee, 401 Southeast First Avenue, Gainesville, FL 32601, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC Committee is not acceptable, either party may file an appeal with the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All such appeals shall be filed within 15 days after the date the written notice of the recommended settlement is mailed by the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, State and County Operations, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title (7 CFR Part 780).

**§ 863.34 Failure to pay all wages in full.**

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment, representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representative of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer; or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be pithheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them; or if unpaid workers cannot be located and the county committee determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment has been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control record for the total payment until the county committee determines that all workers on the farm have been paid in full, the producer refunds the entire amount of debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

**§ 863.35 Checking compliance.**

The procedures to be followed by county ASCS offices in checking compliance with the wage requirements of this part are set forth under the heading "Wage Rate Determinations" in Handbook 3-SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 3-SU may be inspected at local county ASCS offices, and copies may be obtained from the Florida State ASCS Office, 401 Southeast First Avenue, Gainesville, FL 32601.

STATEMENT OF BASES AND CONSIDERATIONS

*General.* The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in production, cultivation, or harvesting of sugarcane in Florida as one of the conditions with which producers must comply to be eligible for payments under the act.

*Requirements of the act and standards employed.* Section 301(c)(1) of the act

requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and byproducts, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

*Wage determination.* This determination differs from the prior determination in the following respects: (1) For work performed on a time basis, the minimum wage rate for tractor drivers and principal operators of mechanical harvesting and loading equipment is increased 20 cents to $2.30 per hour, and the minimum rate for all other workers is increased 15 cents to $2 per hour; and (2) for work performed on a piecework basis, the producer is permitted to establish piecework rates for the cutting of sugarcane for processing into raw sugar provided each individual worker earns on average during each pay period the applicable hourly wage rate, and provided all workers as a group employed by a producer earn on average during the entire harvest season at least 20 cents more than such applicable hourly wage rate. Other provisions of the prior determination continue unchanged.

A public hearing was held in Belle Glade, Fla., on June 16, 1972, at which interested persons were afforded the opportunity to testify on whether the wage rates established for Florida sugarcane fieldworkers in the wage determination which became effective on January 10, 1972, continue to be fair and reasonable under the circumstances, or whether such determination should be amended. Testimony was presented by a representative of sugarcane producers and a union representative.

The representative of producers recommended that wage rates be increased by 5.5 percent, and that there be no change in the worker classifications or in the wage differentials. He testified that the canecutters employed by one large producer earned an average of $2.305 per hour for the 1971–72 crop or 68.49 percent more than for the 1964–65 crop; that this increase compares to an increase of 33.33 percent in the price of sugar during the same period, while the average productivity per worker remained at 1.45 tons per hour; and that the system of piecework rates used by producers has consistently produced average hourly earnings in excess of the minimum rate established in the wage determinations.

The witness also recommended that the provision relating to work performed on a piecework basis be amended to permit producers to establish, prior to the commencement of work, piecework rates for the cutting of cane for processing into raw sugar during all or any part of the 1972–73 harvesting season, provided all workers as a group employed by a producer earn for the entire season an average of $0.20 more than the applicable hourly rate established. He stated that such an amendment would mean all workers, instead of only the poor worker, would share on an equal basis any supplemental payments; that such rates would be equitable to both employee and employer; and that the entire selection of cutters working for a single producer would be guaranteed an average of $0.20 above the minimum rate established. He also stated that the producers would accept a minimum guarantee for each worker if required, but any necessary buildup in wages to poor workers to bring them up to a minimum would again result in a reward to the poor worker for nonproductive work, with the better worker not being able to share equally in the additional amount the producer may be required to pay; that this proposal would not require any change in the method of establishing row rates; and that the proposed amendment would be applicable only to the cutting of cane for processing into raw sugar.

A union representative from the International Association of Machinists testified that a new collective-bargaining agreement has been initiated between his organization and one of the principal sugarcane growers and processors in the Glades area. He stated that the contract covers certain employees who are mechanical operators and those engaged in support thereof; and that his union hopes to move forward in the area of collective bargaining.

Consideration has been given to the recommendations and testimony presented at the public hearing; to the returns, costs, and profits of producing sugarcane obtained by field survey for recent crops and recast in terms of conditions likely to prevail for the 1972 crop; and to other standards generally considered in wage determinations, including the cost of living and the producers' ability to pay. Analysis of these and other relevant factors indicates that the minimum rates established in this determination are fair and reasonable and within producers' ability to pay.

Information available to the Department indicates that unskilled workers employed in Florida on a piecework basis as cane cutters earned an average in excess of $2.20 per hour during the 1971–72 harvest, as compared to the minimum hourly rates of $1.75 (effective from the beginning of harvest through January 9, 1972) and $1.85 (effective beginning January 10). The hourly rates for tractor drivers and principal operators of mechanical harvesting and loading equipment generally ranged from $2.10 to slightly more than $2.30 during most of the 1971–72 harvest season. In view of the fact that the differential in earnings between the different classes of workers has decreased in recent years, the increases in wage rates established in this determination of 15 cents per hour for unskilled workers and 20 cents per hour for skilled workers are believed to be equitable to both producers and workers.

The recommendation relating to the establishment by the producer of piecework rates for the cutting of sugarcane for processing into raw sugar has been adopted, but with the added requirement that each cane cutter employed on piecework receive average hourly earnings during each pay period of not less than the minimum time rate established in this determination. Such a requirement has been contained in prior determinations when the piecework rates for all operations were as agreed upon between the producer and the worker. The piecework rates for operations other than the cutting of cane for sugar continue to be as agreed upon with each worker being guaranteed the minimum hourly rate.

The revised provision for work performed on a piecework basis will require the producer each pay period to build up the wages of any worker employed in the cutting of sugarcane for processing into raw sugar who does not earn the minimum hourly wage rate. If at the end of the harvest season all such workers as a group employed by a producer do not average at least 20 cents per hour more than the minimum hourly rate, the producer will then be required to make supplemental wage payments to each worker of the group based on the number of hours the worker was employed. The requirement that all workers as a group earn at least 20 cents above the minimum hourly rate is applicable only to those cane cutters who complete their full term of employment during the harvest season. Consequently, the revised provision on piecework guarantees each cane cutter average earnings equal to the minimum hourly wage rate, and all workers who remain the entire harvest season average earnings as a group of at least 20 cents above the minimum.

This determination is issued on a continuing basis and will remain in effect until amended or terminated. However, the Department will keep the wage situation under review and will conduct investigations and hold hearings annually.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

*Effective date.* This determination shall become effective on October 30, 1972.

Signed at Washington, D.C., on October 20, 1972.

GLENN A. WEIR,
*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.72-18427 Filed 10-27-72;8:46 am]

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

[Orange Reg. 24]

## PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

### Limitation of Shipments

*Correction*

In F.R. Doc. 72-17655, appearing on page 21801, in the issue of Saturday, October 14, 1972, in the fifth line of § 906.350(a)(1), the figure "90" should read "60".

[Valencia Orange Reg. 414, 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 § 908.714 (Valencia Orange Regulation 414, 37 F.R. 22369) during the period October 20 through October 26, 1972, are hereby amended to read as follows:

§ 908.714 Valencia Orange Regulation 414.

* * * * *

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

(i) District 1: 420,000 cartons.

(ii) District 2: 330,000 cartons.

* * * * *

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

Dated: October 25, 1972.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.72-18454 Filed 10-27-72;8:50 am]

[Lemon Reg. 557]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

§ 910.857 Lemon Regulation 557.

(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 October 24, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 29 through November 4, 1972, is hereby fixed at 185,000 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: October 25, 1972.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.72-18465 Filed 10-27-72;8:51 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 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS ORNITHOSIS IN POULTRY

### Areas Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, the reference to Florida in the introductory portion of paragraph (a) and subparagraph (a)(2) relating to the State of Florida is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

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

The amendment excludes portions of Dade and Broward Counties in Florida from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No areas in Florida remain under quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of October 1972.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.72-18455 Filed 10-27-72;8:51 am]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12322, Amdt. 835]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Form 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 7, 1972.

Cleburne, Tex.—Cleburne Municipal Airport; VOR/DME-A, Original; Established.
Columbia, Mo.—E. W. Cotton Woods Memorial Airport; VOR-A, Original; Established.
East St. Louis, Ill.—Bi-State Parks Airport; VOR/DME-A, Original; Established.
Fort Pierce, Fla.—St. Lucie County Airport; VOR/DME Runway 14, Amdt. 3; Revised.
Gulfport, Miss.—Gulfport Municipal Airport; VOR Runway 31, Amdt. 11; Revised.
Jasper, Ala.—Walker County Airport; VOR/DME Runway 29, Original; Established.
Kirksville, Mo.—Clarence Cannon Memorial Airport; VOR-A, Amdt. 8; Revised.
Kirksville, Mo.—Clarence Cannon Memorial Airport; VOR/DME-A, Original; Established.
Lewisburg, W. Va.—Greenbrier Valley Airport; VOR-A, Amdt. 4; Revised.
London, Ky.—Corbin-London War Memorial Airport; VOR Runway 5, Amdt. 8; Revised.
Mena, Ark.—Mena Municipal Airport; VOR/DME-A, Original; Established.
Monroe, Wis.—Monroe Municipal Airport; VOR/DME Runway 29, Original; Established.
New York, N.Y.—John F. Kennedy International Airport; VOR Runway 13L/R, Amdt. 10; Revised.
Ocala, Fla.—Ocala Municipal (Jim Taylor Field) Airport; VOR Runway 36, Amdt. 7; Revised.
Rocksprings, Tex.—Edwards County Airport; VOR Runway 14, Original; Established.
Sevierville, Tenn.—Sevier-Gatlinburg Airport; VOR/DME Runway 10, Original; Established.
Swainsboro, Ga.—Emanuel County Airport; VOR-A, Original; Established.
Talkeetna, Alaska—Talkeetna Airport; VOR-A, Amdt. 6; Revised.
Williston, N. Dak.—Sloulin International Airport; VOR Runway 11, Amdt. 6; Revised.
Yuma, Ariz.—Yuma MCAS/Yuma International Airport; VOR Runway 17, Amdt. 1; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective October 17, 1972.

Eau Claire, Wis.—Eau Claire Municipal Airport; VOR-A, Amdt. 16; Revised.
Miami, Fla.—Opa Locka Airport; VOR Runway 9L, Amdt. 9; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective December 7, 1972.

Aberdeen, S. Dak.—Aberdeen Municipal Airport; LOC (BC)/DME Runway 12, Original; Established.
Kansas City, Mo.—Kansas City International Airport; LOC (BC) Runway 19, Amdt. 1; Revised.
Kansas City, Mo.—Kansas City International Airport; LOC (BC) Runway 27, Amdt. 2; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 7, 1972.

Clarksdale, Miss.—Fletcher Field; NDB Runway 18, Amdt. 1; Revised.
Clarksdale, Miss.—Fletcher Field; NDB Runway 36, Amdt. 1; Revised.
East St. Louis, Ill.—Bi-State Parks Airport; NDB Runway 30, Amdt. 4; Revised.
Frederick, Okla.—Frederick Municipal Airport; NDB Runway 17, Original; Established.
Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 10; Revised.
Kansas City, Mo.—Kansas City International Airport; NDB Runway 1, Amdt. 8; Revised.
Kansas City Mo.—Kansas City International Airport; NDB Runway 9, Amdt. 2; Revised.
Oelwein, Iowa—Oelwein Municipal Airport; NDB Runway 13, Original; Established.
Talkeetna, Alaska—Talkeetna Airport; NDB-A, Amdt. 12; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 17, 1972.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 4, 1972.

Flint, Mich.—Bishop Airport; NDB Runway 9R, Amdt. 14; Revised.
Brookings, S. Dak.—Brookings Municipal Airport; NDB Runway 12, Amdt. 5; Canceled.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 7, 1972.

Arcata-Eureka, Calif.—Arcata Airport; ILS Runway 31, Amdt. 18; Revised.
Grand Junction, Colo.—Walker Field; ILS Runway 11, Amdt. 4; Revised.
Kansas City, Mo.—Kansas City International Airport; ILS Runway 1, Amdt. 1; Revised.
Kansas City, Mo.—Kansas City International Airport; ILS Runway 9, Amdt. 3; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 25L/R, Amdt. 4; Revised.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 19, 1972.

Pontiac, Mich.—Oakland-Pontiac Airport; ILS Runway 9, Original; Canceled.

9. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 17, 1972.

San Juan, P.R.—Puerto Rico International Airport; ILS Runway 7, Amdt. 5; Revised.

10. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 16, 1972.

Flint, Mich.—Bishop Airport; ILS Runway 9R, Amdt. 7; Revised.

11. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 7, 1972.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; Radar-1, Amdt. 7; Revised.

12. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective December 7, 1972.

Kansas City, Mo.—Kansas City International Airport; RNAV Runway 1, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 19, 1972.

JAMES F. RUDOLPH,
*Director,*
*Flight Standards Service.*

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-18297 Filed 10-27-72;8:45 am]

# Title 19—CUSTOMS DUTIES

## Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-299]

## PART 111—CUSTOMHOUSE BROKERS

### Retention of Records of Brokers and Use of Microfilm

On July 13, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 13717), which proposed to allow customhouse brokers to microfilm their records at any time after the entry to which the documents pertain has been liquidated and to set standards for such microfilming. It also proposed that hard-copy reproductions of any or all microfilmed records be made available, when required, at the expense of the customhouse brokers.

No comments were filed in response to the notice of proposed rule making.

A technical change has been made in paragraph (b)(5) of §111.23, changing "director, field audit" to "regional director, security and audit" to reflect a reorganization within the Bureau of Customs.

Accordingly, the amendment to § 111.23 of the Customs regulations is hereby adopted as set forth below.

*Effective date.* This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] LEONARD LEHMAN,
*Acting Commissioner of Customs.*

Approved: October 18, 1972.

EUGENE T. ROSSIDES
*Assistant Secretary of the Treasury.*

Section 111.23 is amended by revising paragraph (b) and adding a new paragraph (c), to read as follows:

**§ 111.23 Retention of books and papers.**

* * * * *

(b) *Microfilming of books and papers.* A broker, with the approval of the district director for the district in which he is licensed, may record on microfilm any books and papers, other than books of account or powers of attorney, required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these books and papers pertain has been liquidated, upon the following conditions:

(1) *Approval of microfilming.* The broker shall submit to the district director for the district in which he is licensed a request for approval to microfilm records containing the following certification:

This certifies that the records for which this approval is requested shall be microfilmed in accordance with the standards set forth in § 111.23(c) of the Customs Regulations (19 CFR 111.23(c)).

(2) *Retention of microfilm records.* The broker shall retain and keep available an original and one reproduction of each microfilm for the period specified by paragraph (a) of this section.

(3) *Use of microfilm records.* The reproduction copy of the original negative microfilm of books and papers may be used for reference purposes. However, the original negative microfilm shall not be used for reference purposes, and adequate measures shall be taken to keep the original negative clean and free from scratches.

(4) *Hard-copy reproductions.* Brokers microfilming their records shall use microfilm equipment having the capability of making direct hard-copy reproductions of the microfilmed records.

(5) *Expense of reproductions.* Brokers shall bear the expense of making hard-copy reproductions of any or all microfilmed records required by the regional director, security and audit, the special agent in charge, or other proper official of the Bureau of Customs for the audit or inspection of books and records.

(c) *Standards required for microfilming.* Brokers microfilming their records shall maintain the integrity of the original records by insuring that the microfilm copies are true reproductions of the original records and serve the purpose for which such records were created. The following shall be observed in any microfilming:

(1) Copies shall contain all significant record detail shown on the original.

(2) Copies of the records, on either roll microfilm or unit microfilm systems, shall be so arranged, identified, and indexed that any individual document or component of the records can be located with reasonable facility.

(3) Any indexes, registers or other finding aids shall be microfilmed at the beginning of the records to which they relate.

(R.S. 251, as amended; secs. 624, 641, 46 Stat. 759, as amended; 19 U.S.C. 66, 1624, 1641)

[FR Doc.72-18435 Filed 10-27-72;8:49 am]

# Title 31—MONEY AND FINANCE: TREASURY

## Chapter I—Monetary Offices, Department of the Treasury

## PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Pursuant to the authority vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512), approved October 20, 1972, the Department of the Treasury hereby adopts the following interim regulations in order to disburse entitlements to the States and units of local government for the entitlement period beginning January 1, 1972, and ending June 30, 1972. A new Part 51 is hereby established under Chapter I of Subtitle B in Title 31 of the Code of Federal Regulations.

Because the purpose of these regulations is to provide immediate guidance to the States and units of local government in order that the requirements of the Act be complied with, it is hereby found impracticable to issue such regulations with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

These regulations shall become effective when filed with the Office of the Federal Register. However, it is expected that permanent regulations will be issued in the near future, and for this reason written comments are solicited for consideration by the Department. Such comments may be submitted within 30 days after date of publication to the Honorable Samuel R. Pierce, Jr., General Counsel, Department of the Treasury, Washington, D.C. 20220.

In accordance with 31 CFR 1.4(h), comments submitted in response to this solicitation are available to the public upon request therefor, unless confidential status of the submission has been requested and approved.

GEORGE P. SHULTZ,
*Secretary of the Treasury.*

Subpart A—General Information



Subpart B—Written Communications



Subpart C—Computation and Adjustment of Entitlement



Subpart D—Prohibition and Restrictions on Use of Funds



Subpart E—Fiscal Procedures and Auditing



AUTHORITY: The provisions of this Part 51 are issued under the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512); and 5 U.S.C. 301.

## Subpart A—General Information

### § 51.1 Scope and application of regulations.

The rules and regulations in this part are prescribed for carrying into effect the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512), approved October 20, 1972, as applicable to the first entitlement period from January 1, 1972, through June 30, 1972.

### § 51.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the term is defined elsewhere in this part) the following definitions shall apply:

(a) "Act" means the State and Local Fiscal Assistance Act of 1972, Title I of Public Law 92-512, approved October 20, 1972.

(b) "Chief executive officer" of a unit of local government means the elected official who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality, the elected county executive of a county, or the chairman of a county commission or board in a county that has no elected county executive.

(c) "Entitlement" means the amount of payment to which a State government or unit of local government is entitled as determined by the Secretary pursuant to an allocation formula contained in the Act or established by regulation under this part.

(d) "Entitlement funds" means the amount of funds paid or payable to a State government or unit of local government for the entitlement period.

(e) "Entitlement period" means the calendar period beginning January 1, 1972, and ending June 30, 1972, unless another calendar period is designated.

(f) "Governor" means the Governor of any of the 50 States or the Commissioner of the District of Columbia.

(g) "Independent public accountants" means independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(h) "Indian tribes and Alaskan native villages" means those Indian tribes and Alaskan native villages which have a recognized governing body and which perform substantial governmental functions.

(i) "Recipient government" means a State government or unit of local government as defined in this section.

(j) "Secretary" means the Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

(k) "State government" means the government of any of the 50 States or the District of Columbia.

(l) "Unit of local government" means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government and which shall be determined on the basis of the same principles as used by the Bureau of the Census for general statistical purposes. The term "unit of local government" shall also include the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. The District of Columbia, in addition to being treated as a State, shall also be treated as a county area which has no units of local government (other than itself) within its geographic area.

### § 51.3 Procedure for effecting compliance.

If the Secretary determines that a recipient government has failed to comply substantially with any provision of this part, after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government, he shall notify the recipient government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for any subsequent entitlement period until such time as the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall make no further payments of such amounts. The procedure prescribed in this section shall not be used if another procedure is specified in another section of this part.

## Subpart B—Written Communications

### § 51.10 Reports to the Secretary; publication and publicity.

(a) *Reports for review and evaluation.* The Secretary may require each recipient government receiving entitlement funds to submit such annual and interim reports (other than those required by paragraph (b) of this section) as may be necessary to provide a basis for evaluation and review of compliance with and effectiveness of the provisions of the Act and regulations of this part.

(b) *Report on use of funds.* Each recipient government which receives funds pursuant to the Act for the entitlement period beginning January 1, 1972, and ending June 30, 1972, shall submit to the Secretary a report, on a form to be provided, of the amounts and purposes for which such funds have been spent, obligated, or appropriated. Such report shall be filed with the Secretary before March 1, 1974, and shall contain a certification by the Governor, or chief executive officer of the unit of local government, that no entitlement funds have been used in violation of the prohibition contained in § 51.30 against the use of entitlement funds for the purpose of obtaining matching Federal funds. If the report is made by a unit of local government it shall also contain a certification by the chief executive officer of the unit of local government that entitlement funds received by it have been used only for priority expenditures as prescribed by § 51.31.

(c) *Publication and publicity of reports.* Each recipient government shall before March 1, 1974, have published a copy of the report submitted by it under paragraph (b) of this section. Such publication shall be made in a newspaper which is published within the State and has general circulation within the geographic area of the recipient government involved. Each recipient government shall advise the news media of the publication of its report made pursuant to paragraph (b) of this section.

### § 51.11 Reports to the Bureau of the Census.

It shall be the obligation of each recipient government to comply promptly with requests by the Bureau of the Census (or by the Secretary) for data and information relevant to the determination of entitlement allocations. Failure of any recipient government to so comply may place in jeopardy the prompt receipt by it of entitlement funds.

## Subpart C—Computation and Adjustment of Entitlement

### § 51.20 Data.

(a) *In general.* The data used in determination of allocations and adjustments thereto payable under this part will be the latest and most complete data supplied by the Bureau of the Census or

such other sources of data as in the judgment of the Secretary will provide for equitable allocations.

(b) *Computation and payment of entitlements for the entitlement period January 1, 1972, through June 30, 1972.* (1) Allocations will not be made to any unit of local government if the available data is so inadequate as to frustrate the purpose of the Act. Such units of local government will receive an entitlement and payment when current and sufficient data become available as necessary to permit an equitable allocation.

(2) Payment to units of local government for which the Secretary has not received an address confirmation will be delayed until proper information is available to the Secretary.

(3) The factor "adjusted taxes" used in initial allocations for this entitlement period will be based on the statistical data contained in the 1967 Census of Government Reports conducted by the Bureau of the Census. The factor "adjusted taxes" shall be updated by the Special Revenue Sharing Survey conducted by the Bureau of the Census in 1972 and the entitlement for each unit of local government will be adjusted accordingly when such data becomes available to the Secretary.

(4) Where the Secretary determines that the data provided by the Bureau of the Census or the Department of Commerce are not current enough, or are not comprehensive enough, or are otherwise inadequate to provide for equitable allocations for the first entitlement period he may use other data, including estimates, in addition to those listed in subparagraph (3) of this paragraph. The Secretary's determination shall be final and such other additional data and estimates as are used, including the sources, shall be publicized by notice in the FEDERAL REGISTER.

### § 51.21 Adjusted taxes.

The "adjusted taxes," derived from the Special Revenue Sharing Survey conducted by the Bureau of the Census in 1972, for any unit of local government are the compulsory contributions exacted by such unit of government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purposes, adjusted by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to school facilities, debt service on school debt and other educational purposes.

### § 51.22 Date for determination of allocation.

(a) *In general.* Except as provided for in § 51.23, and subject to the provisions of § 51.20 (a) and (b) (3) and (4), the determination of the allocation and entitlement for the entitlement period shall be made as of December 31, 1971. The final date upon which determinations of allocations and entitlements, including adjustments thereto, may be made for the entitlement period shall be determined by the Secretary as soon as practicable after December 31, 1973, and shall be publicized by notice in the FEDERAL REGISTER.

(b) *Time limitation and minimum adjustment.* If prior to the date determined by the Secretary pursuant to subsection (a) of this section, it is established to the satisfaction of the Secretary by factual evidence and documentation that the data used in the computation of an allocation is erroneous and, if corrected, would result in an increase or decrease of an entitlement of $200 or more of entitlement funds, an adjustment will be made.

### § 51.23 Boundary changes, governmental reorganization, etc.

(a) *In general.* Boundary changes, governmental reorganizations, or changes in State statutes or constitutions occurring prior to or during the first entitlement period January 1, 1972, through June 30, 1972, which were not taken into account during the initial allocation shall, if not within the scope of paragraph (d) of this section, affect such allocation or payments in a manner consistent with the following provisions:

(1) A boundary change, governmental reorganization, or change in State statutes or constitution relevant to the computation of entitlement of a unit of local government under the Act, occurring prior to January 1, 1972, shall, if brought to the attention of the Bureau of the Census before June 30, 1973, result in an alteration to the entitlement of that unit.

(2) A boundary change, governmental reorganization, or change in State statutes or constitution relevant to the computation of entitlement of a unit of local government under the Act, occurring during the entitlement period January 1, 1972, through June 30, 1972, shall not result in a change to the entitlement of that unit until the next entitlement period beginning July 1, 1972. However, payment tendered to such unit for the entitlement period may be redistributed pursuant to the provisions of paragraphs (b) and (c) of this section.

(b) *New units of local government.* A unit of local government which came into existence during the entitlement period shall first be eligible for an entitlement allocation for the entitlement period beginning July 1, 1972. However, if such unit is a successor government, it shall be eligible to receive the entitlement payment of the unit or units of local government to which it succeeded in accordance with the conditions of the succession.

(c) *Dissolution of units of local government.* A unit of local government which dissolved, was absorbed, or ceased to exist as such during the first entitlement period is eligible to receive an entitlement payment prorated over the number of days in the first entitlement period for which it was in existence and eligible to receive such payment: *Provided,* That such unit is in the process of winding up its governmental affairs or otherwise has legal capacity to accept and use entitlement funds. Entitlement payments or portions thereof which are returned to the Secretary because of the cessation of existence of a unit of local government shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as they can be redistributed according to the conditions under which the unit of local government ceased to exist.

(d) *Limitations on adjustment for annexations.* (1) Annexations by units of local government having a population of less than 5,000 prior to such annexation shall not affect the entitlement of any unit of local government for this entitlement period unless the Secretary determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

(2) Annexations of areas with a population of less than 250, or less than 5 percent of the population of the gaining government, shall not affect the entitlement of any unit of local government for this entitlement period.

(e) *Certification.* Units of local government affected by a boundary change, governmental reorganization, or change in State statutes or constitution shall, before receiving an entitlement adjustment or payment redistribution pursuant to this section, obtain State certification that such change was accomplished in accordance with State law. The certifying official shall be designated by the Governor, and such certification shall be submitted to the Bureau of the Census.

### § 51.24 Waiver of entitlement; nondelivery of check; insufficient data.

(a) *Waiver.* Any unit of local government below the level of county government may waive its entitlement for the first entitlement period: *Provided,* The chief executive officer of such unit notifies the Secretary that the entitlement payment is being waived, and returns the entitlement payment to the Secretary prior to January 1, 1973. The amount of entitlement waived shall be added to, and shall become a part of, the entitlement for the first entitlement period of the county government of the county area in which the unit waiving entitlement is located. A waiver of entitlement by such unit of local government shall be deemed an irrevocable waiver for the first entitlement period.

(b) *Nondelivery.* Entitlement funds for the first entitlement period which are returned by the U.S. Postal Service to the Department of the Treasury as being nondeliverable because of incorrect address information, or which are unclaimed for any reason, shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

(c) *Insufficient data.* Entitlement funds for the first entitlement period which are withheld from payment because of insufficient data upon which to compute the entitlement or for which payment cannot be made for any other reason, shall remain in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

**§ 51.25 Reservation of funds and adjustment.**

(a) *Reservation of entitlement funds.* In order to make subsequent adjustments to the initial entitlement payment under this part which may be necessitated because of insufficient or erroneous data, or for any other reason, the Secretary shall reserve in the State and Local Government Fiscal Assistance Trust Fund such percentage of the total entitlement funds for the first entitlement period as in his judgment shall be necessary to insure that there will be sufficient funds available so that all recipient governments will receive their full entitlements. Those reserve funds will be distributed during subsequent entitlement periods to recipient governments with the final distribution occurring as promptly as possible after the close of the time for adjustments pursuant to § 51.22.

(b) *Adjustment to future entitlement payments.* Adjustment to the initial entitlement of a recipient government will ordinarily be effected through alteration to entitlement payments for future entitlement periods unless there is a downward adjustment which is so substantial as to make future payment alterations impracticable or impossible. In such case the Secretary may demand that the funds in excess of the initial entitlement included in the initial entitlement payment be repaid to the Secretary, and such funds shall be promptly repaid on demand.

## Subpart D—Prohibition and Restrictions on Use of Funds

**§ 51.30 Matching funds.**

(a) *In general.* No recipient government may use any part of its entitlement funds as a contribution in order to obtain any matching Federal funds under any Federal program. This prohibition on use of entitlement funds as matching funds applies to Federal programs where Federal funds are required to be matched by non-Federal funds and to Federal programs which allows matching from either Federal or non-Federal funds.

(b) *Determination by Secretary of the Treasury.* If the Secretary has reason to believe that a recipient government has used entitlement funds to match Federal funds in violation of the Act, the Secretary shall give such government notice and opportunity for hearing. If the Secretary determines that such government has, in fact, used funds in violation of the Act, he shall notify such government of his determination and shall request repayment to the United States of an amount equal to the funds so used. To the extent that such government fails to repay such amount, the Secretary shall withhold from subsequent entitlement payments to that government an amount of entitlement funds equal to the amount of funds that were disbursed in violation of the prohibition against the use of matching funds.

(c) *Increased State or local government revenues.* No recipient government shall be determined to have used entitlement funds in violation of paragraph (a) of this section with respect to any funds received for the first entitlement period January 1, 1972, through June 30, 1972, to the extent that the net revenues received by it from its own resources during such period exceed one-half the net revenues received by it from its sources during the 1-year period beginning July 1, 1971.

(d) *Use of entitlement funds to supplement Federal grant funds.* The prohibition on use of entitlement funds contained in paragraph (a) of this section does not prevent the use of entitlement funds to supplement other Federal grant funds. For example, if expenditures for a project exceed the amount available from non-Federal funds plus matched Federal funds, the recipient government may use entitlement funds to defray the excess costs: *Provided, however,* That the entitlement funds are not used to match other Federal funds; and: *Provided further,* That in the case of a unit of local government, the use of entitlement funds to supplement Federal grants is restricted to the category of priority expenditures as set forth in § 51.31.

**§ 51.31 Permissible expenditures.**

(a) *In general.* Entitlement funds received by units of local government may be used only for priority expenditures. As used in this part, the term "priority expenditures" means:

(1) Ordinary and necessary maintenance and operating expenses for—

(i) Public safety (including law enforcement, fire protection, and building code enforcement);

(ii) Environmental protection (including sewage disposal, sanitation, and pollution abatement);

(iii) Public transportation (including transit systems and streets and roads);

(iv) Health;

(v) Recreation;

(vi) Libraries;

(vii) Social services for the poor or aged; and

(viii) Financial administration, and

(2) Ordinary and necessary capital expenditures authorized by law.

No unit of local government may use entitlement funds for nonpriority expenditures which are defined as any expenditures other than those included in subparagraphs (1) and (2) of this paragraph. Pursuant to § 51.10(b), the chief executive officer of each unit of local government must certify to the Secretary that entitlement funds received by it have been used only for priority expenditures as required by the Act.

(b) *Effect of noncompliance.* In the case of a unit of local government which uses an amount of entitlement funds for other than priority expenditures as defined in paragraph (a) of this section, it will pay over to the Secretary (for deposit in the general fund of the Treasury) an amount equal to 110 percent of any amount expended in violation of paragraph (a) of this section, unless such amount of entitlement funds is promptly repaid to the trust fund of the local government after notice by the Secretary and opportunity for corrective action.

**§ 51.32 Discrimination.**

(a) *Discrimination prohibited.* No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with entitlement funds made available pursuant to subtitle A of Title I of the Act.

(b) *Procedure for effecting compliance.* (1) Whenever the Secretary determines that a recipient government has failed to comply with this section, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable time the Governor fails, or refuses to secure compliance, the Secretary is authorized (i) to refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (ii) to exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (iii) to take such other action as may be authorized by law.

(2) An order pursuant to Title VI of the Civil Rights Act of 1964 terminating or refusing to grant or continue entitlement payments shall become effective only after the procedures in subparagraph (1) of this paragraph have been complied with and:

(i) The Secretary has advised the recipient government of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(ii) There has been an express finding on the record, after opportunity for hearing, of a failure by the recipient government to comply with a requirement imposed by or under this part;

(iii) The action has been approved by the Secretary; and

(iv) The expiration of 30 days after the Secretary has filed with the Commitee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full written report of the circumstances and the grounds for such action; and

(v) The termination or refusal to grant or continue the payment of entitlement funds shall be limited to the particular recipient government as to whom a finding of noncompliance with this section has been made and shall be limited in its effect to the particular program or part thereof in which such noncompliance has been so found.

(3) No action to effect compliance with this section by any other means authorized by law shall be taken by the Department until:

(i) The Secretary has determined that compliance cannot be secured by voluntary means, and the recipient government has been notified of such determination; and

(ii) The expiration of at least 10 days from the mailing of such notice to the recipient government. During this period of at least 10 days, additional efforts may be made to persuade the recipient government to comply with this regulation and to take such corrective action as may be appropriate.

**§ 51.33 Wage rates and labor standards.**

(a) *Construction laborers and mechanics.* A recipient government which receives entitlement funds under the Act shall require that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, 25 percent or more of the costs of which project are paid out of its entitlement funds: (1) Will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a—276a–7); and, (2) will be covered by labor standards specified by the Secretary of Labor pursuant to 29 Code of Federal Regulations Subtitle A, Parts 1, 3, 5, and 7.

(b) *Government employees.* A recipient government which employs individuals whose wages are paid in whole or in part from entitlement funds must pay wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer. However, this subsection shall apply with respect to employees in any category only if 25 percent or more of the wages of all employees of the recipient government in such category are paid from the trust fund established by it under § 51.40(a).

**§ 51.34 Restriction on expenditures by Indian tribes and Alaskan native villages.**

Indian tribes and Alaskan native villages as defined in § 51.2 are required to expend entitlement funds only for the benefit of members of the tribe or village residing in the county area from which the allocation of entitlement funds was originally made.

## Subpart E—Fiscal Procedures and Auditing

**§ 51.40 Procedures applicable to the use of funds.**

A recipient government which receives entitlement funds under the Act shall:

(a) Establish a trust fund and deposit all entitlement funds received in that trust fund. The trust fund may be established on the books and records as a separate set of accounts and shall be accounted for in a manner customarily followed in accounting for trust or other segregated funds, or a separate bank account may be established.

(b) Use or appropriate such funds (including any interest earned thereon while in such trust fund) within 24 months from date of the check, unless permission is obtained from the Secretary for a longer period within which the funds may be utilized. Permission for an extension of time in which to utilize the funds must be obtained by application to the Secretary. Such application will set forth the facts and circumstances supporting the need for more time and the amount of additional time requested. The Secretary may grant such extensions of time as in his judgment appear necessary or appropriate.

(c) Provide for the expenditure of entitlement funds in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(d) Use the fiscal, accounting, and reporting procedures relative to entitlement funds as are used with respect to expenditures made from revenues derived from its own sources. The fiscal accounts shall be maintained in such manner as to permit the reports required by the Secretary to be prepared therefrom.

(e) Provide to the Secretary and to the Comptroller General of the United States, on reasonable notice, access to and the right to examine such books, documents, papers, or records as the Secretary may reasonably require for the purpose of reviewing compliance with the Act and the regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

**§ 51.41 Auditing and evaluation.**

(a) *Scope of audit.* The Secretary shall provide for such auditing, examination, evaluation, and review as may be necessary to insure that expenditures of entitlement funds by units of government comply with the requirements of the Act and regulations of this part. The scope of such review or examination shall include a review of the recipient government's accounting for entitlement funds with appropriate attention paid to verifying compliance with the requirements of the Act and regulations of this part.

(b) *Reliance on State, county, or municipal auditors.* The Secretary may rely on audits of entitlement funds by State, county, and municipal auditors and examiners, and independent public accountants when in his judgment this may reasonably be done consistent with the provisions of the Act and regulations of this part. Such audits shall be performed in accordance with generally accepted auditing standards. Audit workpapers will be retained for 3 years after the close of the first entitlement period unless released earlier by the Secretary. Audit workpapers will be made available to the Secretary and to the Comptroller General or to their representatives. Audit reports will be submitted to the Secretary by the Governor or chief executive officer when an audit report indicates a possible failure to comply substantially with any requirements of the Act or regulations of this part.

[FR Doc.72-18428 Filed 10-25-72;1:57 pm]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[FCC 72-943]

## PART 76—CABLE TELEVISION SERVICES

### Procedures for Filing of Applications

*Order.* In the matter of amendment of Part 76, Subpart B, of the Commission's rules and regulations concerning procedures in the Cable Television Service.

1. In paragraph 117, "Reconsideration of Cable Television Report and Order," FCC–72–530, 36 FCC 2d 326, 366, we stated that when there is a dispute as to whether the appropriate franchising authority is on the State or local level notice of filing of an application for a certificate of compliance should be served on all authorities that are claiming jurisdiction. In addition, in several States a State regulatory body has jurisdiction to confirm or deny franchises granted by local authorities, or otherwise regulate cable television. In either case, both the local and State authorities should be served with copies of the application for certificate of compliance. We have examined the Cable Television Rules and have concluded that certain editorial revisions are necessary to emphasize this procedural point.

2. First, we are amending the first part of § 76.13 (a)(7), (b)(7), and (c)(5), of the Commission's rules to insure that in cases where there are State and local authorities asserting jurisdiction over cable television, even where such jurisdiction is pendente lite, both are served with copies of the application for certificate of compliance.

3. Second, we are amending the second part of § 76.13 (a)(7), (b)(7), and

(c) (5) of the Commission's rules to make it clear that, unless either the State or local body makes a copy of the application for certificate of compliance available for public inspection in the community of the system, the applicant will provide for public inspection of the application in said community.

4. Since these amendments are interpretive or relate to Commission procedure, the prior notice provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. section 653, do not apply.

Authority for the rule amendments adopted herein is contained in sections 2, 3, 4 (i), and (j) of the Communications Act of 1934, as amended.

*Accordingly, it is ordered,* That effective October 31, 1972, Part 76 of the Commission's rules and regulations is amended as set forth below.

(Secs. 2, 3, 4, 48 Stat., as amended, 1064, 1065, 1066; 47 U.S.C. 152, 153, 154)

Adopted: October 18, 1972.

Released: October 24, 1972.

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

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

In § 76.13, paragraphs (a) (7), (b) (7), and (c) (5) are revised as follows:

**§ 76.13 Filing of applications.**

* * * * *

(a) * * *

(7) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * *

(b) * * *

(7) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * *

(c) * * *

(5) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * *

[FR Doc.72-18436 Filed 10-27-72;8:49 am]

# Title 49—TRANSPORTATION

## Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. 1098; Amdt. 1]

## PART 1033—CAR SERVICE

### Chicago and North Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of October 1972.

Upon further consideration of Service Order No. 1098 (37 F.R. 9633), and good cause appearing therefor:

*It is ordered,* That § 1033.1098 *Service Order No. 1098* (Chicago and North Western Railway Co. authorized to operate over tracks abandoned by the Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., October 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.72-18452 Filed 10-27-72;8:50 am]

# Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

## OPHTHALMIC PREPARATIONS

### Ophthalmic Ointments; Sterility Requirements

A notice was published in the FEDERAL REGISTER of December 8, 1971 (36 F.R. 23307), regarding a proposal to require sterility of all ophthalmic preparations.

The notice afforded interested persons an opportunity to submit written comments on the proposal. Nine comments were received. Seven of those responding were in favor of extending the sterility requirement to ophthalmic ointments. The other two respondents, representing veterinary drug interests, objected to the proposal.

One comment from a manufacturer of veterinary products objected on the grounds that, while high quality veterinary ophthamlic products are desirable, it would be financially impractical to install the necessary equipment to produce a sterile ointment, especially for the smaller manufacturer. The second objection was on procedural grounds; stating that the veterinary ophthalmic industry had not been adequately surveyed or informed regarding the sterility requirement for all ophthalmics.

The Commissioner of Food and Drugs believes that nonsterile ophthalmic preparations are a potentially serious health hazard and that these preparations, including those intended for use in the eyes of animals, should be sterile. The Commissioner finds that the intent of the proposal is clearly to include veterinary ophthalmics and therefore this order properly reflects the policy of the agency for both human and veterinary ophthalmic preparations.

A comment from the United States Pharmacopeia offered strong support for sterility of ophthalmics but indicated concern regarding the legal implications of requiring sterility of all ophthalmic ointment preparations since this was not a requirement for U.S.P. preparations. Since the proposal was published, representatives of the U.S.P. and the Food and Drug Administration have met and discussed the need for and the ways to achieve uniformity in sterility requirements. The U.S.P. has concluded that official U.S.P. ophthalmic ointment preparations can meet sterility requirements at this time. The Third Interim Revision Announcement has already been issued by the U.S.P. These revisions, which will

become effective June 1, 1973, require sterility for official U.S.C. ophthalmic ointment preparations and provide official test procedures.

The National Formulary commented that they had already taken steps to require sterility of official N.F. ophthalmic preparations. Supplements to the National Formulary XIII are now in effect which require sterility and provide testing procedures for all but two of official N.F. ophthalmic ointments. The National Formulary has advised the FDA that they anticipate sterility requirements and testing procedures for all official N.F. ophthalmic preparations before the effective date of this order. To preclude the possibility of conflicting effective dates, the order is revised to provide that non-antibiotic ophthalmic ointment preparations subject to an official compendium, shall become effective on the date specified by such compendium for adoption of sterility requirements for each official ophthalmic ointment preparation. Antibiotic ophthalmic ointments recognized in an official compendium are subject to the provisions of Federal regulations and the effective date for sterility requirements shall be the same as specified in this order.

Several comments requested additional time in order to make the changes necessary to produce sterile ophthalmic preparations. The Commissioner has considered these requests carefully and finds that such requests are reasonable in view of the complex nature of sterile production. Therefore, the order has been revised with an effective date 12 months after publication in the FEDERAL REGISTER except for compendium products, as described above. However, the Commissioner finds that a delayed effective date for the amendment to § 141.2 *Sterility test methods and procedures* (21 CFR 141.2) is not necessary since that section merely finalizes testing procedures already in use for certain antibiotics. Therefore, this order, as it pertains to § 141.2 shall be effective on date of publication in the FEDERAL REGISTER.

In order to assure sterility of antibiotics, the present antibiotic regulations (21 CFR 148.2(a)) require that containers be so sealed that the contents cannot be used without destroying the seal. The U.S.P. Third Interim Revision Announcement also provides that for ophthalmic ointments the immediate containers are sealed and tamper-proof so that sterility is assured at time of first use. Since it is a common practice of the trade to provide such seals for many articles which may otherwise be accidently broken or opened before use and since seals are a desirable feature from the standpoint of assuring sterility of the product, the requirement for a seal is being added to the order. Until such time as there exists technical capabilities and the widespread availability of tamper-proof seals that offer maximum protection, sealing may be accomplished by providing a seal over the individual container carton or by other suitable means.

Since the publication of the proposal, three antibiotic ointment preparations have been restricted to topical use. In the FEDERAL REGISTER of July 6, 1972 (37 F.R. 13253), the Commissioner announced his conclusions regarding bacitracin-neomycin ointment, zinc bacitracin-neomycin ointment and neomycin sulfate-gramicidin ointment after findings pursuant to the evaluation of reports from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (DESI 50417). Revisions included in this order reflect these findings.

After consideration of the comments, the Commissioner concludes that it is in the interest of public health to extend the sterility requirement to all human and veterinary ophthalmic ointments.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501 (b) and (c), 502, 507, 512, 701(a), 52 Stat. 1050–1051 as amended, 1055, 59 Stat. 463 as amended, 82 Stat. 350–51; 21 U.S.C. 351 (b) and (c), 352, 357, 360b, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 3, 141, 141a, 141c, 141d, 141e, 146a, 146c, 146d, 146e, 148e, 148i, 148n, and 148q are amended as follows:

## PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

1. Part 3 is amended in § 3.28 by revising the section heading and paragraph (a) to read as follows:

**§ 3.28 Ophthalmic preparations and dispensers.**

(a) (1) Informed medical opinion is in agreement that all preparations offered or intended for ophthalmic use, including contact lens solutions and preparations for cleansing the eyes, should be sterile. It is further evident that such preparations purport to be of such purity and quality as to be suitable for safe use in the eye.

(2) The Food and Drug Administration concludes that all such preparations, if they are not sterile, fall below their professed standard of purity or quality and may be unsafe. In a statement of policy issued on September 1, 1964, the Food and Drug Administration ruled that liquid preparations offered or intended for ophthalmic use that are not sterile may be regarded as adulterated within the meaning of section 501(c) of the Federal Food, Drug, and Cosmetic Act, and, further, may be deemed misbranded within the meaning of section 502(j) of the act. This ruling is extended to affect all preparations for ophthalmic use.

(3) The containers of ophthalmic preparations shall be sterile at the time of filling and closing, and the container or individual carton shall be so sealed that the contents cannot be used without destroying the seal. To provide time for validation of sterility tests and changes to sterile production procedures, this ruling will be effective for non-antitbiotic ophthalmic ointment preparations recognized in the official compendia (U.S.P. and N.F.) on the dates specified in such official compendia. For all other ophthalmic ointments, this ruling will be effective 12 months after the date of publication in the FEDERAL REGISTER (10–28–72).

* * * * *

## PART 141—TEST AND METHODS OF ASSAY OF ANTIBIOTIC-CONTAINING DRUGS

2. Part 141 is amended in § 141.2 *Sterility test methods and procedures* by redesignating paragraph (d) as paragraph (b) and revising it; redesignating paragraph (b) as paragraph (c) and adding five new subparagraphs; redesignating paragraph (c) as paragraph (d), revising the existing subparagraphs, and adding a new subparagraph (5); and paragraph (e) is amended by adding a new subparagraph (3) to read as follows:

**§ 141.2 Sterility test methods and procedures.**

* * * * *

(b) *Equipment and reagents*—(1) *Bacterial membrane filter.* The filter has a nominal porosity of 0.45 micron±0.02 micron, a diameter of approximately 47 millimeters, and a flowrate of 55 milliliters to 75 milliliters of distilled water passing each square centimeter of filter area per minute with a differential pressure of 70 centimeters of mercury at 25° C.

(2) *Penicillinase solutions.* When the amount of penicillinase to be used is specified in terms of Levy units, use a penicillinase solution standardized in terms of Levy units. One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

(c) *Culture media.* * * *

(9) *Medium I.* To each liter of Medium A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol.

(10) *Medium J.* To each liter of Medium E add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol.

(11) *Medium K. (Rinse medium).* Prepare as follows:

Peptic digest of animal tissue: 5.0 gm.
Beef extract: 3.0 gm.
*p-tert*-octylphenoxy polyethoxyethanol: 10.0 ml.
Distilled water, q.s.: 1,000.0 ml.
pH 6.9±0.2 after sterilization.

(12) *Medium L.* To each liter of Medium A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol and approximately 10,000 Levy units of penicillinase.

(13) *Medium M.* To each liter of Medium E add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol and approximately 10,000 Levy units of penicillinase.

(d) *Diluting fluids*—(1) *Diluting fluid A.* Dissolve 1 gram of U.S.P. peptic digest of animal tissue or equivalent in sufficient distilled water to make 1,000 milliliters. Dispense in flasks and sterilize as described in paragraph (c) of this section. Final pH=7.1±0.1.

(2) *Diluting fluid B.* To each liter of diluting fluid A add 5.0 milliliters of polysorbate 80 before sterilization.

(3) *Diluting fluid C.* To each liter of diluting fluid A add 0.5 gram of sodium thioglycollate, and adjust with NaOH so that after sterilization the final pH will be pH 6.6±0.6. Dispense in flasks and sterilize as described in paragraph (c) of this section.

(4) *Diluting fluid D.* To each liter of diluting fluid A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol. Dispense in flasks and sterilize as described in paragraph (c) of this section. Final pH=7.1±0.1.

(5) *Diluting fluid E.* Dispense 100-milliliter portions of isopropyl myristate into 250-milliliter flasks and sterilize by filtration through a 0.22 micron membrane filter and aseptically dispense into sterile 250-milliliter flasks.

(e) * * *

(3) *Bacterial membrane filter method for ophthalmic ointments*—(i) *Ointments that do not contain penicillin.* From each of 10 immediate containers aseptically transfer 0.1 gram of the product into a sterile 250-milliliter flask containing 100 milliliters of diluting fluid E which has previously been heated to a temperature of 47° C. Repeat the process, using 10 additional containers. Swirl both of the flasks to dissolve the ointment. Immediately aseptically filter each solution through a separate bacteriological membrane filter previously moistened with approximately 0.2 milliliter of medium K. Filter all air entering the system through air filters capable of removing microorganisms. Remove any residual antibiotic from the membranes by rinsing each filter five times with 100 milliliters of medium K. The membranes should be covered with fluid throughout each step of the filtration procedure until the end of the last filtering step. By means of a sterile circular blade, paper punch, or other suitable sterile device, cut a circular portion (approximately 17.5 millimeters in diameter) from the center of the filtering area of each membrane. Transfer the center portion of the filtering area of each filter to a sterile test tube 38 millimeters x 200 millimeters (outside dimensions) containing 90 milliliters±10 milliliters of sterile medium I. Incubate the tube for 7 days at 30° C. to 32° C. Using sterile forceps transfer the outer portion of each filter to a similar test tube containing 90 milliliters±10 milliliters of sterile medium J. Incubate this tube for 7 days at 22° C. to 25° C.

(ii) *Ointments containing penicillin.* Proceed as directed in subdivision (i) of this subparagraph, except in lieu of sterile medium I use sterile medium L for the center portion of the filtering area of each filter and in lieu of sterile medium J use sterile medium M for the remaining outer portion of each filter.

## PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

3. Part 141a is amended in § 141a.8 by adding a new paragraph (c) to read as follows:

**§ 141a.8 Penicillin ointment, veterinary.**

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

## PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE-(OR TETRACYCLINE-)CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

4. Part 141c is amended in § 141c.202 by adding a new paragraph (c) to read as follows:

**§ 141c.202 Chlortetracycline hydrochloride ointment, chlortetracycline calcium ointment, chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).**

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

## PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

5. Part 141d is amended:

A. By revising § 141d.303 to read as follows:

**§ 141d.303 Chloramphenicol ointment.**

(a) *Potency.* Proceed as directed in § 141d.301(a), excluding § 141d.301(a) (9) and (10), and in lieu of the directions in § 141d.301(a)(4) prepare the sample by one of the following methods:

(1) Place an accurately weighed representative sample (usually 1.0 gram of the ointment) in a blending jar containing 1 milliliter of a 10 percent aqueous solution of polysorbate 80 and sufficient 1-percent phosphate buffer at pH 6.0 to make 100 milliliters. Using a high-speed blender, blend the mixture for 2 minutes and make the proper estimated dilutions in 1 percent phosphate buffer at pH 6.0.

(2) Place a representative sample (0.5 gram) in a separatory funnel containing 10 milliliters of petroleum ether. Shake the separatory funnel vigorously to bring about complete mixing of the ointment and ether. Shake with a 15-milliliter portion of 1 percent phosphate buffer at pH 6.0. Remove the buffer layer and repeat the extraction with two additional 15-milliliter portions of buffer. Combine the extractives and dilute to 50 milliliters with 1 percent phosphate buffer. Make the proper estimated dilutions in 1 percent phosphate buffer at pH 6.0.

The potency of chloramphenicol ointment is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

B. By revising § 141d.313 to read as follows:

**§ 141d.313 Chloramphenicol-polymyxin ointment.**

(a) *Potency*—(1) *Chloramphenicol content.* Proceed as directed in § 141d.303. Its chloramphenicol content is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(2) *Polymyxin content.* Proceed as directed in § 141b.112(b)(1) of this chapter, except in lieu of the directions in § 141b.112(b)(1)(vii) of this chapter for the preparation of the sample, prepare the sample as follows: Place an accurately weighed sample (usually approximately 1.0 gram) in a separatory funnel containing approximately 50 milliliters of peroxide-free ether, and shake the sample and ether until homogeneous. Add 25 milliliters of 10-percent potassium phosphate buffer, pH 6.0 and shake. Remove the buffer layer and repeat the extraction with three additional 25-milliliter portions of buffer. Combine the extractives and make the proper estimated dilutions, using the buffer solution, except that, if the sample contains a water-soluble base, place an accurately weighed representative sample in a blending jar containing 1.0 milliliter of polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0, to give a final volume of 200 milliliters. Using a high-speed blender, blend the mixture for 2 minutes to 3 minutes and then make the proper estimated dilutions with 10 percent phosphate buffer pH 6.0. Its content of polymyxin is satisfactory if it contains not less than 85 percent of the number of units per gram that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

## PART 141e—BACITRACIN AND BACITRACIN CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

6. Part 141e is amended:

A. In § 141e.402 by adding a new paragraph (c) to read as follows:

**§ 141e.402 Bacitracin ointment; zinc bacitracin ointment.**

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as

directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

B. In § 141e.409 by adding a new paragraph (c) to read as follows:

**§ 141e.409 Bacitracin-polymyxin ointment; zinc bacitracin-polymyxin ointment.**

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

C. In § 141e.422 by adding a new paragraph (c) to read as follows:

**§ 141e.422 Bacitracin-polymyxin-neomycin ointment.**

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

D. In § 141e.433 by revising paragraph (b) to read as follows:

**§ 141e.433 Sterile bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; sterile bacitracin-neomycin sulfate-polymyxin B sulfate-hydrocortisone acetate ophthalmic ointment.**

* * * * *

(b) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

* * * * *

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## PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

7. Part 146a is amended in § 146a.26 by revising paragraphs (a) and (d) to read as follows:

**§ 146a.26 Penicillin ointment, veterinary.**

(a) *Standards of identity, strength, quality, and purity.* Penicillin ointment, veterinary, is calcium penicillin, crystalline penicillin, procaine penicillin, or *l*-ephenemine penicillin G in a suitable and harmless ointment base, with or without a suitable anesthetic. If it is intended solely for topical veterinary use and not for udder instillation in dairy animals and is conspicuously so labeled, it may contain nitrofurazone. If it is intended for ophthalmic use, it contains crystalline penicillin G and it is sterile. Its moisture content is not more than 1.0 percent. Its potency is not less than 250 units per gram. The calcium penicillin or crystalline penicillin used conforms to the requirements of § 146a.24(a) except the limitation on penicillin K content and except § 146a.24 (a)(1), (2), (3), and (4), but its potency is not less than 300 units per milligram. The crystalline penicillin G used in making penicillin ophthalmic ointment conforms to the requirements of § 146a.24(a) except the limitation on penicillin K content and except § 146a.24(a)(4). The procaine penicillin used conforms to the requirements of § 146a.44(a) except § 146a.44(a) (2), (3), and (4). The *l*-ephenamine penicillin G used conforms to the requirements of § 146a.64(a) except § 146a.64(a) (2), (3), and (4). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

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

(1) Results of tests and assays on:

(i) The penicillin used in making the batch for potency, moisture, pH, for crystallinity if it is a crystalline salt of penicillin, for heat stability if it is crystalline penicillin or *l*-ephenamine penicillin G, for the penicillin G content if it is penicillin G, for the specific rotation if it is *l*-ephenamine penicillin G, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if the ointment is intended for ophthalmic use.

(2) Samples required:

(i) The penicillin used in making the batch: Five packages, or in the case of crystalline penicillin, 10 packages, each containing approximately 60 milligrams if it is not procaine penicillin, and approximately 300 milligrams if it is procaine penicillin, packaged in accordance with the requirements of § 146a.24(b) or § 146a.44(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of five immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

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## PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

8. Part 146c is amended in § 146c.202 by revising paragraphs (a) and (d) to read as follows:

**§ 146c.202 Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).**

(a) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride ointment, tetracycline hydrochloride ointment, and tetracycline ointment are crystalline chlortetracycline hydrochloride, chlortetracycline calcium, tetracycline hydrochloride, or tetracycline, in a suitable and harmless ointment base. It may contain a suitable local anesthetic, cortisone, hydrocortisone, or a suitable ester of cortisone or hydrocortisone, and one or more suitable and harmless preservatives and stabilizing agents. If it is intended for ophthalmic use, it contains chlortetracycline hydrochloride or tetracycline hydrochloride and it is sterile. Its moisture content is not more than 1 percent if it is chlortetracycline hydrochloride or tetracycline hydrochloride ointment. Its potency is not less than 1 milligram per gram. The chlortetracycline hydrochloride used in making the chlortetracycline hydrochloride ointment and in preparing the chlortetracycline calcium used in making the chlortetracycline calcium ointment conforms to the requirements of § 146c.201(a) except § 146c.201(a) (1), (2), (3), (4), and (5) but its potency is not less than 750 micrograms per milligram. The chlortetracycline hydrochloride used in making the chlortetracycline hydrochloride ophthalmic ointment conforms to the requirements of § 146c.201 (a) except § 146c.201(a) (4) and (5). The tetracycline hydrochloride used conforms to the requirements of § 146c.218 (a) except § 146c.218(a) (2), (3), (4), and (5). The tetracycline hydrochloride used in making the tetracycline hydrochloride ophthalmic ointment conforms to the requirements of § 146c.218(a) except § 146c.218(a) (4) and (5). The tetracycline used conforms to the requirements of § 146c.220(a). Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

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

(1) Results of tests and assays on:

(i) The chlortetracycline hydrochloride or tetracycline hydrochloride or tetracycline used in making the batch for potency, moisture, pH, and crystallinity, and for absorptivity if it is tetracycline hydrochloride or tetracycline, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if it is intended for ophthalmic use.

(2) Samples required:

(i) The chlortetracycline or tetracycline hydrochloride or tetracycline used in making the batch: 10 packages, each containing approximately 60 milligrams, packaged in accordance with the requirements of § 146c.201(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of 5 immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

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## PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

9. Part 146d is amended in § 146d.303 by revising paragraphs (a) and (d) to read as follows:

**§ 146d.303 Chloramphenicol ointment (chloramphenicol cream).**

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol ointment is chloramphenicol in a suitable and harmless ointment base, with or without suitable and harmless buffer substances, dispersing and suspending agents. It may contain cortisone or a suitable derivative of cortisone. If such base is water-miscible, it shall contain a suitable and harmless preservative. Its potency is not less than 1.0 milligram per gram. If it is intended for ophthalmic use, it is sterile. The chloramphenicol used conforms to the requirements of § 146d.301(a) except § 146d.301(a) (2), (3), (4), and (5) of that paragraph. The chloramphenicol used in making the chloramphenicol ophthalmic ointment conforms to the requirements of § 146d.301(a) except § 146d.301(a) (4) and (5). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

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

(1) Results of tests and assays on:

(i) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting point, and absorptivity, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and for sterility if the ointment is intended for ophthalmic use.

(2) Samples required:

(i) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams, packaged in accordance with the requirements of § 146d.301(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of 5 immediate containers if it is packaged in immediate containers of tin or glass; a minimum of 20 immediate containers if it is packaged in immediate containers other than tin or glass.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

## PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

10. Part 146e is amended in § 146e.402 by revising paragraphs (a) and (d) to read as follows:

**§ 146e.402 Bacitracin ointment; zinc bacitracin ointment.**

(a) *Standards of identity, strength, quality, and purity.* Bacitracin ointment and zinc bacitracin ointment are composed of bacitracin or zinc bacitracin in a suitable and harmless ointment base, or they are a powder composed of bacitracin or zinc bacitracin and one or more suitable and harmless diluents, dispersing agents, and preservatives which upon the addition of the quantity of water recommended in its labeling, produces an ointment. It may contain a suitable local anesthetic, cortisone, or a suitable derivative of cortisone, one or more suitable sulfonamides, one or more suitable proteolytic enzymes, and, if it is intended solely for veterinary use and is conspicuously so labeled, one or more suitable antifungal agents or rotenone. Its potency is not less than 500 units per gram. If it is intended for ophthalmic use, it is sterile. Its moisture content is not more than 1 percent, except if it is a powder its moisture content is not more than 5 percent. The zinc bacitracin used conforms to the standards prescribed therefor by § 146e.418(a) except § 146e.401(a) (2). The bacitracin used conforms to the standards prescribed therefor by § 146e.401(a) except § 146e.401(a) (2), (3), (4), and (8). The bacitracin used in making the bacitracin ophthalmic ointment conforms to the requirements of § 146e.401 (a) except § 146e.401(a) (4) and (8). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

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

(1) Results of tests and assays on:

(i) The bacitracin or zinc bacitracin used in making the batch for potency, moisture, and pH, and for ash content if it is bacitracin or for zinc content if it is zinc bacitracin, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if it is intended for ophthalmic use.

(2) Samples required:

(i) The bacitracin used in making the batch: Six packages, each containing approximately 500 milligrams, packaged in accordance with the requirements of § 146e.401(b).

(ii) The zinc bacitracin used in making the batch: Five packages, each containing approximately 1 gram, packaged in accordance with the requirements of § 146e.408(b).

(iii) The batch:

(*a*) For all tests except sterility: A minimum of five immediate containers.

(*b*) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

## PART 148e—ERYTHROMYCIN

11. Part 148e is amended:

**§ 148e.16 [Reserved]**

A. By revoking § 148e.16 *Erythromycin-polymyxin B sulfate ophthalmic ointment* and reserving it for future use.

B. In § 148e.31 *Erythromycin ophthalmic ointment:*

a. By inserting the following new sentence between the third and fourth sentences in paragraph (a)(1): "It is sterile."

b. By revising paragraphs (a) (3) (i) (*b*) and (ii) (*b*); and by redesignating paragraph (b) (2) as (3) and inserting a new subparagraph (2) as follows:

**§ 148e.31 Erythromycin ophthalmic ointment.**

(a) * * *

(3) * * *

(i) * * *

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

(ii) * * *

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.

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

## PART 148i—NEOMYCIN SULFATE

12. Part 148i is amended:

A. In § 148i.3 *Neomycin sulfate ointment; neomycin sulfate-_____ ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section):*

a. By inserting the sentence, "If it is intended for ophthalmic use, it is sterile." in the closing text in paragraph (a)(1) immediately after the sentence which reads, "If it is an oleaginous base, its moisture content is not more than 1 percent."

b. By revising paragraph (a)(3) (i) (*b*) and (ii) (*b*); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) as follows:

**§ 148i.3 Neomycin sulfate ointment; neomycin sulfate-_____ ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).**

(a) * * *

(3) * * *

(i) * * *

(*b*) The batch for potency and for moisture if the ointment base is oleaginous and for sterility if the ointment is intended for ophthalmic use.

(ii) * * *

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(2) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method as described in paragraph (e) (3) of that section.

(3) *Moisture.* If the ointment has an oleaginous base, proceed as directed in § 141.502 of this chapter.

B. In § 148i.26 *Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment:*

a. By inserting the following sentence between the third and fourth sentences in paragraph (a)(1): "If it is intended for ophthalmic use, it is sterile."

b. By revising paragraph (a)(3)(i)(*c*) and (ii)(*c*); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) to read as follows:

**§ 148i.26 Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment.**

(a) * * *
(3) * * *
(i) * * *

(*c*) The batch for neomycin content, gramicidin content, and moisture, and for sterility if it is intended for ophthalmic use.

(ii) * * *

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of six immediate containers.

(*2*) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(2) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

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

## PART 148n—OXYTETRACYCLINE

13. Part 148n is amended:

A. In § 148n.18 *Oxytetracycline hydrochloride ophthalmic ointment:*

a. By inserting the following sentence between the second and third sentences in paragraph (a)(1): "It is sterile."

b. By revising paragraphs (a)(3)(i)(*b*) and (ii)(*b*); and in paragraph (b) by redesignating subparagraph (2) as (3) and by inserting a new subparagraph (2) to read as follows:

**§ 148n.18 Oxytetracycline hydrochloride ophthalmic ointment.**

(a) * * *
(3) * * *
(i) * * *

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

(ii) * * *

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.

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

B. In § 148n.21 *Oxytetracycline hydrochloride-polymyxin B sulfate eye and ear ointment:*

a. By inserting the following new sentence between the second and third sentences: "It is sterile."

b. By revising paragraph (a)(3)(i)(*c*) and (ii)(*c*); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) to read as follows:

**§ 148n.21 Oxytetracycline hydrochloride-polymyxin B sulfate eye and ear ointment.**

(a) * * *
(3) * * *
(i) * * *

(*c*) The batch for oxytetracycline content, polymyxin B content, sterility, and moisture.

(ii) * * *

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of six immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(1) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.

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

## PART 148q—GENTAMICIN

14. Part 148q is amended in § 148q.6 *Gentamicin sulfate ophthalmic ointment:*

A. By inserting the following sentence between the second and third sentences in paragraph (a)(1): "It is sterile."

B. By revising paragraph (a)(3)(i)(*b*) and (ii)(*b*); and in paragraph (b) by redesignating subparagraph (2) as (3), subparagraph (3) as (4), and inserting a new subparagraph (2) to read as follows:

**§ 148q.6 Gentamicin sulfate ophthalmic ointment.**

(a) * * *
(3) * * *
(i) * * *

(*b*) The batch for gentamicin potency, sterility, moisture, and particulate contamination.

(ii) * * *

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.

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

(4) *Particulate contamination.* Proceed as directed in § 141.508 of this chapter.

*Effective date.* This order as it applies to 21 CFR 141.1 *Sterility test methods and procedures,* shall become effective upon publication in the FEDERAL REGISTER (10–28–72). For those nonantibiotic ophthalmic ointment preparations subject to an official compendium, this order shall become effective on the date specified in such official compendium for adoption of sterility requirements. For all other nonantibiotic and antibiotic ophthalmic ointment preparations, this order shall become effective 12 months after its date of publication in the FEDERAL REGISTER.

(Secs. 501 (b) and (c), 502, 507, 512, 701(a), 52 Stat. 1050–1051 as amended, 1055, 59 Stat. 463 as amended, 82 Stat. 350–351; 21 U.S.C. 351(b) and (c), 352, 357, 360b, 371(a))

Dated: October 24, 1972.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.72-18420 Filed 10-27-72;8:47 am]

## PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

### Neomycin Sulfate, Prednisolone Acetate, Tetracaine Hydrochloride Eardrops, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (11–703V) filed by the Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of eardrops containing neomycin sulfate and other drugs for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

**§ 135a.32 Neomycin sulfate, prednisolone acetate, tetracaine hydrochloride eardrops, veterinary.**

(a) *Specifications.* The product contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, 2.5 milligrams of prednisolone acetate, and 5 milligrams of tetracaine hydrochloride in each milliliter of sterile suspension.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is useful in treating such conditions as acute otitis externa and, to a lesser degree, chronic otitis externa in dogs and cats. It is indicated as treatment or adjunctive

therapy of certain ear conditions in dogs and cats caused by or associated with neomycin-susceptible organisms and/or allergy. In otitis externa, 2 to 6 drops may be placed in the external ear canal two or three times daily.

(2) Incomplete response or exacerbation of corticosteroid responsive lesions may be due to the presence of nonsusceptible organisms or to prolonged use of antibiotic-containing preparations resulting in overgrowth of nonsusceptible organisms, particularly Monilia. Thus, if improvement is not noted within 2 or 3 days, or if redness, irritation, or swelling persists or increases, the diagnosis should be redetermined and appropriate therapeutic measures initiated. Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy. If such signs are noted, therapy should be stopped.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.* This order shall be effective upon publication in the FEDERAL REGISTER (10–28–72).

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

Dated: October 13, 1972.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.72–18419 Filed 10–27–72;8:47 am]

## PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

### Topical Ointment

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (30–025V) filed by the Upjohn Co., Kalamazoo, Mich. 49001, proposing revised labeling for the safe and effective use of a topical ointment containing neomycin sulfate and other drugs for use in the treatment of dogs, cats, and horses. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

**§ 135a.34 Neomycin sulfate, 9-fluoroprednisolone acetate, tetracaine hydrochloride ointment, veterinary.**

(a) *Specifications.* The drug contains 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams of neomycin base), 1 milligram of 9-fluoroprednisolone acetate, and 5 milligrams of tetracaine hydrochloride in each gram of ointment.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in treating such conditions as acute otitis externa in dogs and to a lesser degree, chronic otitis externa in dogs. It also is effective in treating anal gland infections and moist dermatitis in the dog and is a useful dressing for minor cuts, lacerations, abrasions, and post-surgical therapy in the horse, cat, and dog. It may also be used following amputation of dewclaws, tails and claws, following ear trimming and castrating operations.

(2) In treatment of otitis externa and other inflammatory conditions of the external ear canal, a quantity of ointment sufficient to fill the external ear canal may be applied one to three times daily. When used on the skin or mucous membranes, the affected area should be cleansed, and a small amount of the ointment applied and spread or rubbed in gently. The involved area may be treated one to three times a day and these daily applications continued in accordance with the clinical response.

(3) Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy to the drug. If such signs are noted, therapy with the drug should be stopped. Treatment should be limited to the period when local anesthesia is essential to control self-inflicted trauma.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.* This order shall be effective upon publication in the FEDERAL REGISTER (10–28–72).

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

Dated: October 18, 1972.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.72–18393 Filed 10–27–72;8:46 am]

## PART 273—BIOLOGICAL PRODUCTS

### Neurovirulence Safety Tests for Live Measles, Mumps, and Rubella Vaccines

A notice of proposed rule making regarding amendments to the regulations was published in the FEDERAL REGISTER of February 24, 1972 (37 F.R. 3916–3918), by the Director, National Institutes of Health as proposed amendments to Part 73 of the Public Health Service regulations (42 CFR Part 73). On July 1, 1972, the Division of Biologics Standards, National Institutes of Health, which had been charged with administering and enforcing section 351 of the Public Health Service Act and Part 73 of the Public Health Service regulations, was transferred to the Food and Drug Administration and is now redesignated as the Bureau of Biologics (FEDERAL REGISTER of June 29, 1972, and July 13, 1972; 37 F.R. 12865 and 37 F.R. 13724). On August 9, 1972, a notice appeared in the FEDERAL REGISTER (37 F.R. 15993) transferring Part 73 of the Public Health Service regulations (42 CFR Part 73) to a newly established Part 273 of the Food and Drug regulations (21 CFR Part 273). The codification of these regulations therefore reflect this transfer to Title 21 of the Code of Federal Regulations.

Interested persons were invited to submit comments on the proposal within 30 days. Comments from three different firms, namely Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486, Eli Lilly and Co., Greenfield Laboratories, Box 708, Greenfield, IN 46140, and Lederle Laboratories, Division of American Cyanamid Co., Pearl River, N.Y. 10965, were received.

While one comment indicated that the proposed regulations represented an improvement over the present regulations the other comments were related to specific provisions of the proposal.

1. A comment was received indicating concern as to the interpretation of the phrase "without significant weight loss" which appears in §§ 73.1060(c)(1)(v), 73.1100(c)(1)(iv), and 73.1120(e)(1)(iv). To avoid possible confusion this phrase has been changed to read "without losing more than 25 percent of their weight". Another comment indicating uncertainty with respect to interpretation of § 73.1060(c)(1)(v) was received, on the basis of which it was concluded that each of the sections (§§ 73.1060(c)(1)(v), 73.1100(c)(1)(iv), and 73.1120(e)(1)(iv)) should be clarified to reflect that the 80 percent of animals required to show the inoculation trauma should be those animals that have survived the first 48 hours of the test period and the replacements added at the 48-hour interval but not those monkeys that do not survive the first 48 hours after injection. It was not the intent to require that the animals dying within 48 hours be examined for inoculation trauma and appropriate changes have been made to clearly indicate that only 80 percent of the injected animals surviving beyond the first 48 hours must show the inoculation trauma.

2. A comment was received suggesting the use of the word "nerve" rather than "nervous" in the expression "recovering from the nervous tissues previously removed from the animal" appearing in §§ 73.1060(c)(1)(vii)(b), 73.1100(c)(1)(vi)(b), and 73.1120(e)(1)(vi)(b). The use of the word "nervous" is correct since "nerve" would imply the nerve tissue outside the central nervous system. To help clarify this phrase it has been changed to read "nervous system tissues".

3. A comment was received regarding § 73.1060(c)(3)(i), asking if 80 percent of the monkeys should show measles antibody titers of 1:4 or greater as an initial or a final dilution. To avoid confusion this requirement has been changed to reflect that the serum as obtained from the monkey must show a titer of 1:4 or greater. Furthermore, another comment was received concerning the significance of serological antibody conversion in monkeys which have been cortisone treated and have also received such a large dose of antigen. Since the cortisone dose is relatively small no interference with serologic conversion is to be expected.

4. A comment was received suggesting that the word "fail" in the last sentence of §§ 73.1100(c)(1)(iv) and 73.1120(e)

(1)(iv) be deleted so that the sentence would then read like the similar paragraph in the standards for Measles Virus Vaccine. Such a suggestion was adopted since the intent of these three sections is the same.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 2.120), 21 CFR Part 273, formerly 42 CFR Part 73, is amended as follows:

1. Section 273.1060 is amended by revising paragraph (c) to read as follows:

§ 273.1060 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated measles virus used in manufacture of measles virus vaccine. For this purpose, vaccine from each of the five-consecutive lots (§ 273.1065) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in the following manner:

(i) Samples of each of the five lots of vaccine shall be tested in measles susceptible monkeys. Immediately prior to initiation of a test each monkey shall have been shown to be serologically negative for neutralizing antibodies by means of a tissue culture neutralization test with undiluted serum from each monkey tested at approximately 100 $TCID_{50}$ of Edmonston strain measles virus, or negative for measles virus antibodies as demonstrated by tests of equal sensitivity.

(ii) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(iii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumber spinal cord enlargement.

(iv) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(v) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iv) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(vi) At the end of the observation period, each surviving monkey shall (*a*) be bled and the serum tested for evidence of serum antibody conversion to measles virus and (*b*) be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vii) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vii) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous systems tissues previously removed from the animal.

(viii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Wild virus controls.* As a check against the inadvertent introduction of wild measles virus, at least four uninoculated measles susceptible control monkeys shall be maintained as either cage mates to, or within the same immediate area of, the 20 inoculated test animals for each lot of vaccine for the entire period of observation (17–21 days) and an additional 10 days. Serum samples from these control contact monkeys drawn at the time of seed virus inoculation of the test animals, and again after completion of the test, shall be shown to be free of measles neutralizing antibodies.

(3) *Test results.* (i) For each lot of vaccine under test, at least 80 percent of the monkeys must show measles antibody serological conversion (1:4 or greater) when the serum as obtained from the monkey is tested and the control contact monkeys must demonstrate no immunological response indicative of measles virus infection.

(ii) The measles virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (*a*) 90 percent of the monkeys survive the observation period, (*b*) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus, and (*c*) there is no evidence of the presence of extraneous neurotropic agents.

(4) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1061 (a), (b), and (c).

§ 273.1062 [Amended]

2. Section 273.1062 is amended by deleting paragraph (d).

3. Section 273.1100 is amended by revising paragraph (c) to read as follows:

§ 273.1100 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated mumps virus used in the manufacture of mumps vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 273.1105) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for mumps virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of

inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous system tissues previously removed from the animals.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The mumps virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1101(a).

§ 273.1102 [Amended]

4. Section 273.1102 is amended by deleting paragraph (c).

5. Section 273.1120 is amended by revising paragraph (e) to read as follows:

§ 273.1120 **The product.**

* * * * *

(e) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated rubella virus used in the manufacture of rubella vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 273.1125) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for rubella virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous system tissues previously removed from the animal.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The rubella virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots: (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1121(a), (b), (c), and (c–1).

§ 273.1122 [Amended]

6. Section 273.1122 is amended by deleting paragraph (d).

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

*Effective date.* These standards shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: October 19, 1972.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.72-18421 Filed 10-27-72;8:47 am]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

### Monetary Offices

### [ 31 CFR Part 103 ]

### CURRENCY AND FOREIGN TRANSACTIONS

### Financial Recordkeeping and Reporting

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority vested in the Secretary of the Treasury by titles I and II of Public Law 91-508 (84 Stat. 1114 et seq.), the Secretary is considering the following amendments to 31 CFR Part 103, 37 F.R. 6912 (1972), set forth in tentative form below. Any person who wishes to submit views or objections pertaining to the proposed amendments may do so in writing within 30 days following publication of this notice in the FEDERAL REGISTER. All comments submitted pursuant to this notice will be open to public inspection unless otherwise requested. Comments should be submitted in duplicate and should be addressed to the Honorable Samuel R. Pierce, Jr., General Counsel, Treasury Department, Washington, D.C. 20220.

[SEAL] SAMUEL R. PIERCE, Jr.,
*General Counsel.*

EUGENE T. ROSSIDES,
*Assistant Secretary.*

Part 103 of Title 31 of the Code of Federal Regulations is amended as follows:

Subpart A is amended by deleting from § 103.11 subparagraph (5) of the definition of a financial institution, renumbering the following subparagraph so that the definition of financial institutions will read as follows:

**§ 103.11 Meaning of terms.**

* * * * *

*Financial institution.* Each agency, branch, or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A bank;

(2) A broker or dealer in securities;

(3) A person who engages as a business in dealing in or exchanging currency as, for example, a dealer in foreign exchange or a person engaged primarily in the cashing of checks;

(4) A person who engages as a business in the issuing, selling, or redeeming of travelers' checks, money orders, or similar instruments, except one who does so as a selling agent exclusively or as an incidental part of another business;

(5) A licensed transmitter of funds, or other person engaged in the business of transmitting funds abroad for others.

* * * * *

Subpart C is amended by amending § 103.34 to read as follows:

**§ 103.34 Additional records to be made and retained by banks.**

(a) With respect to each deposit or share account opened with a bank after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such bank shall secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more individuals, such bank shall secure and maintain a record of the social security number of an individual having a financial interest in that account.

(b) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature authority over each deposit or share account;

(2) Each statement, ledger card, or other record on each deposit or share account, showing each transaction in, or with respect to, that account;

(3) Each check, clean draft, or money order drawn on the bank or issued and payable by it, except those drawn for $100 or less or those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are (i) dividend checks, (ii) payroll checks, (iii) employee benefit checks, (iv) insurance claim checks, (v) medical benefit checks, (vi) checks drawn on governmental agency accounts, (vii) checks drawn by brokers or dealers in securities, (viii) checks drawn on fiduciary accounts, (ix) checks drawn on other financial institutions, or (x) pension or annuity checks;

(4) Each item in excess of $100 (other than bank charges or periodic charges made pursuant to agreement with the customer), comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under paragraph (b)(3) of this section;

(5) Each item, including checks, drafts, or transfers of credit, of more than $10,000 remitted or transferred to a person, account or place outside the United States;

(6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account, or place outside the United States;

(7) Each check or draft in an amount in excess of $10,000 drawn on or issued by a foreign bank, purchased, received for credit or collection, or otherwise acquired by the bank;

(8) Each item, including checks, drafts, or transfers of credit, of more than $10,000 received directly and not through a domestic financial institution, by letter, cable, or any other means, from a person, account, or place outside the United States;

(9) A record of each receipt of currency, other monetary instruments, checks, or investment securities, and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial institution, from a person, account, or place outside the United States; and

(10) Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a demand deposit account and to trace a check in excess of $100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of $100. This subparagraph shall be applicable only with respect to demand deposits.

Subpart D is amended by amending § 103.43 to read as follows:

**§ 103.43 Availability of information.**

The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought and the official need therefor. Any information made available under this section to other departments or agencies of the United States shall be received by them in confidence, and shall not be disclosed to any person except for official purposes relating to the investigation or proceeding in connection with which the information is sought.

Subpart D is further amended by amending § 103.45 to read as follows:

**§ 103.45 Exceptions, exemptions, modifications, and reports.**

(a) The Secretary, in his sole discretion, may by written order or authorization make exceptions to, grant exemptions from, or otherwise modify, the requirements of this part. Such exceptions, exemptions, or modifications may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions. They

shall, however, be applicable only as expressly stated in the order or authorization, and they shall be revocable in the sole discretion of the Secretary.

(b) The Secretary shall have authority to further define all terms used herein.

Subpart D is further amended by adding a new § 103.51 as follows:

§ 103.51 Access to records.

This part does not authorize the Secretary or any other person to inspect or review the records required to be maintained by Subpart C of this part. Inspection or review or other access to such records is governed by other applicable Federal or State law.

[FR Doc.72-18434 Filed 10-27-72;8:49 am]

# DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

### [ 49 CFR Part 571 ]

[Docket No. 69-7; Notice 24]

## OCCUPANT CRASH PROTECTION

### Femur and Chest Injury Criteria

The purpose of this notice is to propose amendments to the injury criteria for the femur and the chest in Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208.

The NHTSA hereby proposes that the injury criteria of Standard No. 208 be amended, by raising the maximum permissible load on the femur from 1,400 to 1,700 pounds, and by substituting a severity index of 1,000 for the present 60 g., 3-millisecond limit as the chest injury criterion applicable to vehicles manufactured before August 15, 1975. The proposal is in response to a petition for rule making submitted by General Motors, but it also reflects analysis of data received by this agency since the existing injury criteria were promulgated.

Accident data and cadaver studies both indicate that the 1,400-pound femur load limit is a conservative one, with only a small percentage of fractures occurring at that level. Considerable difficulty is evidently caused in the design of passive protection systems by that limit, since good system design appears to dictate that the femur of a 50th-percentile male be loaded to more than 1,000 pounds in order to keep the occupant on the seat, and the normal variation in crash test results causes an occasional sample to rise close to or over the limit imposed by the standard. Furthermore, the imposition of a smaller load on the femur during a 30-m.p.h. barrier crash is likely to result in inadequate protection to occupants at higher barrier crash equivalent speeds. The NHTSA has therefore tentatively determined that raising the limit from 1,400 to 1,700 pounds is in the interest of safety.

Similarly, the chest injury criterion of 60 g. (except for a cumulative 3-millisecond interval) causes occasional compliance failures of restraint systems whose overall protective capabilities are judged to be good. It appears likely that such failures are part of a transient phase in the production of these systems. In the face of similar problems with seat belt systems, the agency previously substituted a severity index of 1,000 as the criterion applicable to belt systems in vehicles manufactured before August 15, 1975 (37 F.R. 13265, July 6, 1972). The considerations which made the severity index acceptable as an interim measure for seat belts now appear also to be applicable to other restraint systems. In particular, the index operates as a check on the high amplitude, long duration spikes that present the greatest hazard to vehicle occupants. It is therefore proposed that the severity index of 1,000 be used as the chest injury criterion for vehicles manufactured before August 15, 1975, regardless of the type of restraint system.

General Motors, which to the knowledge of this agency is the only manufacturer currently producing vehicles to meet the first option of Standard No. 208 (completely passive protection), represents that these proposed amendments are of an urgent nature, since a decision to continue production of vehicles designed for important field testing depends on their adoption. This agency agrees, and is therefore issuing this proposal with a relatively short comment period, and with the proposed effective date the date of publication of the final rule.

It is therefore proposed that S6.3 and S6.4 in Motor Vehicle Safety Standard No. 208 be amended to read as follows:

S6.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 60 g., except for intervals whose cumulative duration is not more than 3 milliseconds. However, in the case of a vehicle manufactured before August 15, 1975, the resultant acceleration at the center of gravity of the upper thorax shall be such that the severity index calculated by the method described in SAE Information Report J885a, October 1966, does not exceed 1,000.

S6.4 The force transmitted axially through each upper leg shall not exceed 1,700 pounds.

The proposed effective date is the date of publication of the rule in the FEDERAL REGISTER.

Interested persons are invited to submit comments on the proposed amendments. Comments should identify the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on November 16, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 26, 1972.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.72-18532 Filed 10-26-72;3:01 pm]

# FEDERAL COMMUNICATIONS COMMISSION

### [ 47 CFR Part 25 ]

[Docket No. 16495; FCC 72-903]

## ESTABLISHMENT OF DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

### Extension of Time for Filing Comments and Reply Comments

*Order.* In the matter of establishment of domestic communications-satellite facilities by non-Governmental entities, Docket No. 16495.

1. On September 8, 1972, the Communications Satellite Corp. (Comsat) and MCI Lockheed Satellite Corp. (MCIL) filed a Memorandum of Understanding in this proceeding. By order released on September 13, 1972, the time for filing replies to responses to petitions for reconsideration of the "Second Report and Order" herein (FCC 72-531) and comments on the Comsat-MCIL Memorandum of Understanding was extended to September 25, 1972. On October 3, 1972, Comsat supplemented the Memorandum of Understanding by filing copies of an agreement that has been negotiated by Comsat, Lockheed Aircraft Corp., MCI Communications Corp., MCI Satellite, Inc. and MCIL, with Annexes A, B, and C.

2. *It is ordered,* On the Commission's own motion pursuant to section 403 of the Communications Act, that interested parties may file comments on the agreement supplementing the Comsat-MCIL Memorandum of Understanding on or

before October 30, 1972, and reply comments on or before November 10, 1972.

Adopted: October 10, 1972.

Released: October 11, 1972.

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

[FR Doc.72-18437 Filed 10-27-72;8:49 am]

# SECURITIES AND EXCHANGE COMMISSION

## [ 17 CFR Part 230 ]

[Release No. 33-5324]

## DEFINITION OF "BROKERS' TRANSACTIONS"

### Extension of Time for Submitting Comments

On September 26, 1972, the Securities and Exchange Commission announced the adoption of certain actions and invited public comments on a proposal to amend paragraph (g)(2) of Rule 144 under the Securities Act of 1933 (17 CFR 230.144) relating to the definition of the term "brokers' transactions" for the purposes of that rule and under section 4(4) of that Act (Securities Act Release No. 5307 [September 26, 1972]) (37 F.R. 20576). That release also stated that comments on the proposed amendment should be submitted in writing (three copies) to Alan B. Levenson, Director, Division of Corporation Finance on or before October 15, 1972, referring to File No. S7-454. Due to delays in printing the release, copies were not mailed to the public until October 12, 1972. Accordingly, the time for submitting such comments has been extended to November 13, 1972. All such comments will be considered available for public inspection.

(Secs. 2(11), 4(1), 4(2), 4(4), 19(a), 48 Stat. 74, 77, 85, sec. 209, 48 Stat. 908, secs. 1-4, 68 Stat. 683, sec. 12, 78 Stat. 508, 15 U.S.C. 77(b)(11), 77(d)(1), 77(d)(2), 77(d)(4), 77s(a))

By the Commission.

[SEAL] RONALD F. HUNT,
*Secretary.*

OCTOBER 19, 1972.

[FR Doc.72-18399 Filed 10-27-72;8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## [ 21 CFR Part 51 ]

## CANNED SWEET CORN

### Proposed Amendment to Standards of Identity, Quality, and Fill of Container

*Correction*

In F.R. Doc. 72-16644, appearing at page 21112, in the issue of Thursday, October 5, 1972, make the following changes:

1. The headings should read as set forth above.

2. Directly above the heading "Recommended International Standard for Canned Sweet Corn", on page 21112, insert:

[CAC/RS 18-1969]

3. In the third column of page 21112, in the second line of 3.1.1 and the third line of 3.1.4, the symbol "mm", should read "m/m".

4. In the first table on page 21113, in the third line of the first heading, after the figure "400", insert "g", so that the figure will read "400 g".

5. On page 21117, beginning with the word *"Codex"* delete everything through the line ending "optional ingredient". Insert in lieu thereof the following:

FOOTNOTES

| FDA | Codex |
|---|---|
| [1] Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such words shall immediately and conspicuously precede or follow such name, without intervening written, printed or graphic matter, except that the varietal name of the corn used may so intervene. (21 CFR 51.20(f)(1)) | Provided for under the "Recommended International General Standard for the Labeling of Prepackaged Foods." |
| No change. This is a specific requirement on labeling that does not appear elsewhere in this standard. | |
| [2] Such words or statements in addition to salt and monosodium glutamate but excluding sugar shall be set forth on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. If two or more such optional ingredients are present, such statements as are required may be combined; for example, "With added salt, spice, flavoring, and monosodium glutamate." (21 CFR 51.20(f)(2)) | Requires a complete listing of ingredients on the label in descending order of proportion. |
| Delete this paragraph (footnote 2) as item 7(i) provides requirement regarding the listing of each optional ingredient. | |

6. In § 51.21(d)(1), "subdivision (viii)" should be designated "subdivision (vii)".

# SELECTIVE SERVICE SYSTEM

## [ 32 CFR Parts 1608, 1612, 1613, 1617 ]

## REGISTRATION AND PUBLIC INFORMATION

### Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.), and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC, 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

### PART 1608—PUBLIC INFORMATION

Section 1608.12(e) is amended to read as follows:

**§ 1608.12 Available information.**

* * * * *

(e) Each local board maintains a Classification Record (SSS Form 102) which contains the name, selective service number, and the current and past classifications for each person registered with that board. Information in this record will be supplied upon request.

* * * * *

### PART 1612—REGISTRATION DUTIES

**§ 1612.25 [Revoked]**

Section 1612.25 *Care and custody of registration cards and registration certificates,* is revoked.

### PART 1613—REGISTRATION PROCEDURES

Section 1613.2 *Local board of jurisdiction,* is amended to read as follows:

**§ 1613.2 Local board of jurisdiction.**

The local board having jurisdiction over the place of residence entered in Item 2 of the Registration Card (SSS

[1] Commissioner Reid absent.

Form 1) at the time of initial registration shall always have jurisdiction over the registrant, unless otherwise directed by the Director of Selective Service.

Sections 1613.3 and 1613.4 are added to read as follows:

**§ 1613.3 Evidence of registration.**

The local board shall issue to each registrant written evidence of his registration in the manner prescribed by the Director of Selective Service.

**§ 1613.4 Issuing duplicate evidence of registration.**

Duplicate evidence of registration will be issued to a registrant by the local board with which he is registered upon its receipt of his written request therefor.

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## PART 1617—REGISTRATION CARD

The title of Part 1617 is amended to read as set forth above.

**§ 1617.11 [Revoked]**

Section 1617.11 *Issuing duplicate Registration Certificate,* is revoked.

BYRON V. PEPITONE,
*Acting Director.*

OCTOBER 25, 1972.

[FR Doc.72-18430 Filed 10-27-72;8:47 am]

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## [32 CFR Parts 1621, 1623, 1624, 1626, 1627, 1641, 1655]

## CLASSIFICATION OF REGISTRANTS

### Proposed Procedures

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act; as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

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## PART 1621—PREPARATION FOR CLASSIFICATION

**§§ 1621.9 and 1621.10 [Revoked]**

Section 1621.9 *Furnishing registration questionnaire (SSS Form 100),* is revoked.

Section 1621.10 *Time allowed to return questionnaire,* is revoked.

Section 1621.11 *Special form for conscientious objector,* is amended to read as follows:

**§ 1621.11 Special form for conscientious objector.**

A registrant who claims to be a conscientious objector shall be given the opportunity to offer information in substantiation of his claim on a Special Form for Conscientious Objector (SSS Form 150). The local board, upon request, shall furnish to any registrant a copy of Special Form for Conscientious Objector (SSS Form 150).

Section 1621.12 *Claims for or information relating to deferment or exemption,* is amended to read as follows:

**§ 1621.12 Claims for or information relating to deferment or exemption.**

The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to a Current Information Questionnaire (SSS Form 127) and may include any document, affidavits and depositions. The affidavits and depositions shall be as concise and brief as possible.

**§ 1621.13 [Revoked]**

Section 1621.13 *Inadequate questionnaire,* is revoked.

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## PART 1623—CLASSIFICATION PROCEDURE

Section 1623.7 is amended to read as follows:

**§ 1623.7 Issuing a duplicate notice of classification.**

A duplicate notice of classification will be issued to a registrant by the local board which mailed the original notice of classification to him upon his written request therefor.

Paragraphs (a) and (b) of § 1623.9 *Registrants transferred for classification,* are amended to read as follows:

**§ 1623.9 Registrants transferred for classification.**

(a) Before the local board of origin has undertaken the classification of a registrant after his administrative classification into Class 1-H, he may be transferred to another local board for classification under procedures prescribed by the Director if he is so far from his local board as to make complying with notices an extreme hardship.

(b) A registrant may be transferred to another local board for classification at any time under procedures prescribed by the Director (1) when the local board cannot act on his case because of disqualification under provisions of section 1604.55 of this chapter, or (2) when a majority of the members of the local board, or a majority of the members of every panel thereof if the board has separate panels, withdraw from consideration of the registrant's classification because of any conflicting interest, bias, or other reason.

* * * * *

## PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

Section 1624.2 *Request for personal appearance,* is amended to read as follows:

**§ 1624.2 Request for personal appearance.**

A registrant, other than one who has filed a request in accord with § 1624.1(b), who desires a personal appearance before his local board, must file a written request therefor within 15 days after the local board has mailed a notice of classification to him. Such 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request a personal appearance within such period was due to some cause beyond his control.

Section 1624.5 *Procedure when registrant fails to appear,* is amended to read as follows:

**§ 1624.5 Procedure when registrant fails to appear.**

Whenever the registrant for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the local board shall consider any explanation of such failure that has been filed within 5 days (or extension thereof granted by the local board) after such failure in accordance with § 1624.3. Should the local board determine that the registrant's failure to appear for his personal appearance was without good cause, or if within 5 days (or extension thereof granted by the local board) after such failure to appear the registrant offers no explanation of such failure, the registrant will be deemed to have had his personal appearance and the local board (a) will take such action with respect to the classification of a registrant who has requested a personal appearance following his classification as is appropriate in light of the provisions concerning reopening of classification in § 1625.2 of this chapter, or (b) if such registrant requested a personal appearance in advance of his classification in accordance with § 1624.1(b), the local board shall classify the registrant. The local board will notify the registrant in writing of the action taken.

Section 1624.6 *Procedure of local board following personal appearance,* is amended to read as follows:

**§ 1624.6 Procedure of local board following personal appearance.**

After the registrant has appeared before the local board, it shall again classify the registrant and, in the event that the local board classifies the registrant in a class other than that which he request, it shall record its reasons therefor in his file. Only those members of the local board before whom the registrant appeared shall classify him. The local board shall mail to the registrant notice of his classification together with the reasons the local board classified him in a class other than that which he requested.

## PART 1626—APPEAL TO APPEAL BOARD

Section 1626.2 *Time limit within which registrant may appeal,* is amended to read as follows:

**§ 1626.2 Time limit within which registrant may appeal.**

The registrant must file his appeal and his request for a personal appearance before the appeal board, if such personal appearance is desired, within 15 days after the date the local board mails to the registrant notice of his classification or notice pursuant to § 1624.5 of this chapter. At any time prior to the date the local board mails to the registrant an order to report for induction or for alternate service, the local board will permit him to appeal even though the period for taking an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to some cause beyond his control. If the local board grants an extension of time to appeal to the registrant, he may within such extended period also request a personal appearance before the appeal board.

Paragraph (i) of § 1626.4 *Review by appeal board* is amended to read as follows:

**§ 1626.4 Review by appeal board.**

* * * * *

(i) In the event that the appeal board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

Section 1626.5 *Procedure of local board when advised of decision of appeal board,* is amended to read as follows:

**§ 1626.5 Procedures of local board when advised of decision or appeal board.**

When the local board receives notice of the decision of a case by the appeal board, it shall mail a notice of classification to the registrant and inform him in writing of the vote of the appeal board and the reasons the appeal board classified him in a class other than that which he requested.

## PART 1627—APPEAL TO THE PRESIDENT

Section 1627.1 *Persons who may appeal to the President,* is amended to read as follows:

**§ 1627.1 Persons who may appeal to the President.**

(a) The Director of Selective Service or the State Director of Selective Service of the State in which the local board or appeal board which classified the registrant is located may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant or his reporting for alternate service in lieu of induction.

(b) When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President within 15 days after the local board has mailed a notice thereof to him. The local board may permit any registrant who is entitled to appeal to the President under this section to do so at any time prior to the date the local board issues to him an order to report for induction or for alternate service, even though the period of taking such an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to some cause beyond his control.

Paragraph (h) of § 1627.4 *Procedures of the National Selective Service Appeal Board,* is amended to read as follows:

**§ 1627.4 Procedures of the National Selective Service Appeal Board.**

* * * * *

(h) In the event that the National Board classifies the registrant in a class other than that which he requested it shall record its reasons therefor in his file.

Section 1627.6 *Procedure of local board after file is returned,* is amended to read as follows:

**§ 1627.6 Procedure of local board after file is returned.**

When the file of the registrant is received by the local board it shall notify the registrant in writing of the classification given him by the President. Upon the receipt by the local board of a written request by the registrant mailed within 30 days after the mailing of such notice it shall furnish to such registrant a copy of the reasons the National Board classified him in a class other than that which he requested.

## PART 1641—DUTY OF REGISTRANTS

Section 1641.6 is amended to read as follows:

**§ 1641.6 Duty to have unaltered documents in personal possession.**

It is the duty of every registrant until his liability for training and service has terminated to have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his Registration Certificate (SSS Form 2) and Notice of Classification (SSS Form 110) showing his current classification or (2) his Status Card (SSS Form 7) most recently issued by the local board.

(b) The failure of any person to have his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) in his personal possession as required in paragraph (a) of this section shall be prima facie evidence of his failure to register.

(c) 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 documents listed in paragraph (a) of this section 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 documents to the local board that issued them.

Section 1641.7 *Duty of registrant separated from active duty in Armed Forces,* is amended to read as follows:

**§ 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) or Status Card (SSS Form 7) shall, within 10 days after the date of his separation, request in writing his local board to return his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7), if available, or to issue to him a duplicate thereof.

**§ 1641.9 [Revoked]**

Section 1641.9 *Duty to have Notice of Classification (SSS Form 110) in personal possession,* is revoked.

## PART 1655—REGISTRATION OF U.S. CITIZENS OUTSIDE OF THE UNITED STATES AND CLASSIFICATION OF SUCH REGISTRANTS

Paragraph (b) of § 1655.5 *District of Columbia Local Board No. 100 (Foreign),* is amended to read as follows:

**§ 1655.5 District of Columbia Local Board No. 100 (Foreign).**

* * * * *

(b) District of Columbia Local Board No. 100 (Foreign) shall have jurisdiction for all purposes under selective service law over any person who at the time of his registration under the provisions of the regulations in this part does not designate for entry in Item 2 of his Registration Card (SSS Form 1) an address of a place within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone.

BYRON V. PEPITONE,
*Acting Director.*

OCTOBER 25, 1972.

[FR Doc.72-18429 Filed 10-27-72;8:47 am]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco, and Firearms

[No. 40]

### ASSISTANT DIRECTOR, REGULATORY ENFORCEMENT

### Delegation of Authority Regarding Offers in Compromise

1. Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, there is hereby delegated to the Assistant Director, Regulatory Enforcement, the authority to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcoholic Administration Act (27 U.S.C. 207).

2. This authority may not be redelegated.

Date of issue: October 10, 1972.

Effective date: October 10, 1972.

[SEAL] REX D. DAVIS,
*Director.*

[FR Doc.72-18422 Filed 10-27-72;8:46 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR 9327]

### OREGON

### Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 20, 1972.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 9327, for the withdrawal of public lands described below. Said lands are to be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, nor the disposal of materials under the act of July 31, 1947, and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the act of October 13, 1964.

This proposal for the Barnes Valley Road No. 375 will provide a means by which the Secretary of Agriculture can grant easements for road rights-of-way to private parties.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 2965 (729 Northeast Oregon Street), Portland, OR 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

BARNES VALLEY ROAD NO. 375

T. 37 S., R. 14 E.,
Sec. 10, W½NE¼, NE¼NW¼, W½SE¼, and SE¼SE¼.
T. 39 S., R. 14 E.,
Sec. 12, NW¼NW¼;
Sec. 13, SW¼NE¼, NW¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 24, NE¼NE¼.
T. 39 S., R. 15 E., W.M.,
Sec. 29, SW¼NW¼;
Sec. 30, E½NE¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of the Barnes Valley Road No. 375.

The areas described aggregate 23 acres.

IRVING W. ANDERSON,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.72-18396 Filed 10-27-72;8:46 am]

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### Office of Hearings and Appeals

[Docket No. M 73-6]

### EASTERN ASSOCIATED COAL CORP.

### Petition for Modification of a Mandatory Safety Standard

In the matter of Eastern Associated Coal Corp. (30 U.S.C. 868(b)); 30 CFR 75.802.

Notice is hereby given that, pursuant to section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 801, et seq.) (Act), Eastern Associated Coal Corp., whose address is 1728 Koppers Building, Pittsburgh, Pa. 15219 (Petitioner) has filed a petition to modify the application to it of the safety standard set out in section 308(b) of the Act and 75.802 of the implementing standards (30 CFR 75.802).

Said section 308(b) and 75.802 set forth the safety standard as follows:

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Petitioner requests that the application to it of said section be modified to allow the use at its Kopperston No. 1 Mine "of a neutral at the neutral deriving or Zig-Zag transformer, which is the source of the neutral in a derived AC system"; and petitioner "respectfully submits that the neutral grounding system it is using at its Kopperston No. 1 Mine will at all times guarantee no less than the same measure of protection afforded the miners at the mine. On the other hand, following [the standard] will result in a diminution of safety because the addition of another wire on the power poles raises the likelihood of shorting and breakage in remote and almost inaccessible areas."

Any party interested in this petition shall file his answer or comments, with request for a hearing if desired, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington,

VA 22203. Copies of the petition are available for inspection at that address. See FEDERAL REGISTER, Vol. 37, No. 190—Friday, September 29, 1972.

JAMES M. DAY,
*Director,*
*Office of Hearings and Appeals.*

OCTOBER 19, 1972.

[FR Doc.72-18459 Filed 10-27-72;9:56 am]

## Office of the Secretary

## CENTRAL AND FIELD ORGANIZATION

### Statement of Organization; Correction

The organization statement for the Department of the Interior published at 37 F.R. 17431 is revised to make two corrections as shown below.

111.13 *Office of Hearings and Appeals.* In the final paragraph of the statement for the Office of Hearings and Appeals (37 F.R. 17435), reference to " * * * eight field offices * * *" for Indian probate hearing examiners is changed to " * * * seven field offices * * *".

145.1 *National Park Service.* In the listing of Regional Offices—National Park Service (37 F.R. 17438), the address for the Southeast Region should read as follows: 3401 Whipple Avenue, Atlanta, GA 30344.

CHARLES G. EMLEY,
*Deputy Assistant Secretary*
*of the Interior.*

OCTOBER 20, 1972.

[FR Doc.72-18398 Filed 10-27-72;8:45 am]

[DES 72-107]

## COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE, CLATSOP COUNTY, OREG., AND WAHKIAKUM COUNTY, WASH.

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for proposed land acquisition in Clatsop and Wahkiakum Counties to complete the Columbian White-Tailed Deer National Wildlife Refuge, and invites written comments within forty-five (45) days of this notice. The statement also discusses the environmental impacts involved in the operation of the installation.

Copies are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, Room 288, 1500 Northeast Irving Street, Post Office Box 3737, Portland, OR 97208.

Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets, NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, DC 20240. Please refer to the statement number above.

W. W. LYONS,
*Deputy Assistant Secretary*
*of the Interior.*

OCTOBER 20, 1972.

[FR Doc.72-18397 Filed 10-27-72;8:45 am]

# DEPARTMENT OF COMMERCE

## Maritime Administration

## CONSERVATION OF MARINE LIFE

### Use of Liberty Ships by States as Offshore Artificial Reefs

The subject legislation approved August 22, 1972, authorizes the Secretary of Commerce to transfer Liberty ships (otherwise designated for scrapping) from the National Defense Reserve Fleet to States requesting them, if the States intend to sink such ships for use as offshore artificial reefs for the conservation of marine life.

Public Law 92-402 requires that copies of any applications received by the Secretary of Commerce must be forwarded for coment to the Secretaries of Interior and Defense and to all other appropriate Federal officers.

The Secretary of Commerce, as represented by the Assistant Secretary of Commerce for Maritime Affairs, is now in the process of drafting a uniform application form.

Accordingly, all interested Federal officers are invited (a) to identify themselves as officers to whom applications should be sent for comment (including name and telephone number of the individual with whom direct liaison may be maintained), and (b) to identify the type of information which they wish to be elicited in the applications. All communications should be addressed to the Chief, Division of Reserve Fleet, Maritime Administration, Department of Commerce, Marad Code 743, Washington, D.C. 20235.

Dated: October 25, 1972.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.72-18554 Filed 10-27-72;8:48 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[FAP 3B2843]

## HENKEL, INC.

### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2843) has been filed by Henkel, Inc., 480 Alfred Avenue, Teaneck, NJ 07666, proposing the issuance of a regulation to provide for the safe use of mono and diglycerides of hydrogenated castor oil fatty acids, tridecyl stearate, distearyl phthalate, pentaerytheritol adipate-stearate, and pentaerytheritol adipate-oleate as processing aid lubricants in the manufacture of polyvinyl chloride resins intended for use as articles or components of articles that contact nonalcoholic foods.

Dated: October 17, 1972.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.72-18409 Filed 10-27-72;8:46 am]

[FAP 2H2805]

## MALLINCKRODT CHEMICAL WORKS

### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2805) has been filed by Mallinckrodt Chemical Works, Washine Division, Lodi, N.J. 07644, proposing that § 121.1186 *n*-heptyl *p*-hydroxybenzoate (21 CFR 121.1186) be amended to provide for the safe use of *n*-heptyl *p*-hydroxybenzoate in nonstandardized soft drinks and fruit-based beverages.

Dated: October 17, 1972.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.72-18410 Filed 10-27-72;8:46 am]

## Health Service and Mental Health Administration

## NATIONAL ADVISORY COMMITTEE

### Announcement of Meetings

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of November 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive order:

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Tuberculosis Control Advisory Committee; November 2, 8:30 a.m., Room SB-7, Building B, Center for Disease Control, Atlanta, Ga. 30333; Open; Contact Mary L. Atkinson, Center for Disease Control, Atlanta, Ga. 30333, Code 404—633-3706.

*Purpose.* Consults with and advises on policies and programs in tuberculosis control.

*Agenda.* Agenda items will include weekly reporting of tuberculosis, tuberculosis surveillance of hospital employees, program evaluation to measure impact of services, nurse directed clinics, and task oriented training.

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contract Person*

Research Scientist Development Review Committee; November 2–3, 9 a.m., Plaza Room, Dupont Plaza Hotel, Washington, D.C.; Closed; Contact Dr. Mary R. Haworth, Room 12–94, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–4347.

*Purpose.* Reviews applications for the Research Scientist Development Awards for support of additional training or experience of behavioral scientists to develop their full capacities for careers devoted to research, and the Research Scientist Awards for support of established research scientists qualified to pursue independent research in areas relevant to mental health. Makes recommendations on these programs to the Division of Manpower and Training Programs, National Institute of Mental Health and the National Advisory Mental Health Council.

*Agenda.* The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Medical Laboratory Services Advisory Committee; November 3, 9 a.m., Room 207, Building 1, Center for Disease Control, Atlanta, Ga.; Open; Contact Dr. Roslyn Robinson, Center for Disease Control, Atlanta, Ga. Code 404—633–3262.

*Purpose.* To develop a classification of clinical laboratory diagnostic products which will permit application of common measurements for determining identity, purity, specificity, sensitivity, and other factors in evaluating the adequacy of such products for use in the Nation's clinical laboratories.

*Agenda.* Agenda items will provide for a review of analyses determined in clinical laboratories in the disciplines of chemistry, microbiology, and immunology; available diagnostic products used in such determinations; and factors which can be used to judge the quality of such products. Discussion will provide a basis for classification of products, each group of which can be evaluated by a specific set of criteria.

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

National Advisory Health Services Council; November 14, 1 p.m., Conference Room G–H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed; Contact Russell Z. Seidel, Room 15–35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–2940.

*Purpose.* The Council is charged with advising on policies, needs, and requirements for research and development designed to increase the effectiveness and efficiency of medical care and health services. Council is also charged with the final review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Development.

*Agenda.* The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and will be closed to the public in accordance with the determination made by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Joint meeting of the National Advisory Health Services Council and Federal Hospital Council; November 15, 9 a.m., Conference Room G–H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Open; Contact Russell Z. Seidel, Room 15–35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–2940.

*Purpose.* The Councils are charged with advising on policies and regulations under title III and title VI of the Public Health Service Act.

*Agenda.* The Councils will be receiving reports from the Director and Staff members of the National Center for Health Services Research and Development relative to the current programs and plans for fiscal year 1973.

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Federal Hospital Council; November 16, 9 a.m., Conference Room G–H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed—9–10:30 a.m., Open—10:30 a.m.–4:30 p.m.; Contact Russell Z. Seidel, Room 15–35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–2940.

*Purpose.* The Council is charged with advising on policies and regulations under title VI of the Public Health Service Act and to provide final review of grant applications for Federal assistance in the program area administered by the National Center for Health Services Research and Development.

*Agenda.* The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and will be closed to the public for that portion of the meeting in accordance with the determination made by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d). The meeting will be open to the public for that portion when the Director, Health Care Facilities Service submits his report.

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Mental Health Small Grant Committee; November 16–18, 2 p.m., District Room and Room 334, Washington Hotel, Washington, D.C.; Closed; Contact Stephanie B. Stolz, Room 10C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–4337.

*Purpose.* The Committee is charged with the initial review of small grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health.

*Agenda.* The Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

National Advisory Council on Alcohol Abuse and Alcoholism; November 20–21, 9:30 a.m,. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Open—November 20, Closed—November 21; Contact Judith Katz, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–4377.

*Purpose.* The Council advises the Secretary,Department of Health, Education, and Welfare, regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. It reviews all grant applications submitted to the National Institute on Alcohol Abuse and Alcoholism and evaluates these in terms of scientific merit and coherence with Department policies.

*Agenda.* November 20 will be devoted to a discussion on policy issues. It will include a briefing on administrative and legislative developments by the Director, a report by the Alcoholism Treatment Center Program Development Task Force, and discussions with the Director, National Institute of Mental Health and the Administrator, Health Services and Mental Health Administration.

On November 21, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

National Advisory Council for Disease Control; November 30–December 1, 9:30 a.m., Center for Disease control, San Juan Tropical Diseases Laboratories, San Juan, P.R.; Closed—November 30 from 2 p.m.–4:30 p.m., Open—rest of meeting; Contact Dr. Myron J. Willis, Center for Disease Control, Atlanta, Ga, 30333, Code 404—633–X7751.

*Purpose.* Advises and consults with the Administrator, Health Services and Mental Health Administration, on matters relating to the prevention and control of communicable diseases. Provides advice on national policies and programs with regard to broad major problems and responsibilities. Reviews grant applications for research grants concerned with disease control and related areas.

*Agenda.* Agenda items will include a program review of the Center for Disease Control's San Juan Tropical Disease Laboratories; reports from Center for Disease Control staff members assigned to the Departments of Public Health in Puerto Rico and the Virgin Islands; and the review of research grant applications concerned with disease control and related areas.

*Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person*

Maternal and Child Health Service Research; November 30–December 1, 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed; Contact Gloria Wackernah, Room 12A–11, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443–2190.

*Purpose.* The Committee is charged with the review of all research grant applications in the program areas administered by the Maternal and Child Health Service.

*Agenda.* The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

Item for discussion are subject to change due to the priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: October 26, 1972.

ANDREW J. CARDINAL,
*Acting Associate Administrator for Management, Health Services and Mental Health Administration.*

[FR Doc.72–18560 Filed 10–27–72;8:51 am]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-285]

## OMAHA PUBLIC POWER DISTRICT

### Notice and Order for Prehearing Conference

In the matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

Take notice, that pursuant to the Atomic Energy Commission's "Memorandum and Order" and "Notice of Hearing on a Facility Operating License," both dated September 15, 1972, a prehearing conference will be held in the subject proceeding on November 9, 1972, at 10 a.m., local time, at the Federal Office Building, 106 South 15th Street, Room 807, Omaha, NE 68102.

A. This prehearing conference will deal with:

1. Motions to be addressed to the Atomic Safety and Licensing Board (Board);
2. Prospect of settlement;
3. Simplification of issues;
4. The status of discovery;
5. The identification of known witnesses, including expert witnesses;
6. Procedures, including rules of evidence, to be followed in the presentation of evidence at the evidentiary hearing;
7. Estimated time to be required by the parties for the actual presentation of their case; and
8. Such other matters as may aid in the orderly disposition of the instant proceeding, including any objections the parties may have to this notice and order.

B. At an informal conference of counsel on October 24, 1972, the following was considered:

1. Letter, dated October 19, 1972, to the Chairman from H. H. Voigt, summarizing discussions held among the attorneys for the parties, and the five "issues" stated therein;
2. A proposed schedule;
3. Status of discovery; and
4. Federal Water Pollution Control Act Amendments of 1972.

C. Pursuant to agreement reached at the informal conference, the following schedule will be adhered to by the parties:

1. The proposed schedule set forth on page 3 of said October 19 letter, except that November "6" is rescheduled to November 8. No testimony offered by any party will be received in evidence unless the testimony is first reduced to writing and submitted to every other party to the proceeding in conformance with this schedule;

2. The Intervenor will identify and particularize his contentions within the parameters of the statement of issues set forth in said October 19 letter, primarily paragraphs 3 and 5, therein. This statement of contentions shall be submitted to the Board and parties on or before November 3, 1972;

3. The Applicant will prepare a comprehensive legal memorandum outlining his position with respect to the applicability of the Federal Water Pollution Control Act Amendments of 1972 to intervenors' contentions and submit it to the Board and parties on or before November 3, 1972; and

4. Replies to the actions of the intervenor and applicant, C-2 and C-3, respectively, above, shall be submitted to the Board and parties on or before the commencement of the prehearing conference on November 9, 1972.

D. The attorneys for the respective parties are hereby directed to confer in advance of the prehearing conference and to report at the time of the conference on the prospects of:

1. Settlement, and
2. Stipulation of the matters in controversy.

Issued at Washington, D.C., this 25th day of October 1972.

By order of the Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
*Chairman.*

[FR Doc.72-18488 Filed 10-27-72;8:51 am]

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[Docket No. 50-305]

## WISCONSIN PUBLIC SERVICE CORP. ET AL.

### Notice and Order for Prehearing Conference

In the matter of Wisconsin Public Service Corp., Wisconsin Power & Light Co., and Madison Gas & Electric Co. (Kewaunee Nuclear Powerplant).

Take notice, that in accordance with the Atomic Energy Commission's "Memorandum and Order" and "Notice of Hearing on a Facility Operating License," both dated September 29, 1972, and pursuant to the Commission's rules of practice, a special prehearing conference will be held in the subject proceeding on November 15, 1972, at 10 a.m., local time, in Room 2008; FOB No. 7; 726 Jackson Place NW. (entrance on Seventeenth Street); Washington, DC.

This special prehearing conference will deal with the following matters:

1. Identification and simplification of the issues.
2. Motions to be addressed to the Atomic Safety and Licensing Board (Board).
3. Need and status of discovery.
4. Establishment of schedule for further action.
5. Procedures to be followed in the presentation of evidence at the actual evidentiary hearings.
6. Such other matters as may aid in the orderly disposition of this proceeding.

The attorneys for the respective parties are encouraged to continue their informal conferences and to report at the special prehearing conference on the prospects for a joint statement or a stipulation of the matters in controversy.

Issued at Washington, D.C., this 26th day of October 1972.

By order of the Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
*Chairman.*

[FR Doc.72-18489 Filed 10-27-72;8:51 am]

# CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-10-64]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority, October 17, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notices to the carriers.

| *Specific commodity item No.* | *Description and rate* |
|---|---|
| 1100---------- | Furs, hides, pelts, and skins, 280 cents per kg., minimum weight 100 kgs., from Dacca to New York City. |

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

*Accordingly, it is ordered,* That:

Agreement CAB 23332 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

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

[FR Doc.72-18443 Filed 10-27-72;8:49 am]

[Docket No. 24809]

## TACA INTERNATIONAL AIRLINES, S.A.

### Foreign Air Carrier Permit Renewal; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 21, 1972, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge William H. Dapper.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 14, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.72-18448 Filed 10-27-72;8:50 am]

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[Docket No. 24801]

## NORDAIR LTEE. AND NORDAIR, LTD.

### Notice of Prehearing Conference and Hearing Regarding Renewal and Amendment of Foreign Air Carrier Permit

Renewal and amendment of foreign air carrier permit. Charter flights between Canada and United States and between the United States and any point in a country other than Canada.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 20, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Harry H. Schneider.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 13, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.72-18444 Filed 10-27-72;8:50 am]

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[Docket No. 24808]

## PACIFIC WESTERN AIRLINES, LTD.

### Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Renewal and Amendment

Foreign air carrier permit renewal and amendment.

Charter Flights between United States and Canada and between United States and any Country other than Canada.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 21, 1972, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Arthur S. Present.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 13, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.72-18445 Filed 10-27-72;8:50 am]

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[Docket No. 24739]

## SCHENKER & CO. G.m.b.H. (GERMANY) AND SCHENKERS INTERNATIONAL FORWARDERS, INC.

### Notice of Prehearing Conference and Hearing

Indirect foreign air transportation of Property between the United States and any Points outside thereof.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 6, 1972, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 29, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.72-18446 Filed 10-27-72;8:50 am]

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[Docket No. 23131]

## SHULMAN, INC., AND SHULMAN AIR FREIGHT

### 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 will be held on November 30, 1972, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge James S. Keith.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.72-18447 Filed 10-27-72;8:50 am]

# COUNCIL ON ENVIRONMENTAL QUALITY

## ENVIRONMENTAL IMPACT STATEMENTS

### Notice of Availability

Environmental impact statements received by the Council from October 16 through October 20, 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*, October 17

Monarch Wilderness, Fresno County, Calif. The statement refers to proposed legislation which would establish 36,021 acres (of the Sierra and Sequoia National Forests) as a unit of the National Wilderness Preservation System. Adverse effects of the action would include the reduction of renewable resource goods and services available to the economy and the reduction of opportunities for outdoor recreation activities. (19 pages) (ELR Order No. 05476) (NTIS Order No. EIS-72 5476-D)

SOIL CONSERVATION SERVICE

*Draft*, October 12

Upper Castleton River Watershed, Rutland County, Vt. The statement refers to a flood control and fish and wildlife development project on the 20,500-acre watershed. Features of the project are a multipurpose dam, channel modification, and associated work. There will be temporary increases in sedimentation, and a loss of 3,200 feet of natural stream fisheries at Whipple Hollow. (15 pages) (ELR Order No. 05461) (NTIS Order No. EIS-72 5461-D)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory 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, Washington, D.C. 20545, 202—973-7373.

*Draft*, October 18

Forked River Nuclear Station, Ocean County, N.J. The statement refers to the proposed issuance of a construction permit to the Jersey Central Power & Light Co., for a 3,410 MWT, 1,093 MWE, pressurized water reactor near Forked River. Cooling water would be obtained from Barnegat Bay through a canal, and circulated through a counter-flow natural draft cooling tower. Aquatic organisms will be adversely affected by thermal, chemical, and mechanical shock. (The interaction of the Forked River Station with the nearby Oyster Creek Station was considered in the statement's evaluation of environmental impact.) (182 pages) (ELR Order No. 05484) (NTIS Order No. EIS-72 5484-D)

*Draft*, October 17
Peach Bottom Power Station, York County, Pa. The statement refers to the proposed continuation of construction permits and the issuance of an operating license to the Philadelphia Electric Power Co., for units 2 and 3 of the station. The two units will employ identical boiling water reactors to produce a total of 6,586 MWT and 2,130 MWE, with "stretch" capacities of 6,880 MWT and 2,226 MWE. Exhaust steam will be cooled by a once through flow from the Susquehanna, and by forced draft towers when needed. The AEC staff believes that thermal effects are understated by the applicant and that there is significant potential for extensive thermal damage to the biological community within Conowingo Pond. (370 pages) (ELR Order No. 05481) (NTIS Order No. EIS–72 5481–D)

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, 202—693–7168.

*Draft*, October 11
John Hollis Bankhead Lock and Dam, Ala. The statement refers to the proposed construction of a replacement lock at the dam. Approximately 5.5 million cubic yards of material will be dredged and disposed of, and 189 acres of land will be required for the project. Adverse effects will result to local flora and fauna. (20 pages) (ELR Order No. 05443) (NTIS Order No. EIS–72 5443–D)

*Draft*, October 19
Richmond Inner Harbor, Contra Costa County, Calif. The statement refers to the proposed maintenance dredging of the harbor, with 150,000 cubic yards of spoil to be dumped at Alcatraz. Marine life will be adversely affected. (25 pages) (ELR Order No. 05499) (NTIS Order No. EIS–72 5499–D)

*Draft*, October 17
Lake Barkley, Lyon County, Ky. The proposed action is the sale of 124 acres of federally owned land to the Lyon County Port Authority, for use in developing a public port and industrial facilities. The sale would result in restricted land use and the possibility of industrial waste pollution of the lake. (10 pages) (ELR Order No. 05474) (NTIS Order No. EIS–72 5474–D)

*Draft*, October 6
Hurricane protection, New Orleans to Venice, La. The statement refers to the proposed enlargement of 36 miles of levee from city Price to Venice, and the construction of 16 miles of new levee from Phoenix to Bohemia, in order to provide protection from hurricane-induced flooding. Approximately 8,500 acres will be used for temporary ponding and 1,200 acres will be required for right-of-way; much of this land is estuarine marsh. (35 pages) (ELR Order No. 05425) (NTIS Order No. EIS–72 5425–D)

*Draft*, October 13
Calcasieu River, Coon Island, Calcasieu Parish, La. The statement refers to the proposed construction of a 40-foot by 200-foot ship channel and a 750-foot by 1,000-foot turning basin in order to allow more efficient use of the channel by larger and deeper-draft vessels. Approximately 3,252,000 acres of dredged spoil will be deposited at diked sites. The project will stimulate industrial growth. There will be adverse impacts upon fish, wildlife, water, and recreational resources in the project area. (53 pages) (ELR Order No. 05467) (NTIS Order No. EIS–72 5467–D)

*Draft*, October 12
Days High Landing, Cass and Itasca Counties, Minn. The statement refers to a legislative proposal which would allow the construction of a log-stop dam across the Mississippi River, in order to mitigate conservation losses caused by past actions. Approximately 4,600 acres of land and 8 miles of free-flowing river would be inundated. (46 pages) (ELR Order No. 05449) (NTIS Order No. EIS–72 5449–D)

*Draft*, October 6
Pattonsburg Lake Project, Daviess County, Mo. The statement refers to the proposed construction of a dam and reservoir on the Grand River for the purposes of flood control, hydroelectric power, recreation, and water supply. Approximately 43,000 acres of land and 42 miles of free-flowing river would be inundated, with adverse effects upon fish and wildlife habitat and the agricultural economy of the Pattonsburg area. Parts of three towns, along with their supporting utilities, would be displaced. Archeologic sites would be inundated. (Approximately 350 pages) (ELR Order No. 05411) (NTIS Order No. EIS–72 5411–D)

*Draft*, October 17
Guadalupe River, Victoria, Calhoun, and Refugio Counties, Tex. The statement refers to the proposed removal of four major log jams on the river, in order to prevent flooding and improve navigation. Shelter for acquatic species will be eliminated and wildlife habitat on 15 acres of right-of-way will be disturbed. The burning of the logs will create air pollution. (20 pages) (ELR Order No. 05473) (NTIS Order No. EIS–72 (5473–D)

*Draft*, October 10
Willamette and Columbia Rivers, Wash. and Oreg. The statement refers to the proposed construction of a 40-foot deep navigation channel (1,600 feet wide), at Slaughters Bar; and a 40 foot by 1,200 turning basin at Longview Bridge. Dredged spoil will be deposited at Lord Island, Slaughters Bar, and Howard Island (at 3.1 million cubic yards initially and 450,000 cubic yards annually thereafter). Approximately 509 acres of wildlife habitat will be lost to the project. (35 pages) (ELR Order No. 05435) (NTIS Order No. EIS–72 5435–D)

FEDERAL POWER COMMISSION

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

*Draft*, October 20
Kern Canyon Project No. 178, Kern County, Calif. The statement refers to the proposed approval of an application by the Pacific Gas & Electric Co. for the constructed station. The project consists of a hydroelectric powerplant of 8,480 kw., a dam and reservoir, and appurtenant facilities. (45 pages) (ELR Order No. 05500) (NTIS Order No. EIS–72 5500–D)

DEPARTMENT OF HUD

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

*Draft*, October 19
Proposed subdivisions, Tucson, Pima County, Ariz. The statement refers to the proposed granting of HUD mortgage insurance under section 203–D of the Housing Act for four subdivisions in Tucson. The sites are situated immediately west of Tucson International Airport and adjoin its northwest approach zone; residents would be subjected to aircraft noise. (18 pages) (ELR Order No. 05492) (NTIS Order No. EIS–72 5492–D)

DEPARTMENT OF INTERIOR

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

*Draft*, October 13
Bonneville Power Administration, Washington, Oregon, and Idaho. The statement refers to legislation for BPA's proposed program for fiscal year 1974. The program will involve the construction of additions to the transmission system, substations, structures, and access roads in Washington, Oregon, Idaho, Wyoming, and Montana. Adverse environmental impacts will include the disturbance of topsoil, water erosion, stream siltation, and the reduction of scenic qualities. The use of herbicides will affect wildlife habitat. (Approximate 450 pages) (ELR Order No. 05458) (NTIS Order No. EIS–72 5458–D)

BUREAU OF RECLAMATION

*Draft*, October 19
Contra Costa Canal Unit, Calif. The proposed project involves the construction of a 5.1-mile-long underground conduit in order to supplement the canal system and supply water to Martinez. A small vineyard will be adversely affected. (24 pages) (ELR Order No. 05493) (NTIS Order No. EIS–72 5493–D)

*Draft*, October 20
De Luz Heights, San Diego County, Calif. The statement refers to the proposed construction of a pipe distribution system to convey water from San Diego Aqueduct for the irrigation of 1,700 acres of potential avocado lands. Approximately 14 acres will be committed to the project; 1,700 acres of presently undeveloped land will be used for agricultural purposes, disturbing existing wildlife habitat and stimulating rural development. (23 pages) (ELR Order No. 05501) (NTIS Order No. EIS–72 5501–D)

*Draft*, October 19
Twin Lakes and Mount Elbert, Lake County, Colo. The statement refers to the proposed construction of a dam and reservoir, for the purposes of irrigation, water supply, and power production. Approximately 8,000 acres would be acquired for the project; of this 971 acres would be inundated. Approximately 25 permanent residences, 50 summer homes, and related facilities will be displaced. (The dam is part of the Fryingpan-Arkansas Project.) (143 pages) (ELR Order No. 05495) (NTIS Order No. EIS–72 5495–D)

NATIONAL SCIENCE FOUNDATION

Contact: Dr. Thomas O. Jones, Deputy Assistant to the Director, National and International Programs, Room 703, Washington, D.C. 20550, 202—632–4180.

*Draft*, October 20
Replacement pier, San Diego County, Calif. The proposed project is the construction of a replacement pier and wharf at the Nimitz Marine Facility, University of California. Dredging operations will temporarily affect marine biota. (19 pages) (ELR Order No. 05504) (NTIS Order No. EIS–72 5504–D)

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*, October 10

I-95. Two additional alignments are an-Counties, Fla. The purpose of this statement is to supplement a final environmental impact statement (filed October 22, 1971, NTIS Order No. PB-203-624-F), for construction of a 45-mile segment of I-95. Two additional alinements are analyzed. (123 pages) (ELR Order No. 05438) (NTIS Order No. EIS-72 5438-D)

*Draft*, October 6

I-95 relocated/Revere Beach connector, Massachusetts. The statement considers alternative locations for construction of a segment of Route I-95 from Cutter Circle in Revere to the Revere/East Boston city boundary, and for the Revere Beach connector with routes traversing Revere and Chelsea. As an alternative to the proposed facility, selected arterial streets and intersections in Revere would be upgraded. (256 pages) (ELR Order No. 05405) (NTIS Order No. EIS-72 5405-D)

*Draft*, October 10

Southwest Expressway (I-95), Massachusetts. The statement refers to a corridor study for construction of the Southwest Expressway from the present terminus of I-95 in Canton to connections with the Central East Expressway in Boston, with routes traversing Canton, Dedham, Milton, and Boston. Alternatives under consideration consist of interstate expressway (Route I-95) and nonexpressways (arterial facilities with a shared transit right-of-way). A 4(f) review for possible infringement on public land is included. (645 pages) (ELR Order No. 05441) (NTIS Order No. EIS-72 5441-D)

*Draft*, October 12

Third Harbor Crossing, Massachusetts. The statement considers alternatives for the construction of a segment of Route I-95 in the city of Boston from the Revere/Boston city boundary to connections with the Massachusetts Turnpike and the Southeast Expressway, including a Third Harbor Crossing and as alternatives to the above facilities, a set of transportation facilities, and programs designed to reduce the demand for automobile travel in that corridor. A 4(f) determination for possible encroachment on public lands is included. (341 pages) (ELR Order No. 05456) (NTIS Order No. EIS-72 5456-D)

*Draft*, October 10

Clarks Fork Canyon Road, Park County, Wyo. The statement refers to the proposed reconstruction of the Clarks Fork Canyon Road between Wyoming Highway 120 and U.S. 212. Project length will be between 22.8 and 37.7 miles, depending upon the route selected. Environmental impacts include disruption of wildlife habitat, land stability, and visual values and construction in undisturbed areas. (126 pages) (ELR Order No. 05440) (NTIS Order No. EIS-72 5440-D)

*Final*, October 17

Supplemental Freeway 411, Williamson and Saline Counties, Ill. The proposed supplemental freeway will involve the construction of approximately 16 miles of new Interstate type highway between the communities of Marion and Harrisbury. Approximately 924 acres of land are required for right-of-way. Eighteen residences and one business will be displaced. Areas of coal reserves which are scheduled to either be strip- or deep-mined in the immediate future will be crossed. (38 pages) Comments made by USDA, EPA, DOI, DOT, State, and local agencies. (ELR Order No. 05470) (NTIS Order No. EIS-72 5470-F)

Trunk Highway 52, Olmsted County, Minn. The statement refers to the proposed new routing of Trunk Highway 52 to bypass an urban section of Rochester. The segment considered in this report provides for four and a half miles of four-lane divided freeway and completes the relocation of Trunk Highway 52. Thirteen farmsteads will be severed and 131 acres of agricultural land committed to right-of-way. Four streams will be crossed and drainage canals will be relocated. Comments made by USDA, COE, EPA, HUD, DOI, OEO, DOT, and State agencies. (44 pages) (ELR Order No. 05469) (NTIS Order No. EIS 72 5469-P)

BRIAN P. JENNY,
*Acting General Counsel.*

[FR Doc.72-18432 Filed 10-27-72;8:49 am]

# ENVIRONMENTAL PROTECTION AGENCY

## PROPOSED IMPLEMENTATION PLAN REGULATIONS

### Notice of Public Hearings

On September 22, 1972 (F.R. 19829), the Administrator proposed regulations to correct certain deficiencies in plans for implementation of the national ambient air quality standards for California, New York, and the District of Columbia. In the notice of proposed rule making, the Administrator signified his intention of holding public hearings on such proposed regulations and indicated that such public hearings would be held no earlier than 30 days following publication of the notice of proposed rule making. The purpose of this notice is to specify the dates, times, and places at which the public hearings for New York and California are to be held. This information is set forth below:

NEW YORK

October 26 at 10:30 a.m., Governor Clinton Hotel, 1 Albany Avenue, Kingston, NY. Hearing officer: Meyer Scolnick.

October 27 at 10 a.m., Federal Office Building, Room 3105, 26 Federal Plaza, New York, NY. Hearing officer: Meyer Scolnick.

October 30 at 10:30 a.m., Buffalo and Erie County Public Library, Lafayette Square, Buffalo, NY. Hearing officer: Peter Devine.

October 30 at 8 p.m., Red Coach Inn, Route 17J, Lakewood, NY. Hearing officer: Peter Devine.

October 31 at 1:30 p.m., Flagship-Rochester Hotel, 70 State Street, Rochester, NY. Hearing officer: Peter Devine.

November 1 at 10 a.m., Dinkler Motor Inn, 1100 James Street, Syracuse, NY. Hearing officer: Peter Devine.

CALIFORNIA

November 2 at 9 a.m., Resources Building, Main Auditorium, 1416 Ninth Street, Sacramento, CA. Hearing officer: Cassandra Dunn.

November 9 at 9 a.m., State Auditorium, Room 1138, State Office Building, 107 South Broadway, Los Angeles, CA. Hearing officer: Cassandra Dunn.

Persons wishing to participate in the public hearings should specify their intentions by notifying the appropriate Regional Administrator and supplying five copies of their statements 5 days in advance of the hearing date. Notifications and copies of such statements should be directed to the attention of the appropriate hearing officer, as identified above.

Copies of the proposed regulations which will be considered at the public hearings are available from Regional Offices at the following addresses:

Federal Office Building, 26 Federal Plaza, New York, NY 10007; 100 California Street, San Francisco, CA 94111.

Dated: October 25, 1972.

WILLIAM D. RUCKELSHAUS,
*Administrator.*

[FR Doc.72-18453 Filed 10-27-72;8:50 am]

# FEDERAL COMMUNICATIONS COMMISSION

## CABLE TELEVISION PERFORMANCE TESTS

### Compliance Date; Filing of Comments

OCTOBER, 16, 1972.

On February 2, 1972, the Commission adopted wide-ranging rules for the regulation of cable television systems. Section 76.601 of the rules requires all cable television systems to make annual performance tests at least once each calendar year. This requirement became effective March 31, 1972, and therefore the first annual performance tests are due to be conducted by December 31, 1972.

It has recently been brought to our attention by various cable system operators and engineering consultant firms that because of a present scarcity of experienced engineering personnel and a general unfamiliarity with reasonably economical methods of conducting the performance tests, it will be impossible for many systems to have the tests performed by December 31, 1972. The National Cable Television Association (NCTA) has suggested that the Commission extend the compliance date to December 31, 1973. Other informal suggestions have been to extend the date to at least March 31, 1973, thus allowing systems the full calendar year contemplated in the rules.

Any interested party wishing to comment on this matter may do so within 20 days from the date of this notice (Docket 18894).

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

[FR Doc.72-18441 Filed 10-27-72;8:49 am]

## DIALER DEVICES ADVISORY SUBCOMMITTEE

### Notice of Meeting

OCTOBER 24, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the

Dialer Devices Subcommittee, to be held Wednesday, October 25, 1972, and continuing through Thursday, October 26, 1972. The subcommittee will meet at the Barrett Motor Lodge in San Francisco, Calif., at 9 a.m.

1. *Purposes.* The purpose of this subcommittee is to prepare recommended standards and procedures to permit the interconnection of customer provided and maintained dialer equipment to the public switched network.

2. *Membership.* The subcommittee is chaired by Jack Dempsey and is composed of the following: John Albus, D. L. Byers, Donald Briggs, Bryan McNeil, Arnold Dorfman, Robert Webb, Albert Hardy, J. W. Kissel, James McNabb, Donald Moehlenkamp, Richard Reichter, Robin Mosley, Fhereric Hildebrandt, Stephen Speltz, Ludwig Walch, Thomas Warner, M. S. Adler, William Wertz, Ronald Binks, Jurgen Kok, H. Marcheschi, Ken Rosenburg, John P. Lekas, William Lindgren, Brendan McShane, John Rison, Amos Jackson and John E. Mineo.

3. *Activities.* As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of dialer devices to the public telephone network. Subcommittee members include representatives of the Federal Government, State regulatory bodies, manufacturers, carriers, and users.

4. *Agenda.* The agenda for the October 25 and 26 meeting will be a review of proposed technical standards and procedures.

It is suggested that those desiring more specific information about the meeting call the Domestic Rates Division at 202—632-6457.

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

[FR Doc.72-18440 Filed 10-27-72;8:49 am]

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[Docket No. 19544]

## PUBLIC COAST RADIOTELEGRAPH STATIONS

### Notice of Inquiry; Extension of Time

In the matter of inquiry into problems of public coast radiotelegraph stations (37 F.R. 15197).

1. By letter dated October 11, 1972, RCA Global Communications, Inc. (RCA Globcom) requests an extension of time until December 1, 1972, in which to file comments in the above captioned inquiry. RCA Globcom alleges that its request is necessary because, in view of the extent and depth of the information and projections requested by the Notice of Inquiry, assembling and checking the information requested has proved more time consuming than was originally anticipated.

2. We find that RCA Globcom has shown good cause for the requested extension of time.

3. *Accordingly, it is ordered,* Pursuant to §§ 0.303(c) and 0.331(b)(4) of the Commission's rules pertaining to delegations of authority, that the request of RCA Global Communications, Inc., is granted, and:

(A) The time in which to file comments in Docket 19544 is extended until December 1, 1972; and

(B) The time in which to file reply comments is extended until January 15, 1973;

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] ASHER H. ENDE,
*Acting Chief, Common Carrier Bureau.*

JAMES E. BARR,
*Chief, Safety and Special Radio Services Bureau.*

[FR Doc.72-18442 Filed 10-27-72;8:49 am]

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[Docket No. 19610; FCC 72-915]

## NEW BROADCASTING CORP.

### Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of New Broadcasting Corp., Charlevoix, Mich., requests: 1270 kHz, 5 kW, day, Docket No. 19610, File No. BP-17835, for construction permit.

1. The Commission has for consideration the above-captioned and described application; a "Petition to Deny or, Alternatively, Statement of Objections to Grant"; two supplements thereto filed by the Harrington Broadcasting Corp. (WJML), licensee of stations WJML (AM) and WJML-FM, Petoskey, Mich.; the applicant's oppositions; and WJML's replies.

2. WJML states that its petition is filed pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. WJML recognizes that § 1.580(i) provides, in part, that when the Commission issues a public notice pursuant to § 1.571(c) of the rules listing standard broadcast applications as available and ready for processing, no petition to deny any such application will be accepted after the cutoff date specified in the public notice. WJML argues that, although its petition was filed on April 2, 1969, over a year after the date specified in the public notice listing the New Broadcasting Corp. application (February 6, 1968), the petition should nevertheless be deemed timely since it was filed within 30 days of the filing of an amendment which changed the percentages of corporate stock to be acquired by the original principals. WJML points out that it made known its objections to the establishment of a station in Charlevoix even before the New Broadcasting Corp. application was filed. By letter of March 13, 1967, WJML objected to the then pending application of the Charlevoix County Broadcasting Co. (File No. BP-17553). New Broadcasting filed its conflicting application thereafter on July 26, 1967. WJML claims that it had no reason to pursue the matter following the filing of the New Broadcasting application since it appeared that all public interest questions, including newspaper interests held by the New Broadcasting principals, would be explored in a comparative hearing.

3. The first formal action taken on the Charlevoix application was the Commission's approval of an agreement under which Charlevoix County Broadcasting Co. would accept reimbursement of its expenses and dismiss its application. Upon such dismissal, the New Broadcasting application was granted.

4. Subsequently, the Commission reconsidered its action on its own motion, and rescinded the grant to permit a further consideration of the impact of the operation of the proposed station on the concentration of control of the media of mass communications in the northwestern area of the Lower Peninsula of Michigan. This question arose because of the newspaper interests of W. Albert Schaller, a former majority stockholder (60 percent), who is the controlling stockholder of Northern Michigan Review, Inc., publisher of the Petoskey "New-Review Daily." Through subsidaries. Northern Michigan also publishes the Charlevoix "Courier" in Charlevoix, and the Otsego County "Herald Times" in Gaylord, Mich. W. Kirk Schaller, Albert Schaller's son and a minority stockholder in Northern Michigan Review, Inc., an officer and director of that corporation, originally was to acquire a 20-percent interest in New Broadcasting, and Thomas R. McDaniels, general manager of the Charlevoix newspaper, was also to acquire a 20-percent interest in the applicant.

5. Following the rescission of the action in granting the application, the Commission, by letter of January 8, 1969, noted the interest of W. Albert Schaller in the Schaller newspapers, and afforded the applicant an opportunity to amend the application to include data which might demonstrate that a hearing on the concentration question would not be necessary.[1]

6. In response to the Commission's letter, the applicant amended to reduce the interest of Albert Schaller to 40 percent and to increase the interest of Kirk Schaller and McDaniels to 30 percent each. In addition, the applicant supplied data concerning other broadcast services and various publications circulating in the area.

7. It was following the filing of the above amendment that WJML filed its petition. WJML submits that, under the unusual circumstances of this case, its petition should be considered timely. WJML requests that, if its statement is not to be treated as a petition to deny the application, it should be treated as an informal objection under § 1.587 of the Commission's rules.

8. The Commission is not persuaded that the circumstances are such that

[1] 15 FCC 2nd 1030.

WJML's statement can be considered a timely petition. Although WJML was not aware that New Broadcasting and the competing applicant had requested approval of a dismissal agreement until the action approving the agreement had been publicly announced, the Commission does not regard the sequence of events as a justification for WJML's unseasonable action in tendering its petition when it did. Section 1.580(i) of the rules does contemplate the acceptance of a petition to deny an application following a significant amendment, but WJML argues that the amendment preceding the filing of its statement made no significant difference in the concentration question. The Commission will, however, consider the petition to deny as an informal objection under § 1.587 of the rules in accordance with our normal practice in such situations.

9. WJML's central contention is directed to the concentration issue. WJML claims that not only was the concentration question presented at the time the application was filed but also remains after several amendments filed in the applicant's obvious effort to meet WJML's objections. Following the first amendment described above, and after further objections by WJML, the applicant filed an amendment reflecting the complete withdrawal of Albert Schaller and the reduction of Kirk Schaller's interest to 20 percent. A new principal, Terry L. Edger, was brought in as a 50-percent stockholder and president of the corporation. Subsequently, Mr. Edger's interest was reduced to 16.7 percent, and two additional principals, N. Elmo Franklin, Jr., and Timothy Ives, are to have interests of 16.65 percent each. In the meantime, Mr. McDaniels, still a proposed 30-percent stockholder, has severed his connections with the Charlevoix "Courier."

10. The applicant represents that the proposed station will operate independently of the Schaller newspapers, that the only remaining stockholder with newspaper ties is Kirk Schaller who is to be a minority stockholder and will not participate in the day-to-day operation of the station. The applicant also represents that the proposed station will compete vigorously with the Schaller newspapers, and, as previously indicated, has argued that other broadcast services and other periodicals circulating in the area assures that no undue concentration will result from the authorization of the proposed station.

11. The Commission does not share WJML's view that Albert Schaller's role in New Broadcasting must be inquired into in a hearing or that there is any question of his continuing as the dominant figure in the applicant. The application has been amended to show his withdrawal in a manner not unlike the withdrawal of other principals in similar situations.[3] Likewise, the Commission does not find it useful to determine whether Kirk Schaller occupies the position of publisher of the Charlevoix "Courier," as he allegedly has publicly announced. Kirk Schaller is a 20-percent stockholder, a member of the board of directors and secretary of the applicant, and he is president and a director of the Charlevoix Courier Corp., which publishes the Charlevoix "Courier"; secretary, a director, and 13.5 percent stockholder of Northern Michigan Review, Inc., which publishes the "News-Review Daily", in Petoskey, and wholly owns the Charlevoix Courier Corp.; and is president, a director, and 10-percent stockholder of the Otsego County Herald Times, Inc., which publishes the weekly newspaper in Gaylord. Therefore, there is a clear, continuing, and substantial connection between the Schaller newspapers and the applicant, and the Commission is not persuaded that the reduction in the extent of such common interest has eliminated the Commission's concern over the media concentration issue. Accordingly, the applicant will be given an opportunity at a hearing to meet the concentration issue which will be specified. "Cf. Laurence N. Polk, Jr. et al.," FCC 72R–201, released August 2, 1972.

12. While the Commission is concerned over possible concentration of media in the Charlevoix area, it does not agree with WJML that other media interests of Timothy Ives in the State of Illinois has any relevance to the present considerations. Ives, a minority stockholder in the applicant, has connections with stations WROK(AM) and WROK–FM, in Rockford, Ill., and with WJBC(AM) and WBNQ(FM) in Bloomington, Ill. In addition, he is a stockholder, officer, and director of a publishing firm which publishes a daily newspaper in Bloomington. None of the Rockford and Bloomington stations serve Charlevoix, and no part of the service areas of the Bloomington and Rockford stations will be served by the proposed Charlevoix stations. There is no allegation that the Bloomington newspaper circulates in Charlevoix or that the Charlevoix "Courier" circulates in either Rockford or Bloomington. The separation between Charlevoix and Rockford is just short of 300 miles, and the separation between Charlevoix and Bloomington is almost 400 miles. The Commission fails to see the relevance of Ives' interests in Illinois to the question of concentration in Michigan.

13. WJML is highly critical of the applicant's financial plan which has been amended on several occasions. Indeed, WJML's criticisms go into minute detail. For example, WJML suggests some impropriety on the part of some of the principals in listing the surrender value of insurance as an asset without indicating a willingness to surrender the insurance. WJML goes to great lengths in an effort to demonstrate the inadequacy of the applicant's construction and operating cost estimates, and there are numerous other allegations purporting to support WJML's view that the applicant is not financially qualified.

14. It is true that the applicant's estimates do not equal the amounts that WJML insists are necessary, but the applicant's estimates are equal to or greater than estimates by other applicants proposing similar operations which have been found in the past to be adequate. As for the supposed unwillingness on the part of some of the principals to surrender their insurance, it is not material since surrender of an insurance policy is not necessary in order to obtain cash value of a policy as a loan. The Commission has considered all of WJML's allegations going to the financial qualifications of the applicant and its principals and finds them without merit.

15. Nevertheless, the Commission finds that it would not be appropriate to determine the applicant's financial qualifications on the basis of the financial information which is not now current. Therefore, a financial issue will be specified to permit a determination of the applicant's financial qualifications on the basis of current data.

16. A further contention of WJML is that the applicant has not adequately ascertained the community problems in the area. The Commission has examined the applicant's exhibits supporting its statement of program service and finds that there have been discussions with community leaders and members of the general public which appear to constitute a reasonable cross section of the prospective listeners. We note that the projected time segments for all the programs proposed in response to the ascertained problems have not been clearly identified. The applicant has informed the Commission, however, that its major public interest broadcasting program, "The Morning Show," will be aired from "sign-on" to 8:30 a.m., Monday through Friday. Its other proposed programs can be best characterized as public service announcements, and hence the specification of an exact time segment is not required. Accordingly, the Commission finds the applicant's showing is in substantial compliance with the requirements of the Commission's "Primer on Ascertainment of Community Problems

[3] WJML makes much over a dispute concerning an alleged conversation between Albert Schaller and John Harrington, WJML's president, during which Schaller is said to have expressed an interest in acquiring an interest in WJML and allegedly indicated that he would apply to a station in Charlevoix if he could not acquire an interest in WJML. WJML argues that the matter should be considered in hearing. The Commission fails to see what purpose might be served in resolving a possible dispute between WJML's president and a former New Broadcasting principal.

by Broadcast Applicants," 36 F.R. 4092, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

17. The Commission has examined WJML's other contentions and finds that they too are without merit.

18. Although the Commission is not treating WJML's objection and supplements as a petition to deny the application, WJML nevertheless is an interested party and does have standing to intervene in the proceeding on the New Broadcasting application. WJML will therefore be named a party to the proceeding. The issues to be tried in the hearing are such that it is appropriate to place the burden of proceeding with the introduction of the evidence and the burden of proof upon the applicant.

19. Except as indicated by the issues specified below, the applicant is qualified to construct and operate the proposed station. In view of the matters discussed above, however, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

20. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, in light of the newspaper interests of principals of the New Broadcasting Corp., whether a grant of the application would result in an undue concentration of control of the media of mass communications in Charlevoix, Mich., and vicinity.

2. To determine whether the applicant is financially qualified to construct and operate its proposed station.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

21. *It is further ordered,* That the Harrington Broadcasting Co., licensee of stations WJML(AM) and WJML-FM, Petoskey, Mich., is made a party to the proceeding.

22. *It is further ordered,* That the burden of proceeding with the introduction of the evidence and the burden of proof with respect to the issues herein shall be upon the applicant.

23. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and party respondent, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

24. *It is further ordered,* That the applicant shall, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 12, 1972.

Released: October 19, 1972.

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

[FR Doc.72-18438 Filed 10-27-72;8:49 am]

# FEDERAL POWER COMMISSION

[Docket No. CI73-273]

## FOREST OIL CORP.

### Notice of Application

OCTOBER 26, 1972.

Take notice that on October 12, 1972, Forest Oil Corp. (Applicant), 1300 National Bank of Commerce Building, San Antonio, Tex. 78205, filed in Docket No. CI73-273 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Columbia Gas Transmission Corp. (Columbia) from Block 287, Eugene Island Area, South Addition, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell Columbia approximately 900,000 Mcf of natural gas per month at 35.0 cents per Mcf at 15.025 p.s.i.a. for a 1 year period from the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.72-18511 Filed 10-27-72;8:51 am]

# GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. A-8; Supp. 3]

## GOVERNMENT EMPLOYEES

### Travel and Transportation and Allowances for Relocation

To Heads of Federal agencies.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-8 (including supplement 1 thereto) and changes the criteria for authorizing an extension of the time within which an employee must complete a residence transaction in order to receive an allowance under the provisions of Office of Management and Budget (OMB) Circular No. A-56, Employee Relocation Allowance Regulations, adopted by the General Services Administration through FPMR Temporary Regulation A-8.

2. *Effective date.* This supplement is effective upon publication in the FEDERAL REGISTER (10-28-72).

3. *Expiration date.* FPMR Temporary Regulation A-8 and supplements 1 and 3 thereto will expire April 30, 1973, unless sooner superseded or canceled.

4. *Background.* The pertinent regulations in OMB Circular No. A-56 originally permitted an exception to the time limitation of 1 year for completion of the sale or purchase of a residence only when settlement was delayed because of litigation. In 1969 the regulations were amended to permit an extension of time for reasons other than litigation when a valid contract of sale/purchase had been executed within the initial 1-year period from the time an employee reported to his new duty station. Experience has shown that there are instances in which employees, acting in good faith, do not possess valid contracts of sale/purchase at the expiration of the initial 1-year period due to reasons beyond their control. Therefore, the regulations are being amended to authorize heads of agencies or their designees to grant

extensions of the 1-year period when they are justified.

5. *Nature of change.* Section 4.1e of OMB Circular No. A-56 is amended to read as follows:

e. *Time limitation.* The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station.

6. *Cancellation.* Supplement 2 to FPMR Temporary Regulation A-8 is canceled.

Dated: October 26, 1972.

LARRY F. ROUSH,
*Acting Administrator of General Services.*

[FR Doc.72-18565 Filed 10-27-72;10:06 am]

# SECURITIES AND EXCHANGE COMMISSION

[70-5251]

## APPALACHIAN POWER CO.

### Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

OCTOBER 20, 1972.

Notice is hereby given that Appalachian Power Co. (Appalachian), 40 Franklin Road, Roanoke, VA 24009, an electric utility subsidiary company of American Electric Power Co., Inc. (AEP), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6 (b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $70 million aggregate principal amount of its first mortgage bonds in one or more new series maturing in not less than five and not more than 30 years. The number of new series of bonds and the maturity of the bonds will be determined not less than 72 hours prior to the opening of the bids. The interest rate on the bonds (which shall be a multiple of one-eighth of 1 percent) and the price to be paid to Appalachian (which shall not be less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under and pursuant to the provisions of the mortgage and deed of trust dated as of December 1, 1940, made by Appalachian to Bankers Trust Co. and G. E. Maier, as trustees, as heretofore supplemented and amended and as to be further supplemented and amended by a supplemental indenture to be dated as of December 1, 1972, which precludes Appalachian from redeeming any such bonds prior to December 1, 1977, if such redemption is for the purpose of refunding such bonds through the use, directly or indirectly, of borrowed funds at an effective interest cost below that of the bonds.

Appalachian will apply the proceeds from the sale of the bonds, together with other funds which may become available, to prepay or to pay at maturity unsecured short-term indebtedness of Appalachian then outstanding, to pay expenditures in connection with Appalachian's construction program, for working capital and to reimburse the corporate treasury. As of August 31, 1972, Appalachian had $42,400,000 of short-term debt, all commercial paper, outstanding, and at the time of issuance of the bonds, it expects an aggregate amount of commercial paper and bank notes outstanding of not more than $55 million.

The application indicates that the State Corporation Commission of Virginia, the State in which Appalachian is organized and doing business, and the Tennessee Public Service Commission, in which State Appalachian is qualified to do business, have jurisdiction over the issue and sale of the bonds. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred by Appalachian in connection with the proposed issue and sale of bonds will be supplied by amendment.

Notice is further given that any interested person may, not later than November 15, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
*Secretary.*

[FR Doc. 72-18400 Filed 10-27-72;8:45 am]

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[812-3222]

## BRF RESOURCES, INC.

### Notice of Filing of Application for an Order Declaring Company not To Be an Investment Company

OCTOBER 20, 1972.

Notice is hereby given that BRF Resources, Inc. (BRF), 3412 Republic National Bank Building, Dallas, Tex. 75201, a Delaware corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 (Act), for an order of the Commission declaring BRF to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BRF was incorporated in Delaware in 1969 for the purpose of acquiring 1 million shares of the common stock of National Petroleum Limited (National), a Canadian corporation. This acquisition of approximately 20 percent of the outstanding stock of National was completed in March of 1969 and made BRF both the largest shareholder of National and the controlling shareholder of National.

National is primarily engaged in the business of acquiring and developing oil and gas properties. National is also the owner of approximately 53 percent of the outstanding common stock of Permeator Corp. (Permeator) a Delaware corporation, which is primarily engaged in the business of developing methods for increasing production from oil and gas wells.

In addition to its interests in National, BRF also owns 2,288 shares of Permeator, and interests in three oil and gas producing properties. As of June 30, 1972, BRF's investments in National and Permeator, which had market values of $1,614,586 and $33,901, respectively, represented together 98 percent of the assets of BRF, exclusive of cash items. At the date of its most recent balance sheet, November 30, 1971, BRF's assets included $23,803 in cash, accounts receivable, and prepaid expense.

BRF, therefore, owns investment securities having a value exceeding 40 percent of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis and might,

therefore, be deemed to be an investment company within the meaning of section 3(a)(3) of the Act.

Section 3(b)(2) of the Act provides that notwithstanding section 3(a)(3) of the Act, a company is not an investment company within the meaning of the Act if the Commission finds and by order declares the company to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

BRF claims that it is primarily engaged in the business of exploring and finding oil and gas and in securing and operating existing oil and gas properties both directly and through its controlled company, National, and its subsidiary, Permeator.

Four members of the board of directors of BRF are also members of the boards of directors of National and Permeator and constitute a majority of the members of all three boards. As such, they actively participate in the management of National. The president of BRF is the vice president of National and Permeator, and actively participates in the management and operation of the latter two companies. The president of National and Permeator, who was a founder of BRF, and until 1972 an officer and director of BRF, continues to own 2.6 percent of the common stock of BRF.

The National and Permeator securities, which are presently pledged to secure loans to BRF, are the sole investment securities ever owned or presently proposed to be owned by BRF.

No dividends have been paid on National or Permeator stock and such dividends are not expected. Whatever revenues BRF has received to date have been derived from its interests in producing wells and leases, and it is expected that this will continue to be the case.

Notice is further given that any interested person may, not later than November 14, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18401 Filed 10-27-72;8:45 am]

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[812-3245]

## BULLOCK FUND, LTD., ET AL.

### Notice of Application for an Order Exempting Applicants

OCTOBER 20, 1972.

Bullock Fund, Ltd., Canadian Fund, Inc., Dividend Shares, Inc., Nation-Wide Securities Co., Inc., and New York Venture Fund, Inc. (Funds), all of which are open end diversified management investment companies registered under the Investment Company Act of 1940 (the Act) and Calvin Bullock, Ltd. (Bullock), Funds' principal underwriter (hereinafter collectively called Applicants), 1 Wall Street, New York, NY 10005, have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to: (a) Reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed; or (b) purchase under the exchange privilege available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount redeemed. Notice of this proposed privilege will be given to eligible persons in writing or by telephone together with their check for the amount of their redemption payment. To be effective, a written order from such eligible persons of the exercise of the privilege must be received or postmarked within 15 days after the date the request for redemption was received. The exercise of the privilege shall be accomplished by transmitting to the Fund, the transfer agent, or the underwriter the notice of exercise (a form of which will be sent with the redemption check) accompanied by the appropriate funds for the repurchase. The reinstatement will be made at the net asset value per share next determined after receipt of the order.

Applicants assert that in order to further defeat the possibility of abuse, the privilege will be offered to shareholders who have requested redemption on a one-time basis. Once a person has exercised the privilege as to his holdings in any of the Funds, the privilege will not thereafter be available to him upon redemption of shares in that or any other of the Funds.

Applicants further state that no compensation of any kind will be paid to any dealer or salesman in connection with the purchase or exchange of shares pursuant to exercise of the privilege. Any cost involved will be borne by Bullock, except that the $5 service fee payable by all shareholders exercising the exchange privilege will be charged where appropriate.

Applicants contend that the proposed privilege will enable investors who may have overlooked or may have been unaware of features of their investment at the time they redeemed, and investors who have mistakenly redeemed their shares, to reinstate their investment without the necessity of paying a sales load. Such a privilege will not operate to the prejudice of the Funds or their shareholders and the one-time feature of the offer will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 16, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for

hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18404 Filed 10-27-72;8:45 am]

[File No. 7-4289]

## BURNDY CORP.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 20, 1972.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burndy Corp., Filed No. 7-4289.

Upon receipt of a request, on or before November 5, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18402 Filed 10-27-72;8:45 am]

[812-3283]

## GREATER WASHINGTON INVESTORS, INC., ET AL.

### Notice of Filing of Application

OCTOBER 20, 1972.

Notice is hereby given that Greater Washington Investors, Inc. (GWII), 1015 18th Street NW., Washington, DC 20036, a closed end, nondiversified management investment company registered under the Investment Company Act of 1940 (Act), Solid State Scientific, Inc., Montgomeryville Industrial Center, Montgomeryville, Pa. 18936 (the Company), a Delaware corporation, and Henry I. Boreen (Boreen), 1310 Rydal Road, Rydal, PA 19046, Chief Executive Officer and Chairman of the Board of Directors of the Company (hereinafter jointly referred to as Applicants), have filed an application pursuant to section 17(d) of the Act and Rule 17d-1 thereunder requesting an order of the Commission authorizing an agreement among the Applicants and other selling shareholders pursuant to which certain common stock of the Company would be sold in a proposed public offering of the Company's securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On August 30, 1972, the Company filed a registration statement with the Commission (File No. 2-45556) covering a proposed public offering of 350,000 shares of its common stock and other securities; 100,000 of those shares are to be sold by certain selling shareholders including GWII, which proposes to sell 13,400 of such shares, and Boreen, who proposes to sell 36,000 of such shares. All of the shares covered by the registration statement are to be publicly offered and sold by a group of underwriters headed by R. W. Pressprich & Co. Incorporated (Pressprich); the underwriters will be committed to take and pay for all of the shares if any are taken. In order to cover over-allotments, the selling shareholders, or certain of them, will grant to the underwriters an option to purchase from them up to 35,000 additional shares for a period of 30 days commencing with the effective date of the registration statement. The selling shareholders will agree not to sell or otherwise dispose of any additional shares for 90 days after the effective date of the registration statement without the prior written consent of Pressprich.

The public offering price will be determined by the Company and Pressprich based on the market price for the Company's shares in the over-the-counter market immediately prior to the effective date of the registration statement. The proceeds from the sale of these shares, less expenses of the offering, will be used to retire certain indebtedness (not including any indebtedness to GWII), to purchase certain test and production equipment and for additional working capital.

The Company will not receive any part of the proceeds from the sale of shares by the selling shareholders. The Company does nevertheless bear all expenses in connection with the offering other than legal fees and related expenses which any of the Applicants may incur in connection with the offering or with this application; the undertaking to bear these expenses was made at the time the selling shareholders originally acquired their securities from the Company or the companies with which it merged.

The Company and the underwriters have determined that in order to provide funds to the Company in a timely manner and in order to take advantage of current market conditions, which are deemed favorable to the Company, the offering should be promptly made, assuming the registration statement has become effective.

Until October 2, 1972, an officer of GWII had served on the Company's board of directors of the Company since 1966. No GWII officer or employee or other representative presently serves as a director of the Company.

GWII owns 129,928 shares of the Company's common stock, or approximately 14 percent of the outstanding voting securities. Boreen owns 199,000 shares, or approximately 21 percent of its outstanding voting securities. As a result of such stock ownership, GWII and the Company are affiliated persons of each other; Boreen is an affiliate of the Company and an affiliate of an affiliated person of GWII.

Rule 17d-1 adopted under section 17(d) of the Act provides, as here pertinent, that no affiliated person of any registered investment company, or any affiliated person of such a person shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

GWII represents that other than the securities of the Company owned by GWII, no person affiliated with GWII, and no officer, director or employee of GWII or its affiliates owns any of the Company's securities or is in any way affiliated with the Company, and neither GWII, nor any person affiliated with GWII, nor any officer, director, or employee of GWII, intends to purchase any of the Company's securities to be offered pursuant to the proposed public offering.

Applicants further represent that the proposed public stock offering of the Company is important to the financial health of the Company in which GWII remains a substantial shareholder, and hence is in the interest of GWII and its shareholders and is consistent with the purposes and policies of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request, and the

issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–18405 Filed 10–27–72;8:46 am]

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[70–5253]

## NEW ENGLAND ELECTRIC SYSTEM

### Notice of Proposed Issue and Sale of Short-Term Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding Requirements

OCTOBER 20, 7972.

Notice is hereby given that New England Electric System (NEES), a registered holding company, 20 Turnpike Road, Westborough, MA 01581, has filed an application-declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

NEES proposes to issue and sell, from time to time prior to December 31, 1973, short-term notes in the form of commercial paper and notes to banks, in an aggregate amount not exceeding $30 million at any one time outstanding. NEES intends to add the proceeds from the sales of the notes and commercial paper to its general funds to be thereupon made available to its subsidiary companies through the purchase of additional shares of their capital stocks, capital contributions, or loans, in furtherance of their construction programs or to provide for other capital expenditures. The notes will be repaid by NEES prior to December 31, 1973, through the sale of NEES' gas subsidiary companies, the issue and sale of common stock available, treasury funds, or a combination thereof.

The proposed banknotes will mature not more than 1 year after the date of issue, and, in any event on or before December 31, 1973, and will provide for payment in whole or in part prior to maturity without premium or penalty. The notes will bear interest at not more than the prime commercial rate then in effect for unsecured loans at the bank to which the note is issued. NEES expects to borrow from the six New York City banks listed below in the amounts shown.

| *Name of bank* | *Amount to be borrowed* |
|---|---|
| Chase Manhattan Bank, N.A. | $5,000,000 |
| Chemical Bank | 5,000,000 |
| First National City Bank | 5,000,000 |
| Irving Trust Co. | 5,000,000 |
| Manufacturers Hanover Co. | 5,000,000 |
| Morgan Guaranty Trust Company of New York | 5,000,000 |

The anticipated borrowings from any particular bank may be increased or decreased during the period before December 31, 1973, and the total amount of the borrowings from said banks will be decreased by the amount of commercial paper sold by NEES during said period. NEES and its subsidiary companies presently maintain operating balances with each of the lending banks, which, together with an additional balance of a maximum of 10 percent of the amounts to be borrowed, are sufficient to satisfy any compensating balance requirements. However, if such balances were maintained solely to fulfill the prevailing compensating balance requirements of 15 percent, the effective interest cost to NEES would be 6.75 percent per annum, assuming a current prime rate of 5.75 percent per annum.

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days, will be issued in denominations of not less than $50,000 and not more than $1 million, and will not be prepayable prior to maturity. The commercial paper will be sold by NEES directly to two dealers in commercial paper; however, no commercial paper will be issued having a maturity of more than 90 days at an effective interest cost at which NEES could borrow from banks. No commission or fee will be payable in connection with the issue and sale of commercial paper. The dealers will reoffer and sell the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate of NEES to not more than 100 customers of each dealer identified and designated in a list (nonpublic) prepared in advance by each dealer. No additions will be made to such list of customers. No sale will be made to any purchasers unless and until such purchasers have received a current report of the financial condition of NEES. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, the dealer will repurchase the paper for resale to others on said list of customers.

NEES requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. NEES states that the proposed commercial paper notes will have a maturity of 9 months or less, that current rates for commercial paper for such prime borrowers as NEES are published daily in financial publications and that generally the effective interest cost thereon will not exceed the effective interest for borrowing from commercial banks. NEES also requests authority to file certificates under Rule 24 on a quarterly basis with respect to the issue and sale of notes hereafter consummated pursuant to this proceeding.

The expenses (including legal fees) to be incurred are estimated not to exceed $3,000, which represents the actual cost of services to be performed by New England Power Service Co., the system service company. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 13, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–18406 Filed 10–21–72;8:46 am]

[70-5254]

## POTOMAC EDISON CO.

### Notice of Proposed Issue and Sale of $12 Million Principal Amount of First Mortgage Bonds at Competitive Bidding

OCTOBER 20, 1972.

Notice is hereby given that the Potomac Edison Co. (Potomac), Downsville Pike, Hagerstown, Md. 21740, a registered holding company and an electric utility subsidiary company of Allegheny Power System, Inc., also a registered holding company, has filed an application-declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 thereof and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Potomac proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $12 million principal amount of its First Mortgage and Collateral Trust Bonds —— percent Series due 2002. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Potomac (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an indenture dated as of October 1, 1944, between Potomac and Chemical Bank (successor by merger to Chemical Bank New York Trust Co., formerly Chemical Bank & Trust Co.), as trustee, as supplemented and as to be supplemented by a supplemental indenture to be dated as of December 1, 1972, which precludes Potomac from redeeming any such bonds prior to December 1, 1977, if such redemption is for the purpose of refunding such bonds through the use, directly or indirectly, of borrowed funds at an effective interest cost below that of the bonds.

The net proceeds from the sale of the bonds, together with other funds, will be used to prepay Potomac's short-term bank notes to the extent desirable, to pay at maturity any commercial paper outstanding at the time of the sale of the bonds, to reimburse Potomac's treasury for moneys actually expended for its construction program and working capital, and for other lawful corporate purposes.

The issue and sale of the bonds by Potomac require prior authorization of the Maryland Public Service Commission. The application-declaration states that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that the fees and expenses to be incurred by Potomac in connection with the proposed issue and sale of its bonds are estimated at an aggregate of $80,000, including $13,500 in Maryland taxes and fees, $18,000 in accountant's fees, and $12,000 in legal fees.

Notice is further given that any interested person may, not later than November 13, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18408 Filed 10-27-72;8:46 am]

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[File No. 7-4279]

## TRANS WORLD AIRLINES, INC.

### Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 20, 1972.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company which security is listed and registered on one or more other national securities exchanges:

Trans World Airlines, Inc., File No. 7-4279.

Upon receipt of the request, on or before November 5, 1972, for any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18403 Filed 10-27-72;8:45 am]

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[File No. 7-4290]

## UNIVERSITY COMPUTING CO.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

University Computing Co. (Delaware), File No. 7-4290.

Upon receipt of a request, on or before November 5, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washintgon, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18407 Filed 10-27-72;8:46 am]

# TARIFF COMMISSION

[TEA-W-159]

## RINDGE INDUSTRIES, INC.

### Notice of Investigation, Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Gonic plant, Rochester, N.H., of Rindge Industries, Inc., Ware, Mass., the U.S. Tariff Commission on October 24, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with woven fabrics of wool, and fabrics, including laminated fabrics, of wool and of man-made fibers (of the types provided for in items 336.60, 359.30, and 359.50 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing: *Provided*, Such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: October 25, 1972.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-18433 Filed 10-27-72;8:49 am]

# INTERSTATE COMMERCE COMMISSION

[Notice No. 105]

## ASSIGNMENT OF HEARINGS

OCTOBER 25, 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 hearing 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. No amendments will be entertained after the date of this publication.

MC 76429 Sub 5, William A. Stewart, doing business as Stewart Truck Line, now assigned November 7, 1972, at Lexington, Ky., is canceled and reassigned to November 8, 1972, at the Capital Plaza, Frankfort, Ky.

MC 135509 Sub 2, William R. Wade Common Carrier Application, now assigned November 27, 1972, at Kansas City, Mo., is postponed to January 22, 1973 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

MC-121495 Sub 5, Englewood Transit Co., now being assigned hearing January 31, 1973 (3 days), at Denver, Colo., in a hearing room to be later designated.

No. 35366, The Atchison, Topeka & Santa Fe Railway Co. et al. Colorado & Wyoming Railway Co., now being assigned for prehearing conference on December 13, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117565 Sub 30, Motor Service Co., Inc., now being assigned hearing December 6, 1972 (3 days), at Louisville, Ky., in a hearing room to be later designated.

MC 9194 Sub 2, AAA Transfer, Inc., now assigned November 6, 1972, at Seattle, Wash., hearing will be held in the Olympia Hotel, Fourth and Seneca.

MC 127172 Sub 4, Francis Margolies, doing business as Marc Baggage Lines, now assigned November 7, 1972, at Chicago, Ill., is cancelled and application dismissed.

MC 127834 Sub 64, Cherokee Hauling & Rigging, Inc., now assigned December 6, 1972, at Louisville, Ky., is cancelled and the application is dismissed.

No. 35655, Clougherty Packing Co. vs. Burlington Northern, Inc. et al., now being assigned hearing January 31, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35660, The Kroger Co. vs. The Atchison, Topeka & Santa Fe Railway Co., et al., now being assigned hearing January 9, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-42092 Sub-2, Acme Cartage Co., continued hearing November 6, 1972, at Seattle, Wash., is postponed to November 20, 1972, will be held at the Washington Utilities & Transportation Commission, 1231 Andover Park East, Seattle, Wash.

MC-107295 Sub-612, Pre-Fab Transit Co., a corporation, now assigned October 25, 1972, at Washington, D.C., is cancelled and application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18449 Filed 10-27-72;8:50 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 25, 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. 42553—*Iron and steel articles between points in official territory.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3024), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from and to points in official (including Illinois) territory, (excluding points in Extended Zone "C", northern Illinois and southern Wisconsin).

Grounds for relief—Motor competition.

Tariffs—Supplement 260 to Baltimore & Ohio Railroad Co. tariff ICC 24808, and other schedules named in the application. Rates are published to become effective on November 25, 1972.

FSA No. 42554—*Oats to Sioux City, Iowa.* Filed by Soo Line Railroad Co. (No. 96), for interested rail carriers. Rates on oats, in carloads, as described in the application, from specified points in North Dakota, to Sioux City, Iowa.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 8 to Soo Line Railroad Co. tariff ICC 7772. Rates are published to become effective on November 30, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18450 Filed 10-27-72;8:50 am]

[Notice No. 148]

## 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-73908. By supplemental order of October 13, 1972, the Motor Carrier Board approved the transfer to Home Run, Inc., Jamestown, Ohio, of the operating rights in permit No. MC-134388 (Sub-No. 4) issued September 14, 1972, to Henry G. Harlow, Jamestown,

Ohio, authorizing the transportation of buildings (except buildings in sections) and components, parts, materials, supplies, and fixtures used in the erection or assembly of buildings, from Fredericksburg, Va., to points in Maryland, that part of Pennsylvania on and east of Interstate Highway 81, Virginia, and the District of Columbia. James W. Muldoon, 50 West Broad Street, Columbus, OH 43215, attorney for applicants.

No. MC–FC–73944. By order of October 11, 1972, the Motor Carrier Board approved the transfer to Terry's Express, Inc., Kokomo, Ind., of a portion of the operating rights in certificate No. MC–22484 issued to Brown from Wabash, Inc., Wabash, Ind., authorizing the transportation of: Insulating material and mineral wool, between specified points in Indiana, Illinois, Michigan, Ohio, and Kentucky, Warren C. Moberly, attorney, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204.

No. MC–FC–73952. By order entered October 12, 1972, the Motor Carrier Board approved the transfer to Brown's Limousine Service, Inc., Jamaica, N.Y., of the operating rights set forth in certificate No. MC–126916, issued November 3, 1971, to Wilder Connecticut Airport Coach, Inc., Port Chester, N.Y., authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, between New Haven, Conn., and the John F. Kennedy International Airport, New York, N.Y., serving the intermediate points of Stratford, Bridgeport, Milford, Fairfield, Westport, Norwalk, Darien, Stamford, and Greenwich, Conn., and La Guardia Airport, Flushing (Main Street), and Jamaica (Sutphin Boulevard) Stations of the Long Island Rail Road Co., New York, N.Y., over specified routes, with certain restrictions. Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021, attorney for applicants.

No. MC–FC–73988. By order entered October 12, 1972, the Motor Carrier Board approved the transfer to Clarence Overton Thomas, doing business as C. O. Thomas Trucking, New Canton, Va., of the operating rights set forth in permits Nos. MC–114949, MC–114949 (Sub-No. 1), and MC–114949 (Sub-No. 4), issued by the Commission November 1, 1967, June 24, 1969, and March 24, 1970, respectively, to Appomattox Trucking Co., Inc., Appomattox, Va., authorizing the transportation of lumber and pallets, from Drakes Branch, Va., to points in West Virginia, Ohio, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Kentucky, Illinois, Indiana, Michigan, Tennessee, and the District of Columbia. William S. Kerr, Post Office Box 706, Appomattox, VA 24522, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.72–18451 Filed 10–27–72;8:50 am]

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federal register

SATURDAY OCTOBER 28, 1972
WASHINGTON, D.C.

PART II

Volume 37 ■ Number 209

# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

■

# PLANT VARIETY PROTECTION

# Title 7—AGRICULTURE

## Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

### SUBCHAPTER H—PLANT VARIETY PROTECTION

### PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

*Statement of considerations.* Proposed regulations and rules of practice under the Plant Variety Protection Act were published in the FEDERAL REGISTER on April 18, 1972 (37 F.R. 7672). Sixty days were allowed for comments.

Comments were received from nine sources. The comments, in general, supported the proposed regulations and rules of practice.

Eight of the comments contained suggested changes which were referred to the Plant Variety Protection Board for its recommendations. After considering the Board's recommendations and other information available in the Department, it is concluded that the suggested changes should be adopted, or rejected, as follows:

1. *Section 180.1(b)(9).* Insert after "variety" the words ", which standards have been" and delete all the wording after "Secretary." Adopted, as this change will (1) make it clearer that it is the standards, not the variety, which are approved by the Secretary and (2) remove the labeling requirement from the definition as it is only one of many standards which would be approved by the Secretary.

2. *Section 180.1(b) (6) and (19).* Clarify the definitions for "assignee" and "owner." Not adopted, as no suggestions were made as to how the definitions were not clear or how they could be improved.

3. *Section 180.1(b)(11).* Allow persons other than the "Administrator" to issue findings of fact. Changed to refer to the Secretary, as authority to perform the functions involved will be provided in general delegations of authority within the Department of Agriculture.

4. *Section 180.1(b)(23).* a. Change "and" to "or" in the second line. Not adopted, as the change would not be consistent with the generally accepted legal definition of a sale wherein title must be transferred.

b. Add the words "without authority of the owner" at the end of the section. Not adopted, as this change in wording would have the effect of changing the entire definition, which apparently was not the intention of the suggestor.

5. *Section 180.1(b)(16).* Restrict the definition for the term "hybrid" in accordance with certain State seed laws. Not adopted. The definition is only for the purpose of establishing which products of plant breeding cannot be protected under the Act. The present broader definition is most practical for this purpose.

6. *Section 180.2(a).* a. Insert after "farmer representation" the words "including farmers who are primarily seed users,". Not adopted, as the wording of section 7 (7 U.S.C. 2327) does not authorize such a restrictive requirement.

b. Insert after "Board" in the third sentence the word "which"; delete "and" following the phrase "which shall include farmer representation." Adopted, for clarification.

c. Delete the word "approximately" in the third sentence. Not adopted, as the present wording is the wording used in the Act.

d. Define the words "Government," "public," "Federal," and "State." Not adopted, as it is considered clear that "public" representatives include employees of public institutions and that "private" or "seed industry" representatives include employees or owners of farms, seed companies, or other privately operated business entities that makes them farmers or a part of the seed industry.

7. *Section 180.5.* Add a new paragraph (d) to read as set forth below. Adopted, as this requirement will serve as public notice to applicants and their agents or attorneys and help protect the Plant Variety Protection Office from a deliberate concealment of material facts.

8. *Section 180.7(a)(7).* a. Change the term "4 years" to "1 year," restrict the extension to those cases where the extension is reasonable, and provide for a commensurate reduction in the term of protection. Adopted.

b. This change will provide a maximum of an additional 3 years for filing in the United States after filing in a foreign country where official grow-out tests are required. The additional time will be determined by the time required to obtain rights in the foreign country. This change will also provide for a commensurate reduction of the term of protection in this country by an amount equal to the length of time, in years, that the period for filing was extended.

9. *Section 180.14(d).* a. Add wording to provide protection for a joint owner who does not desire to join in applying for protection or to have the variety protected. Not adopted, as this property right question, if it arises, will have to be resolved by the courts.

b. Delete from line two the word "corrected" and change "a" to "an." Adopted, as the section applies to any application.

c. Replace the words "one of two or more" in line 20 with the words "less than all of the." Adopted, as two of three joint owners could be involved. Also add the words "to said owners" after "privileges" in line 22 for clarification.

d. Delete the words "the original" in the last two lines before "application" and insert "an." Adopted, as the section applies to any application.

10. *Section 180.16.* Insert in line 10 after the word "specified" the words "or if previously declined" and change the word "such" in line 11 to "an affirmative." Adopted, as these changes make it clear that the election specifying that a protected variety is to be sold by variety name only as a class of certified seed can be made whether the application previously specified a negative election or did not specify an election.

11. *Section 180.18(a) and 180.132(b).* Add to the end of § 180.18(a) and after the first and second sentences in § 180.132(b) the words, "or to carry out the provisions of any Act of Congress." Adopted, as this change will permit a disclosure of confidentiality where necessary to carry out any Act of Congress.

12. *Section 180.19.* Delete the paragraph designations (d), (e), and (f), and insert in line 18 after "published" the word "only." Adopted, for clarification.

13. *Section 180.100.* Designate the present wording as paragraph (b) and insert a new paragraph (a) at the beginning of the section, worded as set forth below.

14. *Section 180.104(c).* Add a new sentence at the end of the section worded as follows: "For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned." Adopted, as this change will provide needed flexibility in unusual circumstances.

15. *Section 180.105(a).* Delete the words "as claimed." Adopted, for clarification.

16. *Section 180.121.* Insert in the second line after "mistake" the words "or description of the variety" and insert in the same line after the word "applicant" the words "such as the use of a misleading variety name or a name assigned to a different variety of the same species." Adopted, with modifications. Changes would be allowed in cases where a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of a minor character, or in the description of the variety. These changes will also provide for correcting a certificate as to variety name when it is found that the name assigned is misleading, or is a name previously assigned to another variety, where such mistake has occurred in good faith.

17. *Sections 180.120 and 180.121.* Provide for election of the "certified seed only" specification after a certificate is issued. Such an election would not be a corrected certificate due to either an office mistake or an applicant's mistake. Accordingly, the suggestion is adopted by adding a new heading "Reissuance of certificate" and a new § 180.122 *Certified seed only election* to read as set forth below.

18. *Section 180.130(a).* In line 5 change the words "an exclusive" to "any." Adopted, so that limited rights as well as exclusive rights may be recorded.

19. *Sections 180.140 through 180.144.* Establish marking and labeling requirements for seed of protected varieties when used in seed mixtures. Not adopted, as labeling is authorized but not mandatory under the Act. Since various kinds of mixtures may be involved, labeling guidelines will be provided by the Commissioner as the need arises.

20. *Sections 180.140, 180.141, 180.142, 180.143(a), and 180.143(b).* Change the word "may" to "shall" in each section to require suggested labeling. Not adopted, as the Act authorizes but does not require labeling.

21. *Section 180.151.* Permit an agent or attorney to act for the owner based solely on the claim of the agent or attorney that he is authorized. Not adopted, as this could result in an unwarranted disclosure by the office of the confidentiality of a pending application.

22. *Section 180.157.* Reference the Code of Professional Responsibility of the American Bar Association. Not adopted, as it was determined that it was not necessary at this time.

23. *Section 180.175.* Lower the fees. Not adopted. The legislative history of the Act indicates that it was the intent of Congress that the Act will be substantially self-supporting. Fees will be adjusted periodically based on work experience.

*Section 180.175.* Insert in line (g) after the word "correcting," the words "or reissuance of a." Adopted, to provide an appropriate fee for services provided under new § 180.122.

24. Propose regulation or rules of practice to interpret section 113 (7 U.S.C. 2543) of the Act. Not adopted, as the Plant Variety Protection Office has no enforcement responsibilities under this section. Other changes are made in §§ 180.1, 180.6, 180.7, 180.14, 180.17, 180.18, 180.101, 180.103, 180.104, 180.106, 180.132, 180.153, 180.155, 180.157, 180.175, 180.204, 180.209, 180.216, 180.220, 180.400, 180.401, 180.402, 180.403, 180.500, and 180.800 for purposes of clarification or greater conformity with applicable provisions of the Act.

Pursuant to the Plant Variety Protection Act, the regulations and rules of practice are adopted as set forth below:



AUTHORITY: The provisions of this Part 180 issued pursuant secs. 6, 22, 23, 26, 31, 42(b), 43, 56, 57, 91(c), 84 Stat. 1542; 7 U.S.C. 2326, 2352, 2353, 2356, 2371, 2402(b), 2403, 2426, 2427, 2501(c); 29 F.R. 16210, as amended, 37 F.R. 6327, 6505.

## DEFINITIONS

### § 180.1 Meaning of words.

(a) *Construction of words.* Words used in the singular form in this part shall be deemed to import the plural, and vice versa, as the case may be.

(b) *Definitions.* The definitions of terms contained in the Act shall apply to such terms when used in this part. In addition, for the purposes of this part, the following terms shall be construed, respectively, to have the following meanings:

(1) "Abandoned application" means an application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

(2) "Act" means the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(3) "Administrator" means the Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(4) "Applicant" means the person who applied for a certificate of plant variety protection.

(5) "Application" means an application for plant variety protection under the Act.

(6) "Assignee" means a person to whom an owner assigns his rights in whole or in part.

(7) "Board" means the Plant Variety Protection Board appointed by the Secretary.

(8) "Certificate" means a certificate of plant variety protection issued under the Act by the Office.

(9) "Certified seed" means seed which has been determined by an official seed certifying agency to conform to standards of genetic purity and identity as to variety, which standards have been approved by the Secretary.

(10) "Commissioner" means the Examiner in Chief of the Office.

(11) "Decision and order" includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law as well as the reasons or basis therefor; and order.

(12) "Examiner" means an employee of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

(13) "Foreign application" means an application for plant variety protection filed in a foreign country.

(14) "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

(15) "Hearing Officer" means an Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly assigned to preside at a hearing held pursuant to the rules of this part.

(16) "Hybrid" shall be defined as set forth in the regulations under the Federal Seed Act (§ 201.2(y) of this chapter).

(17) "Office" or "Plant Variety Protection Office" means the Plant Variety Protection Office, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(18) "Official Journal" means the "Official Journal of the Plant Variety Protection Office."

(19) "Owner" means a breeder who developed or discovered a variety for which plant variety protection may be applied for under the Act or a person to whom the rights to such variety have been assigned or transferred.

(20) "Person" means an individual, partnership, corporation, association, Government agency, or other business or governmental entity.

(21) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(22) "Seed certifying agency" shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

(23) "Sale for other than seed purposes" means the transfer of title to and possession of the seed by the owner thereof to a grower or other person for reproduction for the owner, for testing, or for experimental use, and not for commercial sale of the seed or the reproduced seed for planting purposes.

ADMINISTRATION

### § 180.2 Plant Variety Protection Board.

(a) The Plant Variety Protection Board shall consist of 14 members appointed for a 2-year term. The Board shall be constituted every 2 years and shall consist of individuals who are experts in various areas of varietal development. The membership of the Board, which shall include farmer representation, shall be drawn approximately equally from the private or seed industry sector and from the sector of Government or the public. No member shall be eligible to act on any matter involving any appeal or questions under section 44 of the Act in which he or his employer has a direct financial interest.

(b) The functions of the Board are to: (1) Advise the Secretary concerning adoption of rules and regulations to facilitate the proper administration of the Act, (2) make advisory decisions on all appeals from the examiner or Commissioner, (3) advise the Secretary on the declaration of a protected variety open to use in the public interest, and (4) advise the Secretary on any other matters under the regulations in this part.

(c) The proceedings of the Board shall be conducted in accordance with Executive Order No. 11007 dated February 26, 1962, Administrative Regulations of the U.S. Department of Agriculture, Agricultural Marketing Service Instruction No. 109–1, and such additional operating procedures as are adopted by the members of the Board.

THE APPLICATION

### § 180.5 General requirements.

(a) Protection under this Act shall be limited to nationals of the United States, except where this limitation would violate a treaty, and except that nationals of a foreign State shall be entitled to so much of the protection afforded under this Act as is afforded by said foreign State to nationals of the United States for the same genus and species.

(b) Applications for certificates shall be made to the Plant Variety Protection Office. An application shall consist of:

(1) A completed application form, except that the section specifying that seed of the variety shall be sold by variety name only as a class of certified seed need not be completed at the time of application.

(2) A completed set of the exhibits as specified in the application form, unless the examiner waives submission of certain exhibits as unnecessary based on other claims and evidence presented in connection with the application.

(3) Language and legibility:

(i) Applications and exhibits must be in the English language and legibly written, typed, or printed.

(ii) Any interlineation, erasure, cancellation, or other alteration must be made in permanent ink before the application is signed and shall be clearly initialed and dated by the applicant to indicate knowledge of such fact at the time of signing.

(c) Application and exhibit forms shall be issued by the Commissioner after consultation with the Board. (Copies of the forms may be obtained from the Plant Variety Protection Office, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, MD 20782.)

(d) Effective as of the effective date of these regulations and rules of practice, the signature of the applicant or his agent or attorney on any affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by him that no information is known to him which is inconsistent with that relied on in the affidavit or statement, which would tend to give an impression different from that conveyed by the affidavit or statement, or the failure to disclose which makes that or any affidavit or statement already filed in the course of the proceeding misleading when considered as a whole.

### § 180.6 Application for certificate.

(a) An application for a plant variety protection certificate shall be signed by or on behalf of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

### § 180.7 Statement of applicant.

(a) The applicant, by signing a completed application, states in accordance with section 42 of the Plant Variety Protection Act that (1) he believes himself, or his privies, to be the original and first breeder or discoverer of the variety for which he solicits a certificate; (2) he, or his privies, has sexually reproduced the variety; (3) he does not know and does not believe that the variety was ever a public variety before his, or his privies, date of determination; (4) he is a sole or joint owner of the variety; (5) the variety was not a public variety more than 1 year prior to the effective filing date of the application; (6) before the date of determination of the variety by the owner, or his privies, or more than 1 year before the effective filing date of the application, the variety was not effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country, which description must include a disclosure of the principal characteristics by which the variety is distinguished; (7) he or his privies have not filed an application for the protection of the variety in a foreign country more than 1 year prior to the effective filing date of the application filed in the United States, except that this 1-year may be extended by the Commissioner for an additional period equal to the time interval between the date an application for rights on the same variety was first filed in a foreign country and the date rights were first granted on the variety in the foreign country because of official grow-out tests required by such foreign country: *Provided, however,* That the total period allowed does not exceed 4 years. The term of protection in such case shall be reduced to the nearest full year by an amount equal to the additional time that the 1-year period for filing is extended.

(b) If any application for protection on the same variety has been filed or granted in a foreign country, either by the applicant or his privies, the applicant shall state the names of the countries in which such application(s) were filed or protection granted and shall give the day, month, and year of filing and day, month, and year protection was granted, if any.

(c) When an applicant files an application, cross-references to other related applications may be made, when appropriate.

**§ 180.8 Specimen requirements.**

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office for all costs, including travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

**§ 180.9 Drawings and photographs.**

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety and the color shall be described by use of Nickerson's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

**§ 180.10 Parts of application to be filed together.**

All parts of an application, including exhibits, should be submitted to the Office together; otherwise, each part shall be accurately and clearly referenced to the application.

**§ 180.11 Application accepted and filed when received.**

(a) An application if materially complete when initially submitted shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified before the Office requests an examination fee. The application will be held a maximum of 6 months for completion. Applications not completed at the end of the prescribed period will be considered abandoned. The application fee in such cases will not be refunded.

**§ 180.12 Number and filing date of application.**

(a) Applications shall be numbered and dated in sequence in the order received in the Office. Applicants will be informed in writing as soon as practicable of the number and effective filing date of the application.

(b) An applicant may claim the benefit of the filing date of a prior foreign application in accordance with section 55 of the Act. A certified copy of the foreign application shall be filed upon request made by the examiner. If a foreign application is not in the English language, an English translation certified as accurate by a sworn or official translator shall be submitted with the application.

**§ 180.13 When the owner is deceased or legally incapacitated.**

In case of the death of the owner or if the owner is legally incapacitated, the legal representative (executor, administrator, or guardian) or heir or assignee of the deceased owner may sign as the applicant. If an applicant dies between the filing of his application and the granting of a certificate thereon, the certificate may be issued to the legal representative, heir, or assignee, upon proper intervention by him.

**§ 180.14 Joint applicants.**

(a) Joint owners shall file a joint application by signing as joint applicants.

(b) If an application for certificate is made by two or more persons as joint owners when they were not in fact joint owners, the application shall be amended prior to issuance of a certificate by filing a corrected application together with a written explanation signed by the original applicants. Such statement shall also be signed by the assignee, if any.

(c) If an application has been made by less than all the actual joint owners, the application shall be amended by filing a corrected application together with a written explanation signed by all of the joint owners. Such statement shall also be signed by the assignee, if any.

(d) If a joint owner refuses to join in an application or cannot be found after diligent effort, the remaining owner may file an application on behalf of himself and the missing owner. Such application shall be accompanied by a written explanation and shall state the last known address of the missing owner. Notice of the filing of the application shall be forwarded by the Office to the missing owner at his last known address. If such notice is returned to the Office undelivered, or if the address of the missing owner is unknown, notice of the filing of the application shall be published once in the Official Journal. Prior to the issuance of the certificate, a missing owner may join in an application by filing a written explanation. A certificate obtained by less than all of the joint owners under this paragraph conveys the same rights and privileges to said owners as though all of the original owners had joined in an application.

**§ 180.15 Assigned novel varieties and certificates.**

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or one of the persons identified in § 180.13. However, the certificate may be issued to the assignee or jointly to the owner and the assignee when a part interest in a variety is assigned.

**§ 180.16 Amendment by applicant.**

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in § 180.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name only as a class of certified seed.

**§ 180.17 Papers of completed application to be retained.**

The papers submitted with a completed application shall be retained by the Office except as provided in § 180.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

**§ 180.18 Applications handled in confidence.**

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application, nor will access be given to, or copies furnished of, any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent. Exceptions to the above

may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress or as provided in section 57 of the Act and § 180.19.

(b) Abandoned applications shall not be open to public inspection, except that if an abandoned application is directly referred to in an issued certificate, and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified directly or through the attorney or agent of record and a time not less than 30 days shall be set for presenting objections.

**§ 180.19 Publication of pending applications.**

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show the (a) application number and date of filing, (b) the name of the variety or temporary designation, (c) the name of the kind of seed. Additional information, such as (d) the name and address of the applicant, (e) a brief description of the novel features of the variety, and (f) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations, may be published only upon request or approval received from the applicant at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

**§ 180.20 Abandonment for failure to respond within time limit.**

(a) Except as otherwise provided in § 180.104, if an applicant fails to advance actively his application within 6 months after the date when the last request for action was mailed to him by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned.

(b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When the applicant makes a bona fide attempt to advance his application, and is in substantial compliance with the request for action, but has inadvertently failed to comply with some procedural requirement, opportunity to comply with the procedural requirement shall be given to the applicant before the application shall be deemed abandoned. The Commissioner may set a shortened period, not less than 30 days, to correct any deficiency in the application.

**§ 180.21 Extension of time for reply.**

The time for reply by an applicant to a request by the Office for certain action, shall be extended by the Commissioner only for good and sufficient cause, and for a specified reasonable time. A request for extension shall be filed on or before the specified time for reply. In no case shall the mere filing of a request for extension require the granting of an extension or stay the time for reply.

**§ 180.22 Revival of application abandoned for failure to reply.**

An application abandoned for failure on the part of the applicant to advance actively his application to its completion, in accordance with the regulations in this part, may be revived as a pending application upon a finding by the Commissioner that the failure was inadvertent or unavoidable and without fraudulent intent. A request to revive an abandoned application shall be accompanied by a written statement showing the cause of the failure to respond, a response to the last request for action, and by the specified fee.

**§ 180.23 Voluntary withdrawal and abandonment of application.**

(a) An application may be voluntarily withdrawn or abandoned by submitting to the Office a written request for withdrawal or abandonment signed by the applicant or his attorney or agent of record, if any, or the assignee of record, if any.

(b) An application which has been voluntarily abandoned may be revived within 3 months of such abandonment by the payment of the prescribed fee and a showing that the abandonment occurred without fraudulent intent.

(c) An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only by refiling and payment of a new application fee.

**§ 180.24 Assignee.**

The assignee of record of the entire interest in an application is entitled to advance actively or abandon the application to the exclusion of the applicant.

EXAMINATIONS, ALLOWANCES, AND DENIALS

**§ 180.100 Examination of applications.**

(a) Applicants shall be notified by the Office when the Office can proceed with the examination and that the examination fee is due and payable before proceeding.

(b) Examinations of applications shall include a review of all available documents, publications, or other material relating to varieties of the species involved in the application, except that if there are fundamental defects in the application, as determined by the examiner, the examination may be limited to an identification of such defects and notification to the applicant of needed corrective action. However, matters of form or procedure need not, but may, be raised by an examiner until a variety is found to be novel and entitled to protection.

**§ 180.101 Notice of allowance.**

(a) If, on examination, it shall appear that the applicant is entitled to a certificate, a notice of allowance shall be sent to him or his attorney or his agent of record, if any, calling for the payment of the prescribed fee, which fee shall be paid within 1 month from the date of the notice of allowance. Thereafter, a fee for delayed payment shall be made as required under § 180.175.

(b) Upon request by the Office, the applicant shall submit a reasonable quantity of the viable basic seed required to reproduce the novel variety, as determined by the Commissioner. Failure to deposit viable basic seed within 3 months of the date of request shall result in the application being considered abandoned.

**§ 180.102 Amendments after allowance.**

Amendments to the application after the notice of allowance is issued may be made, if the certificate has not been issued.

**§ 180.103 Issuance of certificate.**

(a) After the notice of allowance has been issued, the prescribed fee and sample of viable basic seed received by the Office, and the applicant has clearly specified whether or not the variety shall be sold by variety name only as a class of certified seed, the certificate shall be promptly issued. Once an election is made and a certificate issued specifying that seed of the variety shall be sold by variety name only as a class of certified seed, no waiver of such rights shall be permitted by amendment of the certificate.

(b) The certificate shall be delivered or mailed to the owner.

**§ 180.104 Application or certificate abandoned.**

(a) Except as provided in paragraph (c) of this section, if the fee specified in the notice of allowance is not paid within 1 month from the date of the notice, the application shall be considered abandoned.

(b) Upon request by the Office, the owner shall replenish the viable basic seed sample of the novel variety. Upon request, the sample of seed which has been replaced shall be returned to the owner, otherwise it shall be destroyed. Failure to replenish viable basic seed within 3 months from the date of request shall result in the certificate being regarded as abandoned. No sooner than 1 year after the date of such request, notices of abandoned certificates shall be published in the Official Journal indicating that the variety has become open for use by the public and, if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

(c) If the allowance fee, the viable basic seed sample or the fee, if any, for

delayed payment are submitted within 9 months of the final due date, it may be accepted by the Commissioner as though no abandonment had occurred. For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned.

(d) A certificate may be voluntarily abandoned by the applicant or his attorney or agent of record, if any, or the assignee of record, if any, by notifying the Commissioner in writing. Upon receipt of such notice, the Commissioner shall publish a notice in the Official Journal that the variety has become open for use by the public, and if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

**§ 180.105 Denial of application.**

(a) If the variety is found by the examiner to be not novel the application shall be denied.

(b) In denying an application for want of novelty, the examiner shall cite the reasons the application was denied. When a reason involves the citation of certain material which is complex, the particular part of the material relied on shall be designated as nearly as practicable. The pertinence of each reason, if not obvious, shall be clearly explained.

(c) If prior domestic certificates are cited as a reason for denial, their numbers and dates and the names of the owners shall be stated. If prior foreign certificates or rights are cited, as a reason for denial, their nationality or country, numbers and dates, and the names of the owners shall be stated, and such other data shall be furnished as may be necessary to enable the applicant to identify the cited certificates or rights.

(d) If printed publications are cited as a reason for denial, the author (if any), title, date, pages or plates, and places of publication, or place where a copy can be found shall be given.

(e) When a denial is based on facts known to the examiner, and upon request by the applicant, the denial shall be supported by the affidavit of the examiner. Such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

(f) Abandoned applications may not be cited as reasons for denial.

**§ 180.106 Reply by applicant; request for reconsideration.**

(a) After an adverse action by the examiner, the applicant may respond to the denial and may request a reconsideration, with or without amendment of his application. Any amendment shall be responsive to the reason or reasons for denial specified by the examiner.

(b) To obtain a reconsideration, the applicant shall submit a request for reconsideration in writing and shall specifically point out the alleged errors in the examiner's action. The applicant shall respond to each reason cited by the examiner as the basis for the adverse action. A request for reconsideration of a denial based on a faulty form or procedure may be held in abeyance by the Commissioner until the question of novelty is settled.

(c) An applicant's request for a reconsideration must be a bona fide attempt to advance the case to final action. A general allegation by the applicant that certain language which he cites in his application or amendment thereto establishes novelty without specifically explaining how the language distinguishes the alleged novel variety from the material cited by the examiner shall not be grounds for a reconsideration.

**§ 180.107 Reconsideration and final action.**

If, upon reconsideration, the application is denied by the Commissioner, the applicant shall be notified by the Commissioner of the reason or reasons for denial in the same manner as after the first examination. Any such denial shall be final unless appealed by the applicant to the Secretary within 60 days from the date of denial in accordance with §§ 180.300–180.303. If the denial is sustained by the Secretary on appeal, the denial shall be final subject to appeal to the courts as provided in § 180.500.

**§ 180.108 Amendments after final action.**

(a) After a final denial by the Commissioner, amendments to the application may be made to overcome the reason or reasons for denial. The acceptance or refusal of any such amendment by the Office and any proceedings relative thereto, shall not relieve the applicant from the time limit set for an appeal or an abandonment for failure to reply.

(b) No amendment of the application can be made in an appeal proceeding. After decision on appeal, amendments can only be made to carry into effect a recommendation under § 180.302(b).

CORRECTION OF ERRORS IN CERTIFICATE

**§ 180.120 Corrected certificate—Office mistake.**

When a certificate is incorrect because of a mistake in the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be issued to the owner and recorded in the records of the Office, or the Commissioner may issue a corrected certificate without charge in lieu of and with like effect as a certificate of correction, in accordance with section 84 of the Act.

**§ 180.121 Corrected certificate—applicant's mistake.**

When a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of minor character, or in the description of the variety (including, but not limited to, the use of a misleading variety name or a name assigned to a different variety of the same species), and the mistake is found by the Commissioner to have occurred in good faith and does not require a further examination, the Commissioner may, upon payment of the required fee, correct the certificate by issuing a certificate of correction stating the fact and nature of such mistake, under seal, to be issued to the owner and recorded in the records of the Office, in accordance with section 85 of the Act. If the mistake requires a reexamination, a correction of the certificate shall be dependent on the results of the reexamination.

REISSUANCE OF CERTIFICATE

**§ 180.122 Certified seed only election.**

When an owner elects after a certificate is issued to sell the protected variety by variety name only as a class of certified seed, a new certificate may be issued upon return of the original certificate to the Office and payment of the appropriate fee.

ASSIGNMENTS AND RECORDING

**§ 180.130 Recording of assignments.**

(a) Any assignment of an application for a certificate, or of a certificate of plant variety protection, or of any interest in a variety, or any license or grant and conveyance of any right to use of the variety, may be submitted for recording in the Office in accordance with section 101 of the Act (7 U.S.C. 2531).

(b) No instrument shall be recorded which is not in the English language or which does not identify the certificate or application to which it relates.

(c) An instrument relating to title of a certificate shall identify the certificate by number and date, the name of the owner, and the name of the novel variety as stated in the certificate. An instrument relating to title of an application shall identify an application by number and date of filing, the name of the owner, and the name of the novel variety as stated in the application.

(d) If an assignment is executed concurrently with or subsequent to the filing of an application but before its number and filing date are ascertained, the assignment shall identify the application by the date of the application, the name of the owner, and the name of the novel variety.

**§ 180.131 Conditional assignments.**

Assignments recorded in the Office are regarded as absolute assignments for Office purposes until canceled in writing by both parties to the assignment or by a decree of a court of competent jurisdiction. The Office shall not determine whether conditions precedent to the assignment, such as the payment of money, have been fulfilled.

**§ 180.132 Assignment records open to public inspection.**

(a) Assignment records relating to original or amended certificates shall be open to public inspection and copies of any recorded document may be obtained upon payment of the prescribed fee.

(b) Assignment records relating to any pending or abandoned application shall not be available for inspection except to the extent that pending applica-

tions are published as provided in section 57 of the Act and § 180.19, or where necessary to carry out the provisions of any Act of Congress. Copies of assignment records and information on pending or abandoned applications shall be obtainable only upon written authority of the applicant or his assignee, or attorney or agent of record, or where necessary to carry out the provisions of any Act of Congress. An order for a copy of an assignment shall give the proper identification of the assignment.

MARKING OR LABELING PROVISIONS

**§ 180.140 After filing.**

Upon filing an application for protection of a novel variety and payment of the prescribed fee, the owner, or his designee, may label the variety or containers of the seed of the variety or plants produced from such seed, substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Variety Protection Applied For."

**§ 180.141 After issuance.**

Upon issuance of a certificate, the owner of the novel variety or his designee may label the variety or containers of the seed of the variety or plants produced from such seed substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Protected Variety."

**§ 180.142 For testing or increase.**

An owner who contemplates filing an application and releases for testing or increase, seed of the variety or other sexually reproducible plant material produced from seed of the variety, may label such plant material or containers of the seed or plants substantially as follows: "Unauthorized Propagation Prohibited—For Testing (or Increase) Only."

**§ 180.143 Certified seed only.**

(a) Upon filing an application, or amendment thereto, specifying seed of the variety is to be sold by variety name only as a class of certified seed, the owner, or his designee, may label containers of seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—U.S. Variety Protection Applied for Specifying That Seed of This Variety Is To Be Sold By Variety Name Only as a Class of Certified Seed."

(b) An owner who has received a certificate specifying that a variety is to be sold by variety name only as a class of certified seed may label containers of the seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—To Be Sold By Variety Name Only as a Class of Certified Seed—U.S. Protected Variety."

**§ 180.144 Additional marking or labeling.**

Additional clarifying information that is not false or misleading may be used by the owner in addition to the above markings or labeling.

ATTORNEYS AND AGENTS

**§ 180.150 Right to be represented.**

An applicant may actively advance an application or he may be represented by any attorney or agent authorized in writing by him.

**§ 180.151 Authorization.**

Only attorneys or agents specified by the applicant shall be allowed to inspect papers or take action of any kind on behalf of the applicant in any pending application or proceedings.

**§ 180.152 Revocation of authorization; withdrawal.**

An authorization of an attorney or agent may be revoked by an applicant at any time, and an attorney or agent may withdraw, upon application to the Commissioner. When the authorization is so revoked, or the attorney or agent has so withdrawn, the Office shall inform the interested parties and shall thereafter communicate directly with the applicant, or with such other attorney or agent as the applicant may appoint. An assignment will not of itself operate as a revocation of authorization previously given, but the assignee of the entire interest may revoke previous authorizations and be represented by an attorney or agent of his own selection.

**§ 180.153 Persons recognized.**

Unless specifically authorized as provided in § 180.151, no person shall be permitted to file or advance applications before the Office on behalf of another person.

**§ 180.154 Government employees.**

Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203 and 205) from practicing as attorneys or agents in proceedings or other matters before Government departments or agencies, shall not be eligible to represent applicants, except officers and employees whose official duties require the preparation and prosecution of applications for certificates of variety protection.

**§ 180.155 Signatures.**

Every document filed by an attorney or agent representing an applicant or party to a proceeding in the Office shall bear the signature of such attorney or agent, except documents which are required to be signed by the applicant or party.

**§ 180.156 Addresses.**

Attorneys and agents practicing before the Plant Variety Protection Office shall notify the Office in writing of any change of address. The Office shall address letters to any such person at the last address received.

**§ 180.157 Professional conduct.**

Attorneys and agents appearing before the Office shall conform to the standards of ethical and professional conduct generally applicable to attorneys appearing before the courts of the United States.

**§ 180.158 Advertising.**

(a) The use of advertising, circulars, letters, cards, and similar material to solicit plant variety protection business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Office or may be suspended, excluded, or disbarred from further practice before the Office.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories shall not be considered a violation of this section.

FEES AND CHARGES

**§ 180.175 Fee and charges.**

The following fees and charges apply to the services and actions specified below:

| | |
|---|---|
| (a) Filing application | $250 |
| (b) Search or examination | 250 |
| (c) Allowance and issuance of certificates | 250 |
| (d) To revive an abandoned application | 50 |
| (e) Reproductions of records, drawings, certificates, exhibits, or printed material (copy per page of material) | 1 |
| (f) Authentication (each document) | 1 |
| (g) Correcting or reissuance of a certificate | 10 |
| (h) Recording assignments | 5 |
| (i) Copies of 8 x 10 photographs in color | 12 |
| (j) Additional fee for reconsideration | 25 |
| (k) Additional fee for late payment | 25 |
| (l) Additional fee for late replenishment of seed | 25 |
| (m) Appeal to Secretary | 50 |

(n) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations.

(o) Any other services not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed $20 per man-hour.

**§ 180.176 Fees payable in advance.**

Fees and charges shall be paid at the time of making application or at the time of submitting a request for any action by the Office for which a fee or charge is payable and established in this part.

**§ 180.177 Method of payment.**

Checks or money orders shall be made payable to the Treasurer of the United States. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the prescribed fee. Money sent by mail to the Office shall be sent at the risk of the sender.

**§ 180.178 Refunds.**

Money paid by mistake or excess payments shall be refunded, but a mere change of plans after the payment of money, as when a party decides to withdraw an application or to withdraw an appeal, shall not entitle a party to a refund. Amounts of $1 or less shall not be refunded unless specifically demanded.

**§ 180.179 Copies and certified copies.**

(a) Upon request, copies of applications, certificates, or of any records, books, papers, drawings, or photographs in the custody of the Office and which are open to the public, will be furnished to persons entitled thereto, upon payment of the prescribed fee.

(b) Upon request, copies will be authenticated by imprint of the seal of the Office and certified by the official authorized by the Commissioner upon payment of the prescribed fee.

AVAILABILITY OF OFFICE RECORDS

**§ 180.190 When open records are available.**

Copies of records which are open to the public and in the custody of the Office may be examined in the Office during regular business hours upon approval by the Commissioner.

PROTEST PROCEEDINGS

**§ 180.200 Protests to the grant of a certificate.**

Opposition on the part of any person to the grant of a certificate shall be permitted while an application is pending and for a period not to exceed 5 years following the issuance of a certificate.

**§ 180.201 Protest proceedings.**

(a) Opposition shall be made by submitting in writing a petition for protest proceedings, which petition shall be supported by affidavits and shall show the reason or reasons for opposing the application or certificate. The petition and accompanying papers shall be filed in duplicate. If it appears to an examiner that a variety involved in a pending application or covered by a certificate may not be or may not have been entitled to protection under the Act, a protest proceeding may be permitted by the Commissioner.

(b) One copy of the petition and accompanying papers shall be served by the Office upon the applicant or owner, or his attorney or agent of record.

(c) An answer, by the applicant or owner of the certificate or his assignee, in response to the petition may be filed with the Commissioner within 60 days after service of the petition upon such person. If no answer is filed within said period, the Commissioner shall decide the matter on the basis of the allegations set forth in the petition.

(d) If the petition and answer raise any issue of fact needing proof, the Commissioner shall afford each of the parties a period of 60 days in which to file sworn statements or affidavits in support of their respective positions.

(e) As soon as practicable after the petition or the petition and answer are filed or after the expiration of any period for filing sworn statements or affidavits, the Commissioner shall issue his decision as to whether the protests are upheld or denied. The Commissioner may, following the protest proceeding, cancel any certificate issued and may grant another certificate for the same novel variety to a person who proves to the satisfaction of the Commissioner, that he is the breeder or discoverer. The decision shall be served upon the parties in the manner provided in § 180.403.

PRIORITY CONTEST

**§ 180.205 Definition; when declared.**

A priority contest may be instituted by the Secretary, on his own motion, or upon the request of any person who has applied for protection on the same variety for which an adverse certificate has been issued, for the purpose of determining the question of priority between two or more parties claiming development or discovery of the same novel variety: *Provided, however,* That any person shall have forfeited his right to assert priority when an adverse certificate has been issued if he fails to make a request for the institution of a priority contest within 1 year of the publication in the Official Journal of issuance of the adverse certificate by the Secretary or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

**§ 180.206 Preparation for priority contest between applicants.**

(a) Before a priority contest will be handled by the Office, an examiner must determine that the same novel variety is involved in separate applications filed by two or more parties and apparently certifiable to each of the parties, subject to the determination of the question of priority.

(b) The fact that a certificate has been issued will not prevent a priority contest.

**§ 180.207 Preparation of priority papers and declaration of priority contest.**

(a) When a priority question is found to exist, the examiner shall forward the pertinent files to the Commissioner together with a written statement showing the reason for the contest.

(b) The Commissioner shall institute and declare the priority contest by forwarding a notice to each of the applicants involved. Each notice shall include the name and residence of each of the other applicants or those of his attorney or agent, if any, and of any assignee, and will identify the application of each opposing party by number and filing date, or in the case of a certificate, by the number and date of the certificate. The notice shall specify the basis of the priority contest. The notice shall specify a time, not to exceed 2 months, for filing preliminary statements.

(c) When a notice is returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, notice may be given by publication once in the Official Journal.

**§ 180.208 Burden of proof.**

The parties to a priority contest will be presumed to have developed their varieties in the chronological order of the filing dates of their applications for certificates involved in the priority contest, and the burden of proof will rest upon the party who last filed an application.

**§ 180.209 Preliminary statement on novel variety developed in the United States.**

(a) Each party to the priority contest is required to file on or before a date fixed by the Office, a concise preliminary statement giving the facts and dates relating to the development of his alleged novel variety. The preliminary statement must be signed by the owner: *Provided, however,* That in appropriate circumstances, as when the owner is dead or legally incapacitated or a showing is made of inability to obtain a statement from the owner, the preliminary statement may be made by the assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

(b) Preliminary statements shall be filed with the Office in duplicate. A copy shall be forwarded to each opposing party by the Office as soon as practicable after both parties have filed their statements within the requisite period.

(c) In filing a preliminary statement each party must show the following information:

(1) The date upon which the first determination of the novel variety was made.

(2) The date upon which the first written description of the novel variety was made. If a written description of the novel variety has not been made prior to the filing date of the application, it must be so stated.

(3) The date of the first act or acts susceptible of proof (other than making a written description or disclosing the novel variety to another person), which, if proven, would establish determination of the novel variety, and a brief description of such act or acts. If there have been no such acts, it must be so stated.

(4) The date of the actual production of the novel variety. If the novel variety had not been actually produced before the filing date of the application, it must be so stated.

(d) When an allegation as to the first written description (paragraph (c)(2) of this section) is made, a copy of such written description shall be attached to the statement.

(e) If a party intends to rely on a prior application, domestic or foreign, the preliminary statement shall clearly identify such prior application. Copies of the cited application and related documents will be served by the Office upon

all interested parties to the contest. In the case of an application filed in a foreign country, English translations shall be served upon all interested parties by the party relying on the application filed in the foreign country.

**§ 180.210 Preliminary statement on novel variety developed in a foreign country.**

When the novel variety was developed in a foreign country, the preliminary statement must show (a) the information specified in § 180.209(c) through (e) and (b) whether, and if so, when and under what circumstances the novel variety was introduced into the United States by or on behalf of the party.

**§ 180.211 Statements sealed before filing.**

The preliminary statement shall be submitted in a sealed envelope bearing the name of the party filing it and the number and title of the priority contest as shown on the notice issued by the Office. The envelope should be enclosed in an outer mailing envelope marked "To Be Opened by the Commissioner."

**§ 180.212 Correction of statement on motion.**

In case of material error arising through inadvertence or mistake, a preliminary statement may be corrected upon a satisfactory showing to the Commissioner that the correction is of material significance. Correction of the statement must be made as soon as practicable after the discovery of the error.

**§ 180.213 Failure to file statements.**

If any party to a priority contest fails to file a preliminary statement, he shall be restricted to his earliest effective filing date.

**§ 180.214 Access to preliminary statements.**

The preliminary statements shall be open to the inspection of any party after the date set for the filing of preliminary statements (§ 180.207(b)), but shall not be open to inspection prior to that time.

**§ 180.215 Dissolution at the request of commissioner.**

If during a priority contest, information is submitted or found which, in the opinion of the Commissioner, may render the variety ineligible for a certificate, the priority contest may be suspended by the Commissioner and referred to an examiner for consideration of the matter and the parties will be notified of the reason for the suspension. Arguments of the parties regarding the suspension will be considered if filed within 60 days of the notification. The suspension will then be continued, modified, or dismissed in accordance with the determination by the Commissioner.

**§ 180.216 Concession; abandonment.**

(a) An applicant or a certificate holder involved in a priority contest may, at any time, file a written concession of priority, or abandonment of the certificate, signed by him. Upon the filing of such an instrument by any party, the decision shall be rendered against him by the Commissioner.

(b) A concession of priority may not be made by an assignee of a part interest.

**§ 180.217 Affidavits and exhibits.**

Affidavits and exhibits, including official records and any special matter contained in a printed publication, pertinent to the issue involved in the contest, may be introduced in evidence in a priority contest by any party to the contest. In the case of official records and printed publications, the party introducing the evidence shall specify the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and submit to the Commissioner the record or authenticated copy, or the printed publication or a copy. Copies of affidavits and exhibits, including any record or publication, shall be served by the Commissioner on each of the other interested parties.

**§ 180.218 Matters considered in determining priority.**

In determining priority, the Commissioner will consider only priority of development based on the evidence submitted. Questions of novelty generally will not be considered in the decision on priority. If he desires, the Commissioner may refer his proposed findings of fact, conclusions, and notice of priority to the Board for an advisory decision.

**§ 180.219 Recommendation by Commissioner.**

The Commissioner may, either before or concurrently with his decision on the question of priority, but independently of such decision, direct the attention of the examiner to any matter not relating to priority which may come to the Commissioner's attention, and which in his opinion establishes the fact that there has been irregularity which amounts to a bar to the grant of a certificate to either of the parties. The Commissioner may suspend the priority contest and remand the case to the examiner for further consideration of the matters to which attention has been directed.

**§ 180.220 Decision by Commissioner.**

(a) When a priority contest is concluded on the basis of preliminary statements, or otherwise, proposed findings of fact, conclusions, and notice of priority shall be issued by the Commissioner to the interested parties, giving them a specified period, not less than 30 days, to show cause why such proposed findings of fact, conclusions, and notice of priority should not be made final. Any response made during the specified period will be considered by the Commissioner. Additional affidavits or exhibits will not be considered unless accompanied by a showing of good cause acceptable to the Commissioner. Thereafter, final findings of fact, conclusions, and notice of priority shall be issued by the Commissioner.

(b) The decision shall be entered by the Commissioner against a party whose preliminary statement alleges a date of determination later than the filing date of the other party's application.

**§ 180.221 Status of claims of defeated applicant.**

Whenever a final notice of priority has been issued by the Commissioner in a priority proceeding and the time limit for an appeal from such decision has expired, the claim or claims constituting the issue of the priority stand finally disposed of without further action by the Commissioner.

**§ 180.222 Second priority contest.**

A second priority contest between the same parties shall not be entertained by the Commissioner for the same novel variety.

APPEAL TO THE SECRETARY

**§ 180.300 Petition to the Secretary.**

(a) Petition may be made to the Secretary from any final action of the Commissioner denying an application or refusing to allow a certificate to be issued or from any adverse decision of the Commissioner made under §§ 180.18(c), 180.107, 180.201(e), and 180.220.

(b) Any such petition shall contain a statement of the facts involved and the point or points to be reviewed and the actions requested.

(c) A petition to the Secretary shall be filed in duplicate and accompanied by the prescribed fee (see § 180.175).

(d) Upon request, an opportunity to present data, views, and arguments orally, in an informal manner or in a formal hearing, shall be given to interested persons. If a formal hearing is requested, the proceeding shall be conducted in accordance with §§ 50.28 and 50.30–50.33 (§§ 50.28, 50.30–50.33 of this chapter) of the rules of practice under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, et seq.).

(e) Except as otherwise provided in the rules in this part, any such petition not filed within 60 days from the action complained of, shall be dismissed as untimely.

**§ 180.301 Commissioner's answer.**

(a) The Commissioner may, within such time as may be directed by the Secretary, furnish a written statement to the Secretary in answer to the appellant's petition, including such explanation of the reasons for his action as may be necessary and supplying a copy to the appellant.

(b) Within 20 days from the date of such answer, the appellant may file a reply statement directed only to such new points of argument as may be raised in the Commissioner's answer.

**§ 180.302 Decision by the Secretary.**

(a) The Secretary, after receiving the advice of the Board, may affirm or re-

verse the decision of the Commissioner in whole or in part.

(b) Should the decision of the Secretary include an explicit statement that a certificate be allowed based on an amended application, the applicant shall have the right to amend his application in conformity with such statement and such decision shall be binding on the Commissioner.

**§ 180.303 Action following decision.**

(a) Copies of the decision of the Secretary shall be served upon the appellant and the Commissioner in the manner provided in § 180.403.

(b) When an appeal petition is dismissed, or when the time for appeal to the courts pursuant to the Act has expired and no such appeal or civil action has been filed, proceedings in the appeal shall be considered terminated as of the dismissal or expiration date except in those cases in which the nature of the decision requires further action by the Commissioner. If the decision of the Secretary is appealed or a civil action has been filed pursuant to sections 71, 72, or 73 of the Act, the decision of the Secretary will be stayed pending the outcome of the court appeal or civil action.

GENERAL PROCEDURES IN PRIORITY PROTEST, OR APPEAL PROCEEDINGS

**§ 180.400 Extensions of time.**

Upon a showing of good cause, extensions of time not otherwise provided for may be granted by the Commissioner or, if an appeal has been filed, by the Secretary for taking any action required in any priority protest, or appeal proceeding.

**§ 180.401 Miscellaneous provisions.**

(a) Petitions for reconsideration or modification of the decision of the Commissioner in priority or protest proceedings shall be filed within 20 days after the date of the decision.

(b) The Commissioner may consider on petition any matter involving abuse of discretion in the exercise of an examiner's authority, or such other matters as he may deem proper to consider. Any such petition, if not filed within 20 days from the decision complained of, may be dismissed as untimely.

**§ 180.402 Service of papers.**

(a) Every paper required to be served on opposing parties and filed in the Office in any priority, protest, or appeal proceeding must be served by the Secretary in the manner provided in § 180.403.

(b) The requirement in certain sections that a specified paper shall be served includes a requirement that all related supporting papers shall also be served. Proof of such service upon other parties to the proceeding must be made before the supporting papers will be considered by the Commissioner or Secretary.

**§ 180.403 Manner of service.**

Service of any paper under this part must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(a) By mailing a copy of the paper to the person served by certified mail; the date of the return receipt will be regarded as the date of service.

(b) By leaving a copy at the usual place of business of the person served with someone in his employment;

(c) When the person served has no usual place of business, by leaving a copy at his home with a member of his family over 14 years of age and of discretion;

(d) Whenever it shall be found by the Commissioner or Secretary that none of the above modes of serving the paper is practicable, service may be by notice published once in the Office Journal.

REVIEW OF DECISIONS BY COURT

**§ 180.500 Appeal to U.S. courts.**

Any applicant dissatisfied with the decision of the Secretary on appeal may appeal to the U.S. Court of Customs and Patent Appeals or the U.S. Courts of Appeals, or institute a civil action in the U.S. District Court as set forth in sections 71, 72, and 73 of the Act. In such cases, the appellant or plaintiff shall give notice to the Secretary, state the reasons for appeal or civil action and obtain a certified copy of the record. The certified copy of the record shall be forwarded to the Court by the Plant Variety Protection Office on order of and at the expense of the appellant or plaintiff.

CEASE AND DESIST PROCEEDINGS

**§ 180.600 Rules of practice.**

Any proceedings instituted under section 128 of the Act for false marking shall be conducted in accordance with §§ 202.10 through 202.29 of this chapter (rules of practice under the Federal Seed Act) (7 U.S.C. 1551 et seq.), except that all references in those rules and regulations to "Examiner" shall be construed to be an Administrative Law Judge, U.S. Department of Agriculture, and not an "Examined" as defined in the regulations under the Plant Variety Protection Act.

PUBLIC USE DECLARATION

**§ 180.700 Public interest in wide usage.**

(a) If the Secretary has reason to believe that a protected variety should be declared open to use by the public in accordance with section 44 of the Act, the Secretary shall give the owner of the variety appropriate notice and an opportunity to present his views orally or in writing, with regard to the necessity for such action to be taken in the public interest.

(b) Upon the expiration of the period for the presentation of views by the owner, as provided in paragraph (a) of this section, the Secretary shall refer the matter to the Plant Variety Protection Board for its advice, including advice on any limitations or rate of remuneration.

(c) Upon receiving the advice of the Plant Variety Protection Board, the Secretary shall advise the owner of the variety, the members of the Plant Variety Protection Board, and the public, by issuance of a press release, of any decision based on the provisions of section 44 of the Act to declare a variety open to use by the public. Any decision not to declare a variety open to use by the public will be transmitted only to the owner of the variety and the members of the Plant Variety Protection Board.

PUBLICATION

**§ 180.800 Publication of public variety descriptions.**

Voluntary submissions of varietal descriptions of "public varieties" on forms obtainable from the Office will be accepted for publication in the Office Journal. Such publication shall not constitute recognition that the variety is, in fact, novel.

It does not appear that further public participation in rule making proceedings with respect to these regulations and rules of practice would make additional information available to the Department of Agriculture; therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice and other public rule making procedure on the regulations and rules are unnecessary.

These regulations and rules of practice shall become effective 30 days after publication of this notice in the FEDERAL REGISTER.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., on October 24, 1972.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[FR Doc.72-18426 Filed 10-27-72;8:51 am]

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WASHINGTON, D.C.

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PART III

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

# GUARANTEED STUDENT LOAN PROGRAM

## APPLICATION FOR FEDERAL INTEREST BENEFITS AND STUDENT AFFIDAVIT

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

## [ 45 CFR Part 177 ]

## GUARANTEED STUDENT LOAN PROGRAM

### Application for Federal Interest Benefits and Student Affidavit

Pursuant to the authority contained in Part B, title IV (20 U.S.C. 1071–87) and section 498 (20 U.S.C. 1088g, added by section 139C of Public Law 92–318) of the Higher Education Act of 1965 as amended, notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 177 of Title 45 of the Code of Federal Regulations as indicated below to reflect certain provisions of the Education Amendments of 1972, Public Law 92–318.

1. Under revised § 177.2 a lender would set the amount of a loan as to which Federal interest benefits were applied for with the guidance of a recommendation of the educational institution to be attended by the student borrower. The recommendation of the educational institution is to be determined in accordance with a statutorily specified formula which takes into account the student's educational costs, expected family contribution, and other sources of financial aid. The section would define "expected family contribution" and specify the distinction to be applied between borrowers with adjusted family incomes of less than $15,000 and those with adjusted family incomes equal to or in excess of $15,000. Nothing in the revisions of § 177.2 would impose any new restrictions on the making of loans as to which no application is made for the payment of Federal interest benefits.

2. New § 177.10 would set forth the rules applicable to the filing of the statutorily required affidavit that the student will use his loan proceeds solely for educational purposes.

The appendix to this notice, which will not be a part of the regulations, is the revised OE Form 1260, Student Loan Application Supplement, which is intended to be used in implementing the proposed regulations. The concepts embodied in this supplemental form will be incorporated as soon as possible into OE Form 1154, Student Application for Federally Insured Loan, and OE Form 1070, Lender's Report of Guaranteed Student Loan. The latter forms are used, respectively, for loans insured by the Commissioner under the program of Federal loan insurance and for loans insured by a State or private nonprofit agency or made under a direct State student loan program. Until such time as the combined forms are available, the OE Form 1260 will be provided for use with the OE Forms 1154 and 1070.

Interested persons are invited to submit written comments, suggestions, or objections regarding the amendments to the Director, Division of Insured Loans, Bureau of Higher Education, U.S. Office of Education, Room 4051, Regional Office Building 3, Seventh and D Streets, SW., Washington, DC 20202. Such responses to this notice will be available for public inspection at the above office on Mondays through Fridays betwen 8 a.m. and 4:30 p.m. All relevant material received not later than 30 days after the publication of this notice in the FEDERAL REGISTER will be considered.

Dated: October 20, 1972.

S. P. MARLAND, Jr.,
*U.S. Commissioner of Education.*

Approved: October 26, 1972.

JOHN G. VENEMAN,
*Acting Secretary,*
*Department of Health, Education, and Welfare.*

**§ 177.2 Student eligibility for interest benefits.**

(a) A student (1) who has received a loan from an eligible lender under (i) a student loan insurance program meeting the requirements of § 177.12 or § 177.13, (ii) a program meeting the requirements of § 177.14, or (iii) the program of Federal loan insurance provided for in Subpart E of this part, (2) who is enrolled or has been accepted for enrollment as at least a half-time student in an eligible institution, (3) who has had made on his behalf the determination and statement (and, as applicable, the consultation) provided for in paragraph (b) of this section, and (4) who is a national of the United States or is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands, is eligible for payment on his behalf of a portion of the interest as determined under § 177.4.

(b) In order for a student to be eligible for payment on his behalf by the Commissioner of a portion of the interest on a loan as determined under § 177.4, (1) the eligible institution at which the student has been accepted for enrollment or which he is attending (and in good standing as determined by the institution) must, prior to the making of such loan, (i) determine, pursuant to paragraph (c) of this section, the loan amount needed by the student, if any, and (ii) recommend that the lender make a loan in the amount so determined, and (2) the loan must not exceed the eligible institution's recommendation unless the basis for the lender's making a larger loan has been reduced to writing and made a part of the lender's records. In addition, in the case of a student with an adjusted family income equal to or greater than $15,000, if the loan exceeds the eligible institution's recommendation, a portion of the interest on such loan will be paid pursuant to § 177.4 only if prior to making the loan the lender consults with the eligible institution with respect to the latter's recommendation. The lender must keep a record of such consultation.

(c) (1) The determination referred to in paragraph (b) of this section is to be made by a responsible officer of the eligible institution concerned by subtracting from the amount estimated by such institution to be the cost of attendance at such institution for the period for which the loan is to be made, the expected family contribution with respect to such student plus any other resources or student aid that such institution determines to be reasonably available to the student during such period.

(2) For the purpose of this paragraph the "expected family contribution" shall mean the amount which a student, his parents, and his spouse may be realistically expected to contribute toward his postsecondary education for the academic period to be covered by the loan. The determination of the expected family contribution must be made by an eligible institution through the use of a method, embodying uniformly applicable standards and criteria, which takes into account the income, assets, and resources of the student and, except where the conditions set forth in § 177.3(c) are met, the income, assets, and resources of the student's parents and spouse. Any method used under an agreement between the eligible institution and the Commissioner in connection with the administration of any other program of Federal financial assistance, or the Alternate Income system, the American College Testing Program system, the College Scholarship Service system, or the Income Tax system, will meet the requirements of this paragraph. Other methods may meet the requirements of this paragraph but only if they produce results which are, on the whole, not dissimilar from those which would be produced under any of the methods refered to in this paragraph. The eligible institution should make appropriate adjustments to the results reached under any of the approved methods so as to consider more meaningfully the individual circumstances of the student involved and, where applicable, his parents or spouse. Information about the generally recognized methods of needs analysis may be obtained from State or private non-profit-loan guarantee agencies, the Regional Offices of the U.S. Office of Education, and the Division of Insured Loans, Bureau of Higher Education, U.S. Office of Education, Washington, D.C. 20202.

(d) To have interest payments made on his behalf, a student shall submit to the lender a statement in such form as the Commissioner may prescribe, which shall include:

(1) A certification by an eligible institution that he is enrolled at the institution or has been accepted for enrollment;

(2) Information necessary to determine, pursuant to § 177.3, whether his

adjusted family income is less than $15,000;

(3) A statement from the eligible institution containing the determination and the recommendation provided for in paragraph (b) of this section; and

(4) Information concerning other loans to him which have been made under programs covered by this part or Part 178.

(e) The lender, acting in good faith, may in the absence of information to the contrary rely upon statements submitted by the borrower, his family, or an eligible institution pursuant to paragraph (d) of this section.

(f) This section shall apply to a loan if application for an insurance commitment with respect to such loan is received after February 28, 1973, by a State or private nonprofit agency under a student loan insurance program or the appropriate Regional Office of the U.S. Office of Education under the program of Federal loan insurance, or if a note or written evidence of a loan commitment is executed after February 28, 1973, under a direct State student loan program.

(g) Nothing in this section requires determination of need for a loan or of an expected family contribution or of adjusted family income with respect to the making or insuring of any loan covered by this part as to which no application for Federal interest benefits is made.

(20 U.S.C. 1078)

### § 177.10 Affidavit.

(a) No loan or loan guarantee may be made under this part unless the student to whom it is made has filed with the lender an affidavit, on a form provided or approved by the Commissioner, stating that the money attributable to such loan or loan guarantee will be used solely for expenses related to attendance at the eligible institution which the student intends to attend or is attending.

(b) The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at the eligible institution which the student intends to attend or is attending. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(c) The affidavit must be filed with the lender before the lender may apply for Federal insurance or a guarantee from a State or private nonprofit guarantee agency or, where the lender operates a direct State student loan program, before the loan for which the student is applying may be made. The lender must retain a copy of the affidavit in accordance with § 177.8(e). A copy of the affidavit or a statement that the affidavit has been filed must accompany the lender's application for Federal insurance or for a guarantee from a State or private nonprofit guarantee agency.

(20 U.S.C. 1082, 1088g)

*Effective date.* The amended § 177.2 shall become effective as of March 1, 1973. That part of new § 177.10 which does not merely restate or interpret the law shall become effective 30 days after publication in the FEDERAL REGISTER.

APPENDIX

STUDENT LOAN APPLICATION SUPPLEMENT

WARNING: Any person who knowingly makes a false statement or a misrepresentation on this form shall be subject to a fine of not more than $10,000 or to imprisonment of not more than 5 years, or both, under provisions of the United States Criminal Code.

PART A (to be completed by the student) READ INSTRUCTIONS ON REVERSE SIDE

Name (Last, First, Middle) PLEASE PRINT

Subscribed and sworn before me this ____ day of _____, 19____

SEAL

I affirm that any loan proceeds obtained as a result of this application will be used solely for expenses related to attendance at the educational institution named on the attached application.

Signature

(Signature of Notary Public)

Social Security Number ____/____/____ Date

(Notary's Address) My Commission Expires

ADJUSTED FAMILY INCOME — To be entered by the student from line 24G of the OE-1154 or 21G of the OE-1070. Income(s) included: Student ☐ Spouse ☐ Parent(s) ☐ $

Student's Telephone Number

PART B (to be completed by the educational institution) READ INSTRUCTIONS ON REVERSE SIDE

Educational Institution Code Number

Address of Institution Telephone Number Period of Loan From To

Section I - Estimated Cost of Education $

Section II - Financial aid awarded (grants, scholarships, etc.) and other resources $

Section III - Support from Family

A. Based on a uniformly applied determination of need, what is the computed amount of support from the family? $ Method Used

B. In the best judgment of the financial aid officer, taking into account all factors, what can the family realistically contribute? $ Reasons (see codes on reverse)

Section IV - School recommendation for guaranteed loan.

Section I less Sections II and III B $

I HEREBY CERTIFY THAT THE ABOVE NAMED STUDENT IS ENROLLED AND IN GOOD STANDING OR HAS BEEN ACCEPTED FOR ENROLLMENT AND THAT THE INFORMATION GIVEN ABOVE IS COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signature of school official Title Date

PART C (to be completed by the lending institution) READ INSTRUCTIONS ON REVERSE SIDE

Lending Institutions Code Number

Address Telephone Number

Amount School Recommends $

Amount Lender Approves: Eligible for Federal interest benefits $ Not Eligible for Federal interest benefits $

Signature

Title Date

Original: Lender
1st Copy: Guarantor
2nd Copy: School

INSTRUCTIONS

PART A (TO BE COMPLETED BY STUDENT BORROWER)

Affidavit: All students are required to complete this section, whether or not they qualify for Federal interest benefits. The student should read carefully and understand the significance of the affidavit he must sign. A notary or other person legally authorized to administer oaths or affirmations must also sign.
Adjusted Family Income: If the student is applying for Federal interest benefits, this information must be completed. The adjusted family income is found on line 24G of the Student Application for Federally Insured Loan (OE 1154) or on line 21G of the Lenders Report of Guaranteed Student Loan (OE 1070) which is used under State or private guarantee agency programs. The student must indicate by checking the appropriate boxes whose income was required to be reported in the determination of the Adjusted Family Income.
Not applying for Federal interest benefits: If the student does not wish to apply for Federal interest benefits, or if family income information is not available, the educational institution does not need to complete Part B of this form. In such cases, the student should type or print "Not applying for Federal interest benefits" where the name of the educational institution would normally be placed and submit this form to the lending institution.

IMPORTANT INFORMATION FOR BOTH SCHOOLS AND LENDERS

Who must complete: All students must complete the affidavit in Part A, whether or not they apply for Federal interest benefits. A notary or other person legally authorized to administer oaths or affirmations must also sign. If a student is applying for Federal interest benefits, the entire form must be fully completed. Otherwise, only the affidavit is required.
Determining eligibility for Federal interest benefits: 1. Unless Parts B and C are fully completed by the school and lender, the loan is not eligible for Federal interest benefits. Students who do not qualify for a subsidized loan may apply for a non-subsidized loan up to the maximum amount authorized. However, in no case may a loan, subsidized or non-subsidized, exceed the total cost of education less other financial aid received (exclusive of family support).
2. In Section IV of Part B, the educational institution provides lenders with a school recommendation that is based on realistic educational costs, other aid and resources awarded to the student, and, in the professional judgment of the financial aid officer, the amount the family can realistically provide towards meeting these costs. In all cases, lenders are expected to give careful consideration to this amount.

a. Adjusted Family Income less than $15,000: Financial need is presumed for all students whose adjusted family income is less than $15,000. If the lender does not consider the school recommendation realistic, he is encouraged to communicate with the educational institution to resolve differences. After careful consideration of the school recommendation, the lender will determine the amount of the loan. This amount will be eligible for Federal interest benefits if the lender records in his files the basis of making a loan in an amount in excess of the school recommendation.
b. Adjusted Family Income $15,000 or greater: Normally, a subsidized loan may not exceed the amount recommended by the school in Section IV of Part B. If the lender, in his judgment, believes a larger loan is justified, the lender must communicate with the educational institution. After considering the school's point of view, the lender will determine the amount of the loan. This amount will qualify for Federal interest benefits if the lender records in his files both a record of his contact with the school as well as the basis for making the larger loan amount.

PART B (TO BE COMPLETED BY THE EDUCATIONAL INSTITUTION IF THE STUDENT IS APPLYING FOR FEDERAL INTEREST BENEFITS)

Three copies of the Student Loan Application Supplement should be prepared by the educational institution. One copy should be retained by the school and the other two given to the student to forward to the lender. This section must be completed in order for the student to qualify for Federal interest benefits. If the student does not wish to apply for these benefits or if financial data is not available for the computation of the Expected Family Contribution, the data in Part B is not required. In such cases, type or print "Not Applying for Federal Interest Benefits", where the name of the educational institution would normally be placed.

Identification data: Complete the name, address, telephone number and 6 digit code number for the educational institution and indicate the period of the loan for the student borrower. The period of the loan may not exceed one academic year (normally 9 months). Dollar amounts indicated in Sections I through IV should relate to this period.

SECTION I - Estimated Cost of Education: Indicate the total educational costs to be incurred by the student during the period of the loan. For most students, this would include tuition and fees, room and board, books and supplies, personal expenses and transportation costs.

SECTION II - Financial Aid awarded and other resources: List only financial aid and other resources that are firm commitments and which apply to the period of the loan. Do not include assistance which may have been applied for, but not yet approved. Included should be all grants, scholarships, educational loans, and school-awarded jobs, including all federally sponsored programs of student financial aid. Do NOT include resources that have been considered in the determination of support from the family.

SECTION III - Support from Family - Subpart A: The same persons whose income was utilized in the determination of the Adjusted Family Income must be considered in the determination of the amount of family support available to help pay educational costs. This information may be obtained from Part A of this form. Indicate both the amount of the computed support from the family as well as the method used in making this determination. This amount should relate to the period of the loan. Methods approved by the Commissioner of Education for other federally supported financial aid programs are acceptable as well as the Alternate Income System, the American College Testing Program, the College Scholarship Service, the Income Tax Method or any other method if it produces results similar to those methods listed above.

SECTION III - Support from Family - Subpart B: The amount listed in Section IIIA is more meaningful when adjustments for the individual circumstances of the student are considered. The Financial Aid Officer is expected to exercise his professional judgment in each case and indicate the amount that can be realistically expected to be contributed for educational costs over the period of the loan. It should take into account geographic differences in cost of living, actual summer earnings, family circumstances, and other factors not always equitably treated in a nationwide standardized computation. Indicate in the space provided the following code(s) for the reasons used in reducing the amount of the computed family support: (1) Reduction in income, (2) death or disability of wage earner, (3) loss of job, (4) unanticipated medical or other extraordinary expenses, (5) non-liquid assets (e.g. home equity) (6) cannot meet expected contribution from income, (7) other.

SECTION IV - School Recommendation: Enter the amount in Section IV according to the instructions stated. In other words, subtract available resources (Section II and III) from the Costs of Education (Section I). If a negative figure results, enter "0".

PART C (TO BE COMPLETED BY THE LENDING INSTITUTION IF THE STUDENT IS APPLYING FOR FEDERAL INTEREST BENEFITS)

The lender must complete all items in Part C. Lenders making federally insured loans should receive two copies of this form from the borrower. The lender must retain the original copy. The other copy should be attached to the yellow copy of the OE 1154 and mailed to the regional office of the Office of Education for the insurance commitment. Lenders making loans under State or private guarantee agency programs should follow procedures provided by the agency.

In all cases, the lender should indicate the amount the school recommends, the amount the lender approves and (according to the standards set forth above) if the loan qualifies for Federal interest benefits. The lender must also sign, indicate his title, telephone number and date the form in the spaces provided. If there is no school recommendation, Parts B and C need not be completed as the student cannot qualify for Federal interest benefits.

[FR Doc.72-18497 Filed 10-27-72;8:51 am]

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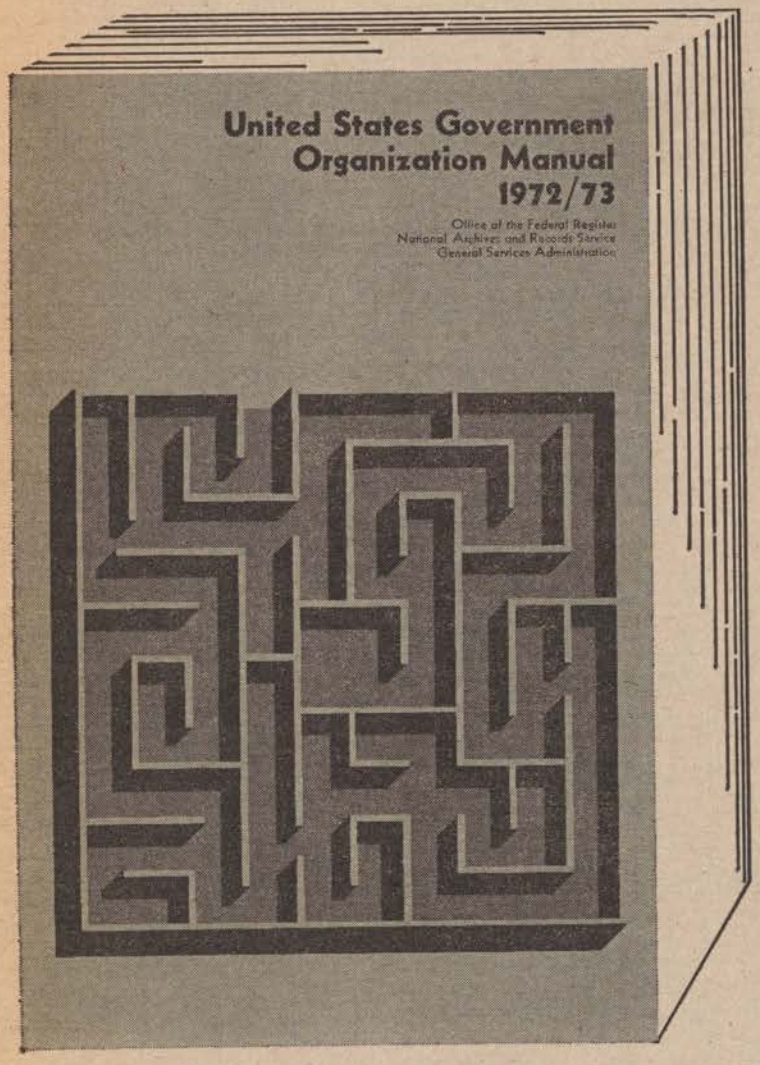


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